

SENATE RESOLUTION 428—EX-PRESSING CONCERN ABOUT VIOLATIONS OF CIVIL LIBERTIES TAKING PLACE IN VENEZUELA AND COMMENDING THE PEOPLE OF VENEZUELA FOR THEIR STEADFAST SUPPORT OF DEMOCRACY

Mr. LEMIEUX (for himself and Mr. COBURN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 428

Whereas since his election as the President of Venezuela in 1998, Hugo Chávez has systematically weakened democratic institutions in Venezuela by restricting individual rights and the activities of political parties, discouraging the free exchange of ideas, and centralizing and expanding the powers of the Executive over the other branches of government and the people of Venezuela;

Whereas Article 57 of the Constitution of the Bolivarian Republic of Venezuela guarantees the right of all citizens to freely express their thoughts and opinions;

Whereas Article 68 of the Constitution of the Bolivarian Republic of Venezuela guarantees the right of all citizens to peacefully demonstrate and prohibits the use of firearms or toxic substances to control peaceful demonstrations;

Whereas on May 24, 2007, the Senate approved by unanimous consent Senate Resolution 211, 110th Congress, expressing profound concern about the transgression against freedom of thought and expression that was being carried out in Venezuela by the refusal of President Chávez to renew the broadcasting license of "Radio Caracas Televisión", also known as RCTV;

Whereas on May 24, 2007, the European Parliament adopted a Resolution criticizing the non-renewal of the RCTV license for undermining the right of the press to hold the authorities to account;

Whereas Venezuela and Cuba are the only 2 Western Hemisphere countries listed in the United States Commission for International Religious Freedom "Watch List" as countries requiring close monitoring due to the nature and extent of violation of religious freedom engaged in or tolerated by their governments;

Whereas the 2009 Report of the United States Commission for International Religious Freedom states that in Venezuela, "religious communities and leaders viewed as political opponents are routinely targeted and harassed by government officials;

Whereas several international human rights organizations have consistently expressed serious concerns regarding weakening of respect for human rights in Venezuela;

Whereas on January 24, 2010, President Chávez ordered what amounted to a shutdown of "Radio Caracas Televisión Internacional" due to its failure to air one of his speeches;

Whereas on the night of January 25, 2010, 2 students were killed and 5 others were injured by gunfire during peaceful demonstrations against the order by President Chávez to shutdown RCTV Internacional;

Whereas the Government of Venezuela has increasingly failed to address the legitimate needs of its people for greater economic, political, and social opportunities and has aggravated political divisions in Venezuela; and

Whereas the Government of Venezuela has engaged in a military build-up that goes beyond the reasonable security concerns of the Venezuelan state and threatens to launch a

destabilizing regional arms race: Now, therefore, be it

Resolved, That the Senate—

(1) condemns the recurring and ongoing repression of peaceful demonstrators in Venezuela by security forces and government-affiliated groups;

(2) mourns the loss of life resulting from actions taken by authorities in Venezuela to violently disband peaceful protestors, including the students killed on January 25, 2010, during demonstrations against President Chávez's decision to shutdown "Radio Caracas Televisión Internacional";

(3) urges both the people and the Government of Venezuela to choose a path towards democracy, transparency, and tolerance in order to begin the process of achieving national reconciliation and a rebuilding of democratic institutions in their country;

(4) urges the people of Venezuela to remain vigilant against further encroachments on their constitutional and internationally-recognized civil and human rights;

(5) urges President Barack Obama to clearly reject and call attention to the violent measures taken by authorities in Venezuela against citizens who are exercising their constitutionally guaranteed civil liberties;

(6) urges the United States Ambassador to the Organization of American States to call on the member states of the Organization of American States to investigate events taking place in Venezuela and adopt the necessary measures to ensure the Government of Venezuela abides by its commitments under the Inter-American Democratic Charter; and

(7) urges President Obama to provide robust support for peaceful civil society groups in Venezuela and to take measures that protect the flow of uncensored information among the people of Venezuela.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3335. Ms. LANDRIEU (for herself, Mr. VITTER, Mr. WICKER, and Mr. COCHRAN) submitted an amendment intended to be proposed by her to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table.

SA 3336. Mr. BAUCUS proposed an amendment to the bill H.R. 4213, supra.

SA 3337. Mr. SESSIONS (for himself and Mrs. MCCASKILL) proposed an amendment to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra.

SA 3338. Mr. THUNE submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra.

SA 3339. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3340. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3341. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3342. Mr. WEBB (for himself and Mrs. BOXER) submitted an amendment intended to be proposed by him to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3343. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3344. Mr. LEVIN (for himself, Mrs. SHAHEEN, and Mr. WHITEHOUSE) submitted an

amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3345. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3335. Ms. LANDRIEU (for herself, Mr. VITTER, and Mr. WICKER) submitted an amendment intended to be proposed by her to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

After section 185, insert the following:

SEC. 186. EXTENSION OF LOW-INCOME HOUSING CREDIT RULES FOR BUILDINGS IN GZONES.

Section 1400N(c)(5) is amended by striking "January 1, 2011" and inserting "January 1, 2013".

SA 3336. Mr. BAUCUS proposed an amendment to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

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

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

(b) **AMENDMENT OF 1986 CODE.**—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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

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

TITLE I—EXTENSION OF EXPIRING PROVISIONS

Subtitle A—Energy

Sec. 101. Alternative motor vehicle credit for new qualified hybrid motor vehicles other than passenger automobiles and light trucks.

Sec. 102. Incentives for biodiesel and renewable diesel.

Sec. 103. Credit for electricity produced at certain open-loop biomass facilities.

Sec. 104. Credit for refined coal facilities.

Sec. 105. Credit for production of low sulfur diesel fuel.

Sec. 106. Credit for producing fuel from coke or coke gas.

Sec. 107. New energy efficient home credit.

Sec. 108. Excise tax credits and outlay payments for alternative fuel and alternative fuel mixtures.

Sec. 109. Special rule for sales or dispositions to implement FERC or State electric restructuring policy for qualified electric utilities.

Sec. 110. Suspension of limitation on percentage depletion for oil and gas from marginal wells.

Subtitle B—Individual Tax Relief

PART I—MISCELLANEOUS PROVISIONS

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

PART II—LOW-INCOME HOUSING CREDITS

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

Subtitle C—Business Tax Relief

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

- Sec. 155. Reduction in corporate rate for qualified timber gain.
- Sec. 156. Basis adjustment to stock of S corps making charitable contributions of property.
- Sec. 157. Empowerment zone tax incentives.
- Sec. 158. Tax incentives for investment in the District of Columbia.
- Sec. 159. Renewal community tax incentives.
- Sec. 160. Temporary increase in limit on cover over of rum excise taxes to Puerto Rico and the Virgin Islands.
- Sec. 161. American Samoa economic development credit.

Subtitle D—Temporary Disaster Relief Provisions

PART I—NATIONAL DISASTER RELIEF

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

PART II—REGIONAL PROVISIONS

SUBPART A—NEW YORK LIBERTY ZONE

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

SUBPART B—GO ZONE

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

SUBPART C—MIDWESTERN DISASTER AREAS

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

TITLE II—UNEMPLOYMENT INSURANCE, HEALTH, AND OTHER PROVISIONS

Subtitle A—Unemployment Insurance

- Sec. 201. Extension of unemployment insurance provisions.

Subtitle B—Health Provisions

- Sec. 211. Extension and improvement of premium assistance for COBRA benefits.
- Sec. 212. Extension of therapy caps exceptions process.
- Sec. 213. Treatment of pharmacies under durable medical equipment accreditation requirements.
- Sec. 214. Enhanced payment for mental health services.
- Sec. 215. Extension of ambulance add-ons.
- Sec. 216. Extension of geographic floor for work.
- Sec. 217. Extension of payment for technical component of certain physician pathology services.
- Sec. 218. Extension of outpatient hold harmless provision.
- Sec. 219. EHR Clarification.
- Sec. 220. Extension of reimbursement for all Medicare part B services furnished by certain indian hospitals and clinics.
- Sec. 221. Extension of certain payment rules for long-term care hospital services and of moratorium on the establishment of certain hospitals and facilities.
- Sec. 222. Extension of the Medicare rural hospital flexibility program.

- Sec. 223. Extension of section 508 hospital reclassifications.
- Sec. 224. Technical correction related to critical access hospital services.
- Sec. 225. Extension for specialized MA plans for special needs individuals.
- Sec. 226. Extension of reasonable cost contracts.
- Sec. 227. Extension of particular waiver policy for employer group plans.
- Sec. 228. Extension of continuing care retirement community program.
- Sec. 229. Funding outreach and assistance for low-income programs.
- Sec. 230. Family-to-family health information centers.
- Sec. 231. Implementation funding.
- Sec. 232. Extension of ARRA increase in FMAP.
- Sec. 233. Extension of gainsharing demonstration.

Subtitle C—Other Provisions

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

TITLE III—PENSION FUNDING RELIEF

Subtitle A—Single Employer Plans

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

Subtitle B—Multiemployer Plans

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

TITLE IV—OFFSET PROVISIONS

Subtitle A—Black Liquor

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

Subtitle B—Homebuyer Credit

- Sec. 411. Technical modifications to homebuyer credit.

Subtitle C—Economic Substance

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

Subtitle D—Additional Provisions

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

TITLE V—SATELLITE TELEVISION EXTENSION

- Sec. 501. Short title.
- Sec. 501. Reference.
- Sec. 502. Modifications to statutory license for satellite carriers.
- Sec. 503. Modifications to statutory license for satellite carriers in local markets.
- Sec. 504. Modifications to cable system secondary transmission rights under section 111.
- Sec. 505. Certain waivers granted to providers of local-into-local service for all DMAs.
- Sec. 506. Copyright Office fees.

Sec. 507. Termination of license.
 Sec. 508. Construction.

Subtitle B—Communications Provisions

Sec. 521. Reference.
 Sec. 522. Extension of authority.
 Sec. 523. Significantly viewed stations.
 Sec. 524. Digital television transition conforming amendments.
 Sec. 525. Application pending completion of rulemakings.
 Sec. 526. Process for issuing qualified carrier certification.
 Sec. 527. Nondiscrimination in carriage of high definition digital signals of noncommercial educational television stations.
 Sec. 528. Savings clause regarding definitions.
 Sec. 529. State public affairs broadcasts.

Subtitle C—Reports and Savings Provision

Sec. 531. Definition.
 Sec. 532. Report on market based alternatives to statutory licensing.
 Sec. 533. Report on communications implications of statutory licensing modifications.
 Sec. 534. Report on in-state broadcast programming.
 Sec. 535. Local network channel broadcast reports.
 Sec. 536. Savings provision regarding use of negotiated licenses.
 Sec. 537. Effective date; noninfringement of copyright.

Subtitle D—Severability

Sec. 541. Severability.

TITLE VI—OTHER PROVISIONS

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

TITLE VII—DETERMINATION OF BUDGETARY EFFECTS

Sec. 701. Determination of budgetary effects.

TITLE I—EXTENSION OF EXPIRING PROVISIONS

Subtitle A—Energy

SEC. 101. ALTERNATIVE MOTOR VEHICLE CREDIT FOR NEW QUALIFIED HYBRID MOTOR VEHICLES OTHER THAN PASSENGER AUTOMOBILES AND LIGHT TRUCKS.

(a) IN GENERAL.—Paragraph (3) of section 30B(k) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property purchased after December 31, 2009.

SEC. 102. INCENTIVES FOR BIODIESEL AND RENEWABLE DIESEL.

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

(b) EXCISE TAX CREDITS AND OUTLAY PAYMENTS FOR BIODIESEL AND RENEWABLE DIESEL FUEL MIXTURES.—

(1) Paragraph (6) of section 6426(c) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(2) Subparagraph (B) of section 6427(e)(6) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

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

SEC. 103. CREDIT FOR ELECTRICITY PRODUCED AT CERTAIN OPEN-LOOP BIOMASS FACILITIES.

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

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

SEC. 104. CREDIT FOR REFINED COAL FACILITIES.

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

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

SEC. 105. CREDIT FOR PRODUCTION OF LOW SULFUR DIESEL FUEL.

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

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

SEC. 106. CREDIT FOR PRODUCING FUEL FROM COKE OR COKE GAS.

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

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

SEC. 107. NEW ENERGY EFFICIENT HOME CREDIT.

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

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

SEC. 108. EXCISE TAX CREDITS AND OUTLAY PAYMENTS FOR ALTERNATIVE FUEL AND ALTERNATIVE FUEL MIXTURES.

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

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

SEC. 109. SPECIAL RULE FOR SALES OR DISPOSITIONS TO IMPLEMENT FERC OR STATE ELECTRIC RESTRUCTURING POLICY FOR QUALIFIED ELECTRIC UTILITIES.

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

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

SEC. 110. SUSPENSION OF LIMITATION ON PERCENTAGE DEPLETION FOR OIL AND GAS FROM MARGINAL WELLS.

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

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

Subtitle B—Individual Tax Relief

PART I—MISCELLANEOUS PROVISIONS

SEC. 111. DEDUCTION FOR CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.

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

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

SEC. 112. ADDITIONAL STANDARD DEDUCTION FOR STATE AND LOCAL REAL PROPERTY TAXES.

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

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

SEC. 113. DEDUCTION OF STATE AND LOCAL SALES TAXES.

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

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

SEC. 114. CONTRIBUTIONS OF CAPITAL GAIN REAL PROPERTY MADE FOR CONSERVATION PURPOSES.

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

(b) CONTRIBUTIONS BY CERTAIN CORPORATE FARMERS AND RANCHERS.—Clause (iii) of section 170(b)(2)(B) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

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

SEC. 115. ABOVE-THE-LINE DEDUCTION FOR QUALIFIED TUITION AND RELATED EXPENSES.

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

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

SEC. 116. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS FOR CHARITABLE PURPOSES.

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

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

SEC. 117. LOOK-THRU OF CERTAIN REGULATED INVESTMENT COMPANY STOCK IN DETERMINING GROSS ESTATE OF NONRESIDENTS.

(a) IN GENERAL.—Paragraph (3) of section 2105(d) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

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

PART II—LOW-INCOME HOUSING CREDITS

SEC. 121. ELECTION FOR REFUNDABLE LOW-INCOME HOUSING CREDIT FOR 2010.

(a) IN GENERAL.—Section 42 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

“(n) ELECTION FOR REFUNDABLE CREDITS.—

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

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

“(A) the sum of—

“(i) 100 percent of the State housing credit ceiling for 2010 which is attributable to amounts described in clauses (i) and (iii) of subsection (h)(3)(C), and

“(ii) 40 percent of the State housing credit ceiling for 2010 which is attributable to amounts described in clauses (ii) and (iv) of such subsection, multiplied by

“(B) 10.

“(3) COORDINATION WITH NON-REFUNDABLE CREDIT.—For purposes of this section, the amounts described in clauses (i) through (iv) of subsection (h)(3)(C) with respect to any State for 2010 shall each be reduced by so much of such amount as is taken into account in determining the amount of the

credit allowed with respect to such State under paragraph (1).

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

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

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

Subtitle C—Business Tax Relief

SEC. 131. RESEARCH CREDIT.

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

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

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

SEC. 132. INDIAN EMPLOYMENT TAX CREDIT.

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

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

SEC. 133. NEW MARKETS TAX CREDIT.

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

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 45D(f) is amended by striking “2014” and inserting “2015”.

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

SEC. 134. RAILROAD TRACK MAINTENANCE CREDIT.

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

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

SEC. 135. MINE RESCUE TEAM TRAINING CREDIT.

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

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

SEC. 136. EMPLOYER WAGE CREDIT FOR EMPLOYEES WHO ARE ACTIVE DUTY MEMBERS OF THE UNIFORMED SERVICES.

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

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

SEC. 137. 5-YEAR DEPRECIATION FOR FARMING BUSINESS MACHINERY AND EQUIPMENT.

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

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

SEC. 138. 15-YEAR STRAIGHT-LINE COST RECOVERY FOR QUALIFIED LEASEHOLD IMPROVEMENTS, QUALIFIED RESTAURANT BUILDINGS AND IMPROVEMENTS, AND QUALIFIED RETAIL IMPROVEMENTS.

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

(b) CONFORMING AMENDMENTS.—

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

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

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

SEC. 139. 7-YEAR RECOVERY PERIOD FOR MOTORSPORTS ENTERTAINMENT COMPLEXES.

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

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

SEC. 140. ACCELERATED DEPRECIATION FOR BUSINESS PROPERTY ON AN INDIAN RESERVATION.

(a) IN GENERAL.—Paragraph (8) of section 168(j) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

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

SEC. 141. ENHANCED CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD INVENTORY.

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

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

SEC. 142. ENHANCED CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF BOOK INVENTORIES TO PUBLIC SCHOOLS.

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

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

SEC. 143. ENHANCED CHARITABLE DEDUCTION FOR CORPORATE CONTRIBUTIONS OF COMPUTER INVENTORY FOR EDUCATIONAL PURPOSES.

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

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

SEC. 144. ELECTION TO EXPENSE MINE SAFETY EQUIPMENT.

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

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

SEC. 145. SPECIAL EXPENSING RULES FOR CERTAIN FILM AND TELEVISION PRODUCTIONS.

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

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

SEC. 146. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

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

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

SEC. 147. DEDUCTION ALLOWABLE WITH RESPECT TO INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES IN PUERTO RICO.

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

(1) by striking “first 4 taxable years” and inserting “first 5 taxable years”, and

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

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

SEC. 148. MODIFICATION OF TAX TREATMENT OF CERTAIN PAYMENTS TO CONTROLLING EXEMPT ORGANIZATIONS.

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

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

SEC. 149. EXCLUSION OF GAIN OR LOSS ON SALE OR EXCHANGE OF CERTAIN BROWNFIELD SITES FROM UNRELATED BUSINESS INCOME.

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

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

SEC. 150. TIMBER REIT MODERNIZATION.

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

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (I) of section 856(c)(2) is amended by striking “the first taxable year beginning after the date of the enactment of this subparagraph” and inserting “in a taxable year beginning on or before the termination date”.

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

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

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

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

SEC. 151. TREATMENT OF CERTAIN DIVIDENDS AND ASSETS OF REGULATED INVESTMENT COMPANIES.

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

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

SEC. 152. RIC QUALIFIED INVESTMENT ENTITY TREATMENT UNDER FIRPTA.

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

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect on January 1, 2010. Notwithstanding the preceding sentence, such amendment shall not apply with

respect to the withholding requirement under section 1445 of the Internal Revenue Code of 1986 for any payment made before the date of the enactment of this Act.

(2) AMOUNTS WITHHELD ON OR BEFORE DATE OF ENACTMENT.—In the case of a regulated investment company—

(A) which makes a distribution after December 31, 2009, and before the date of the enactment of this Act, and

(B) which would (but for the second sentence of paragraph (1)) have been required to withhold with respect to such distribution under section 1445 of such Code,

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

SEC. 153. EXCEPTIONS FOR ACTIVE FINANCING INCOME.

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

(b) CONFORMING AMENDMENT.—Section 953(e)(10) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

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

SEC. 154. LOOK-THRU TREATMENT OF PAYMENTS BETWEEN RELATED CONTROLLED FOREIGN CORPORATIONS UNDER FOREIGN PERSONAL HOLDING COMPANY RULES.

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

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

SEC. 155. REDUCTION IN CORPORATE RATE FOR QUALIFIED TIMBER GAIN.

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

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

“(3) APPLICATION OF SUBSECTION.—The qualified timber gain for any taxable year shall not exceed the qualified timber gain which would be determined by not taking into account any portion of such taxable year after December 31, 2010.”

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

SEC. 156. BASIS ADJUSTMENT TO STOCK OF S CORPS MAKING CHARITABLE CONTRIBUTIONS OF PROPERTY.

(a) IN GENERAL.—Paragraph (2) of section 1367(a) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

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

SEC. 157. EMPOWERMENT ZONE TAX INCENTIVES.

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

(1) by striking “December 31, 2009” in subsection (d)(1)(A)(i) and inserting “December 31, 2010”, and

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

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

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

(2) by striking “2014” in the heading and inserting “2015”.

(c) TREATMENT OF CERTAIN TERMINATION DATES SPECIFIED IN NOMINATIONS.—In the case of a designation of an empowerment zone the nomination for which included a termination date which is contemporaneous with the date specified in subparagraph (A)(i) of section 1391(d)(1) of the Internal Revenue Code of 1986 (as in effect before the enactment of this Act), subparagraph (B) of such section shall not apply with respect to such designation unless, after the date of the enactment of this section, the entity which made such nomination reconfirms such termination date, or amends the nomination to provide for a new termination date, in such manner as the Secretary of the Treasury (or the Secretary’s designee) may provide.

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

SEC. 158. TAX INCENTIVES FOR INVESTMENT IN THE DISTRICT OF COLUMBIA.

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

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

(c) ZERO-PERCENT CAPITAL GAINS RATE.—

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

(2) LIMITATION ON PERIOD OF GAINS.—

(A) IN GENERAL.—Paragraph (2) of section 1400B(e) is amended—

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

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

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

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

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to periods after December 31, 2009.

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

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

(4) HOMEBUYER CREDIT.—The amendment made by subsection (d) shall apply to homes purchased after December 31, 2009.

SEC. 159. RENEWAL COMMUNITY TAX INCENTIVES.

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

(1) by striking “December 31, 2009” in paragraphs (1)(A) and (3) and inserting “December 31, 2010”, and

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

(b) ZERO-PERCENT CAPITAL GAINS RATE.—

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

(2) LIMITATION ON PERIOD OF GAINS.—Paragraph (2) of section 1400F(c) is amended—

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

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

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

(c) COMMERCIAL REVITALIZATION DEDUCTION.—

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

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

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

(e) TREATMENT OF CERTAIN TERMINATION DATES SPECIFIED IN NOMINATIONS.—In the case of a designation of a renewal community the nomination for which included a termination date which is contemporaneous with the date specified in subparagraph (A) of section 1400E(b)(1) of the Internal Revenue Code of 1986 (as in effect before the enactment of this Act), subparagraph (B) of such section shall not apply with respect to such designation unless, after the date of the enactment of this section, the entity which made such nomination reconfirms such termination date, or amends the nomination to provide for a new termination date, in such manner as the Secretary of the Treasury (or the Secretary’s designee) may provide.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to periods after December 31, 2009.

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

(3) COMMERCIAL REVITALIZATION DEDUCTION.—

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

(B) CONFORMING AMENDMENT.—The amendment made by subsection (c)(2) shall apply to calendar years beginning after December 31, 2009.

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

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

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

SEC. 161. AMERICAN SAMOA ECONOMIC DEVELOPMENT CREDIT.

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

(1) by striking “first 4 taxable years” and inserting “first 5 taxable years”, and

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

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

Subtitle D—Temporary Disaster Relief Provisions

PART I—NATIONAL DISASTER RELIEF

SEC. 171. WAIVER OF CERTAIN MORTGAGE REVENUE BOND REQUIREMENTS.

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

(b) SPECIAL RULE FOR RESIDENCES DESTROYED IN FEDERALLY DECLARED DISASTERS.—Paragraph (13) of section 143(k), as redesignated by subsection (c), is amended by

striking “January 1, 2010” in subparagraphs (A)(i) and (B)(i) and inserting “January 1, 2011”.

(c) **TECHNICAL AMENDMENT.**—Subsection (k) of section 143 is amended by redesignating the second paragraph (12) (relating to special rules for residences destroyed in federally declared disasters) as paragraph (13).

(d) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—Except as otherwise provided in this subsection, the amendment made by this section shall apply to bonds issued after December 31, 2009.

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

(3) **TECHNICAL AMENDMENT.**—The amendment made by subsection (c) shall take effect as if included in section 709 of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008.

SEC. 172. LOSSES ATTRIBUTABLE TO FEDERALLY DECLARED DISASTERS.

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

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

(c) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—The amendment made by subsection (a) shall apply to federally declared disasters occurring after December 31, 2009.

(2) **\$500 LIMITATION.**—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 2009.

SEC. 173. SPECIAL DEPRECIATION ALLOWANCE FOR QUALIFIED DISASTER PROPERTY.

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

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to disasters occurring after December 31, 2009.

SEC. 174. NET OPERATING LOSSES ATTRIBUTABLE TO FEDERALLY DECLARED DISASTERS.

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

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

SEC. 175. EXPENSING OF QUALIFIED DISASTER EXPENSES.

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

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to expenditures on account of disasters occurring after December 31, 2009.

PART II—REGIONAL PROVISIONS

Subpart A—New York Liberty Zone

SEC. 181. SPECIAL DEPRECIATION ALLOWANCE FOR NONRESIDENTIAL AND RESIDENTIAL REAL PROPERTY.

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

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

SEC. 182. TAX-EXEMPT BOND FINANCING.

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

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

Subpart B—GO Zone

SEC. 183. SPECIAL DEPRECIATION ALLOWANCE.

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

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

SEC. 184. INCREASE IN REHABILITATION CREDIT.

(a) **IN GENERAL.**—Subsection (h) of section 1400N is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

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

SEC. 185. WORK OPPORTUNITY TAX CREDIT WITH RESPECT TO CERTAIN INDIVIDUALS AFFECTED BY HURRICANE KATRINA FOR EMPLOYERS INSIDE DISASTER AREAS.

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

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

Subpart C—Midwestern Disaster Areas

SEC. 191. SPECIAL RULES FOR USE OF RETIREMENT FUNDS.

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

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

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

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

SEC. 192. EXCLUSION OF CANCELLATION OF MORTGAGE INDEBTEDNESS.

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

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

TITLE II—UNEMPLOYMENT INSURANCE, HEALTH, AND OTHER PROVISIONS

Subtitle A—Unemployment Insurance

SEC. 201. EXTENSION OF UNEMPLOYMENT INSURANCE 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 “February 28, 2010” each place it appears and inserting “December 31, 2010”;

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

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

(2) Section 2002(e) 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. 438), is amended—

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

(B) in the heading for paragraph (2), by striking “FEBRUARY 28, 2010” and inserting “DECEMBER 31, 2010”; and

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

(3) 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 “February 28, 2010” each place it appears and inserting “January 1, 2011”; and

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

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

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

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

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

(3) by inserting after subparagraph (C) the following new subparagraph:

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

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect as if included in the enactment of the Department of Defense Appropriations Act, 2010 (Public Law 111-118).

Subtitle B—Health Provisions

SEC. 211. EXTENSION AND IMPROVEMENT OF PREMIUM ASSISTANCE FOR COBRA BENEFITS.

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

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

(1) **CLARIFICATION REGARDING COBRA CONTINUATION RESULTING FROM REDUCTIONS IN HOURS.**—Subsection (a) of section 3001 of division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) is amended—

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

(B) in paragraph (16)—

(i) by striking clause (ii) of subparagraph (A), and inserting the following:

“(ii) such individual pays, by the latest of 60 days after the date of the enactment of this paragraph, 30 days after the date of provision of the notification required under subparagraph (D)(ii), or the period described in section 4980B(f)(2)(B)(iii) of the Internal Revenue Code of 1986, the amount of such premium, after the application of paragraph (1)(A).”; and

(ii) by striking subclause (I) of subparagraph (C)(i), and inserting the following:

“(I) such assistance eligible individual experienced an involuntary termination that was a qualifying event prior to the date of enactment of the Department of Defense Appropriations Act, 2010; and”;

(C) by adding at the end the following:

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

“(A) NEW ELECTION PERIOD.—

“(i) **IN GENERAL.**—For purposes of the COBRA continuation provisions, in the case of an individual described in subparagraph (C) who did not make (or who made and discontinued) an election of COBRA continuation coverage on the basis of the reduction of hours of employment, the involuntary termination of employment of such individual after the date of the enactment of the American Workers, State, and Business Relief Act of 2010 shall be treated as a qualifying event.

“(ii) COUNTING COBRA DURATION PERIOD FROM PREVIOUS QUALIFYING EVENT.—In any case of an individual referred to in clause (i), the period of such individual’s continuation coverage shall be determined as though the qualifying event were the reduction of hours of employment.

“(iii) CONSTRUCTION.—Nothing in this paragraph shall be construed as requiring an individual referred to in clause (i) to make a payment for COBRA continuation coverage between the reduction of hours and the involuntary termination of employment.

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

“(B) NOTICES.—In the case of an individual described in subparagraph (C), the administrator of the group health plan (or other entity) involved shall provide, during the 60-day period beginning on the date of such individual’s involuntary termination of employment, an additional notification described in paragraph (7)(A), including information on the provisions of this paragraph. Rules similar to the rules of paragraph (7) shall apply with respect to such notification.

“(C) INDIVIDUALS DESCRIBED.—Individuals described in this subparagraph are individuals who are assistance eligible individuals on the basis of a qualifying event consisting of a reduction of hours occurring during the period described in paragraph (3)(A) followed by an involuntary termination of employment insofar as such involuntary termination of employment occurred after the date of the enactment of the American Workers, State, and Business Relief Act of 2010.”.

(2) CLARIFICATION OF PERIOD OF ASSISTANCE.—Subsection (a)(2)(A)(ii)(I) of such section is amended by striking “of the first month”.

(3) ENFORCEMENT.—Subsection (a)(5) of such section is amended by adding at the end the following: “In addition to civil actions that may be brought to enforce applicable provisions of such Act or other laws, the appropriate Secretary or an affected individual may bring a civil action to enforce such determinations and for appropriate relief. In addition, such Secretary may assess a penalty against a plan sponsor or health insurance issuer of not more than \$110 per day for each failure to comply with such determination of such Secretary after 10 days after the date of the plan sponsor’s or issuer’s receipt of the determination.”.

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

(A) Subsection (g) of section 35 is amended by striking “section 3002(a) of the Health Insurance Assistance for the Unemployed Act of 2009” and inserting “section 3001(a) of title III of division B of the American Recovery and Reinvestment Act of 2009”.

(B) Section 139C is amended by striking “section 3002 of the Health Insurance Assistance for the Unemployed Act of 2009” and inserting “section 3001 of title III of division B of the American Recovery and Reinvestment Act of 2009”.

(C) Section 6432 is amended—

(i) in subsection (a), by striking “section 3002(a) of the Health Insurance Assistance for the Unemployed Act of 2009” and inserting “section 3001(a) of title III of division B of the American Recovery and Reinvestment Act of 2009”;

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

(iii) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and

inserting after subsection (d) the following new subsection:

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

“(1) based on a reasonable interpretation of section 3001(a)(3)(C) of division B of the American Recovery and Reinvestment Act of 2009 and administrative guidance thereunder, an employer determines that the qualifying event with respect to COBRA continuation coverage for an individual was involuntary termination of a covered employee’s employment, and

“(2) the employer maintains supporting documentation of the determination, including an attestation by the employer of involuntary termination with respect to the covered employee,

the qualifying event for the individual shall be deemed to be involuntary termination of the covered employee’s employment.”.

(D) Subsection (a) of section 6720C is amended by striking “section 3002(a)(2)(C) of the Health Insurance Assistance for the Unemployed Act of 2009” and inserting “section 3001(a)(2)(C) of title III of division B of the American Recovery and Reinvestment Act of 2009”.

(C) RULES RELATING TO 2010 EXTENSION.—Subsection (a) of section 3001 of division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5), as amended by subsection (b)(1)(C), is further amended by adding at the end the following:

“(18) RULES RELATED TO 2010 EXTENSION.—

“(A) ELECTION TO PAY PREMIUMS RETROACTIVELY AND MAINTAIN COBRA COVERAGE.—In the case of any premium for a period of coverage during an assistance eligible individual’s 2010 transition period, such individual shall be treated for purposes of any COBRA continuation provision as having timely paid the amount of such premium if—

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

“(ii) such individual pays, by the latest of 60 days after the date of the enactment of this paragraph, 30 days after the date of provision of the notification required under paragraph (16)(D)(ii) (as applied by subparagraph (D) of this paragraph), or the period described in section 4980B(f)(2)(B)(iii) of the Internal Revenue Code of 1986, the amount of such premium, after the application of paragraph (1)(A).

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

“(C) 2101 TRANSITION PERIOD.—

“(i) IN GENERAL.—For purposes of this paragraph, the term ‘transition period’ means, with respect to any assistance eligible individual, any period of coverage if—

“(I) such assistance eligible individual experienced an involuntary termination that was a qualifying event prior to the date of enactment of the American Workers, State, and Business Relief Act of 2010, and

“(II) paragraph (1)(A) applies to such period by reason of the amendments made by section 211 of the American Workers, State, and Business Relief Act of 2010.

“(ii) CONSTRUCTION.—Any period during the period described in subclauses (I) and (II) of clause (i) for which the applicable premium has been paid pursuant to subparagraph (A) shall be treated as a period of coverage referred to in such paragraph, irrespective of

any failure to timely pay the applicable premium (other than pursuant to subparagraph (A)) for such period.

“(D) NOTIFICATION.—Notification provisions similar to the provisions of paragraph (16)(E) shall apply for purposes of this paragraph.”.

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

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

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

SEC. 212. EXTENSION OF THERAPY CAPS EXCEPTIONS PROCESS.

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

SEC. 213. TREATMENT OF PHARMACIES UNDER DURABLE MEDICAL EQUIPMENT ACCREDITATION REQUIREMENTS.

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

(1) in subparagraph (F)—

(A) in clause (i)—

(i) by striking “clause (ii)” and inserting “clauses (ii) and (iii)”;

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

(iii) by striking “and” at the end;

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

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

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

“(II) effective with respect to items and services furnished on or after the date of the enactment of this subparagraph, the Secretary may apply to pharmacies quality standards and an accreditation requirement established by the Secretary that are an alternative to the quality standards and accreditation requirement otherwise applicable under this paragraph if the Secretary determines such alternative quality standards and accreditation requirement are appropriate for pharmacies.”; and

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

“If determined appropriate by the Secretary, any alternative quality standards and accreditation requirement established under clause (iii)(II) may differ for categories of pharmacies established by the Secretary (such as pharmacies described in subparagraph (G)).”; and

(2) by adding at the end the following new subparagraph:

“(G) PHARMACY DESCRIBED.—A pharmacy described in this subparagraph is a pharmacy that meets each of the following criteria:

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

“(ii) The pharmacy has been enrolled under section 1866(j) as a supplier of durable medical equipment, prosthetics, orthotics, and supplies, has been issued (which may include the renewal of) a provider number for at least 2 years, and for which a final adverse action (as defined in section 424.57(a) of title 42, Code of Federal Regulations) has not been imposed in the past 2 years.

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

“(iv) The pharmacy agrees to submit materials as requested by the Secretary, or during the course of an audit conducted on a random sample of pharmacies selected annually, to verify that the pharmacy meets the criteria described in clauses (i) and (ii). Materials submitted under the preceding sentence shall include a certification by an independent accountant on behalf of the pharmacy or the submission of tax returns filed by the pharmacy during the relevant periods, as requested by the Secretary.”.

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

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

(2) by adding at the end the following new sentences: “Notwithstanding the preceding sentences, any alternative quality standards and accreditation requirement established under subparagraph (F)(iii)(II) shall be established through notice and comment rulemaking. The Secretary may implement by program instruction or otherwise subparagraph (G) after consultation with representatives of relevant parties. The specifications developed by the Secretary in order to implement subparagraph (G) shall be posted on the Internet website of the Centers for Medicare & Medicaid Services.”.

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

(d) **RULE OF CONSTRUCTION.**—Nothing in the provisions of, or amendments made by, this section shall be construed as affecting the application of an accreditation requirement for pharmacies to qualify for bidding in a competitive acquisition area under section 1847 of the Social Security Act (42 U.S.C. 1395w-3).

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

SEC. 214. ENHANCED PAYMENT FOR MENTAL HEALTH SERVICES.

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

SEC. 215. EXTENSION OF AMBULANCE ADD-ONS.

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

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking “before January 1, 2010” and inserting “before January 1, 2011”; and

(B) in each of clauses (i) and (ii), by striking “before January 1, 2010” and inserting “before January 1, 2011”.

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

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

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

(2) by adding at the end the following new sentence: “For purposes of applying this subparagraph for ground ambulance services furnished on or after January 1, 2010, and before January 1, 2011, the Secretary shall use the percent increase that was applicable under this subparagraph to ground ambulance services furnished during 2009.”.

SEC. 216. EXTENSION OF GEOGRAPHIC FLOOR FOR WORK.

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

SEC. 217. EXTENSION OF PAYMENT FOR TECHNICAL COMPONENT OF CERTAIN PHYSICIAN PATHOLOGY SERVICES.

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

SEC. 218. EXTENSION OF OUTPATIENT HOLD HARMLESS PROVISION.

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

(1) in subclause (II)—

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

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

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

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

SEC. 219. EHR CLARIFICATION.

(a) **QUALIFICATION FOR CLINIC-BASED PHYSICIANS.**—

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

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

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall be effective as if included in the enactment of the HITECH Act (included in the American Recovery and Reinvestment Act of 2009 (Public Law 111-5)).

(c) **IMPLEMENTATION.**—Notwithstanding any other provision of law, the Secretary may implement the amendments made by this section by program instruction or otherwise.

SEC. 220. EXTENSION OF REIMBURSEMENT FOR ALL MEDICARE PART B SERVICES FURNISHED BY CERTAIN INDIAN HOSPITALS AND CLINICS.

Section 1880(e)(1)(A) of the Social Security Act (42 U.S.C. 1395qq(e)(1)(A)) is amended by

striking “5-year period” and inserting “6-year period”.

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

(a) **EXTENSION OF CERTAIN PAYMENT RULES.**—Section 114(c) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (42 U.S.C. 1395ww note), as amended by section 4302(a) of the American Recovery and Reinvestment Act (Public Law 111-5), is amended by striking “3-year period” each place it appears and inserting “4-year period”.

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

SEC. 222. EXTENSION OF THE MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.

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

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

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

SEC. 223. EXTENSION OF SECTION 508 HOSPITAL RECLASSIFICATIONS.

(a) **IN GENERAL.**—Subsection (a) of section 106 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) and section 124 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110-275), is amended by striking “September 30, 2009” and inserting “September 30, 2010”.

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

SEC. 224. TECHNICAL CORRECTION RELATED TO CRITICAL ACCESS HOSPITAL SERVICES.

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

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

SEC. 225. EXTENSION FOR SPECIALIZED MA PLANS FOR SPECIAL NEEDS INDIVIDUALS.

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

(b) **TEMPORARY EXTENSION OF AUTHORITY TO OPERATE BUT NO SERVICE AREA EXPANSION FOR DUAL SPECIAL NEEDS PLANS THAT**

DO NOT MEET CERTAIN REQUIREMENTS.—Section 164(c)(2) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110-275) is amended by striking “December 31, 2010” and inserting “December 31, 2011”.

SEC. 226. EXTENSION OF REASONABLE COST CONTRACTS.

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

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

For plan year 2011 and subsequent plan years, to the extent that the Secretary of Health and Human Services is applying the 2008 service area extension waiver policy (as modified in the April 11, 2008, Centers for Medicare & Medicaid Services’ memorandum with the subject “2009 Employer Group Waiver-Modification of the 2008 Service Area Extension Waiver Granted to Certain MA Local Coordinated Care Plans”) to Medicare Advantage coordinated care plans, the Secretary shall extend the application of such waiver policy to employers who contract directly with the Secretary as a Medicare Advantage private fee-for-service plan under section 1857(i)(2) of the Social Security Act (42 U.S.C. 1395w-27(i)(2)) and that had enrollment as of January 1, 2010.

SEC. 228. EXTENSION OF CONTINUING CARE RETIREMENT COMMUNITY PROGRAM.

Notwithstanding any other provision of law, the Secretary of Health and Human Services shall continue to conduct the Erickson Advantage Continuing Care Retirement Community (CCRC) program under part C of title XVIII of the Social Security Act through December 31, 2011.

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

(a) ADDITIONAL FUNDING FOR STATE HEALTH INSURANCE PROGRAMS.—Subsection (a)(1)(B) of section 119 of the Medicare Improvements for Patients and Providers Act of 2008 (42 U.S.C. 1395b-3 note) is amended by striking “(42 U.S.C. 1395w-23(f))” and all that follows through the period at the end and inserting “(42 U.S.C. 1395w-23(f)), to the Centers for Medicare & Medicaid Services Program Management Account—

- “(i) for fiscal year 2009, of \$7,500,000; and
- “(ii) for fiscal year 2010, of \$6,000,000.

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

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

- “(i) for fiscal year 2009, of \$7,500,000; and
- “(ii) for fiscal year 2010, of \$6,000,000.

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

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

- “(i) for fiscal year 2009, of \$5,000,000; and
- “(ii) for fiscal year 2010, of \$6,000,000.

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

(d) ADDITIONAL FUNDING FOR CONTRACT WITH THE NATIONAL CENTER FOR BENEFITS AND OUTREACH ENROLLMENT.—Subsection

(d)(2) of such section 119 is amended by striking “(42 U.S.C. 1395w-23(f))” and all that follows through the period at the end and inserting “(42 U.S.C. 1395w-23(f)), to the Administration on Aging—

- “(i) for fiscal year 2009, of \$5,000,000; and
- “(ii) for fiscal year 2010, of \$2,000,000.

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

SEC. 230. FAMILY-TO-FAMILY HEALTH INFORMATION CENTERS.

Section 501(c)(1)(A)(iii) of the Social Security Act (42 U.S.C. 701(c)(1)(A)(iii)) is amended by striking “fiscal year 2009” and inserting “each of fiscal years 2009 through 2011”.

SEC. 231. IMPLEMENTATION FUNDING.

For purposes of carrying out the provisions of, and amendments made by, this title that relate to titles XVIII and XIX of the Social Security Act, there are appropriated to the Secretary of Health and Human Services for the Centers for Medicare & Medicaid Services Program Management Account, from amounts in the general fund of the Treasury not otherwise appropriated, \$100,000,000. Amounts appropriated under the preceding sentence shall remain available until expended.

SEC. 232. EXTENSION OF ARRA INCREASE IN FMAP.

Section 5001 of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) is amended—

(1) in subsection (a)(3), by striking “first calendar quarter” and inserting “first 3 calendar quarters”;

(2) in subsection (c)—

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

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

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

(3) in subsection (g)—

(A) in paragraph (1), by striking “September 30, 2011” and inserting “March 31, 2012”;

(B) in paragraph (2)—

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

(ii) by adding at the end the following new sentence: “Voluntary contributions by a political subdivision to the non-Federal share of expenditures under the State Medicaid plan or to the non-Federal share of payments under section 1923 of the Social Security Act shall not be considered to be required contributions for purposes of this section.”; and

(C) by adding at the end the following:

“(3) CERTIFICATION BY CHIEF EXECUTIVE OFFICER.—No additional Federal funds shall be paid to a State as a result of this section with respect to a calendar quarter occurring during the period beginning on January 1, 2011, and ending on June 30, 2011, unless, not later than 45 days after the date of enactment of this paragraph, the chief executive officer of the State certifies that the State will request and use such additional Federal funds.”; and

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

SEC. 233. EXTENSION OF GAINSHARING DEMONSTRATION.

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

(b) FUNDING.—

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

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

(c) REPORTS.—

(1) QUALITY IMPROVEMENT AND SAVINGS.—Subsection (e)(3) of such section is amended by striking “December 1, 2008” and inserting “18 months after the date of the enactment of the American Workers, State, and Business Relief Act of 2010”.

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

Subtitle C—Other Provisions

SEC. 241. EXTENSION OF USE OF 2009 POVERTY GUIDELINES.

Section 1012 of the Department of Defense Appropriations Act, 2010 (Public Law 111-118) is amended—

- (1) by striking “before March 1, 2010”; and
- (2) by inserting “for 2011” after “until updated poverty guidelines”.

SEC. 242. REFUNDS DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.

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

“SEC. 6409. REFUNDS DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.

“(a) IN GENERAL.—Notwithstanding any other provision of law, any refund (or advance payment with respect to a refundable credit) made to any individual under this title shall not be taken into account as income, and shall not be taken into account as resources for a period of 12 months from receipt, for purposes of determining the eligibility of such individual (or any other individual) for benefits or assistance (or the amount or extent of benefits or assistance) under any Federal program or under any State or local program financed in whole or in part with Federal funds.

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

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

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

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after December 31, 2009.

SEC. 243. STATE COURT IMPROVEMENT PROGRAM.

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

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

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

SEC. 244. EXTENSION OF NATIONAL FLOOD INSURANCE PROGRAM.

Section 129 of the Continuing Appropriations Resolution, 2010 (Public Law 111-68), as amended by section 1005 of Public Law 111-118, is further amended by striking “by substituting” and all that follows through the period at the end, and inserting “by substituting December 31, 2010, for the date specified in each such section.”.

SEC. 245. EMERGENCY DISASTER ASSISTANCE.

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

(1) DISASTER COUNTY.—

(A) IN GENERAL.—The term “disaster county” means a county included in the geographic area covered by a qualifying natural disaster declaration for the 2009 crop year.

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

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

(A) produced an aquaculture species for which feed costs represented a substantial percentage of the input costs of the aquaculture operation; and

(B) experienced a substantial price increase of feed costs above the previous 5-year average.

(3) ELIGIBLE PRODUCER.—The term “eligible producer” means an agricultural producer in a disaster county.

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

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

(B) experienced crop losses in a disaster county due to excessive rainfall or related condition.

(5) QUALIFYING NATURAL DISASTER DECLARATION.—The term “qualifying natural disaster declaration” means a natural disaster declared by the Secretary for production losses under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)).

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

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

(b) SUPPLEMENTAL DIRECT PAYMENT.—

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

(2) ACRE PROGRAM.—Eligible producers that received payments under section 1105 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8715) for the 2009 crop year and that otherwise meet the requirements of paragraph (1) shall be eligible to receive supplemental payments under that paragraph in an amount equal to 90 percent of the reduced direct payment the eligible producers received for the 2009 crop year under section 1103 or 1303 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8713, 8753).

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

(A) in the case of an insurable commodity, did not obtain a policy or plan of insurance for the insurable commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) (other than for a crop insurance pilot program under that Act) for each crop of economic significance (other than crops intended for grazing), shall obtain such a policy or plan for those crops for the next available crop year, as determined by the Secretary; or

(B) in the case of a noninsurable commodity, did not file the required paperwork, and pay the administrative fee by the applicable State filing deadline, for the noninsurable commodity under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) for each crop of economic significance (other than crops intended for grazing), shall obtain such coverage for those crops for the next available crop year, as determined by the Secretary.

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

(c) SPECIALTY CROP ASSISTANCE.—

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

(2) NOTIFICATION.—Not later than 60 days after the date of enactment of this Act, the Secretary shall notify the State department of agriculture (or similar entity) in each State of the availability of funds to assist eligible specialty crop producers, including such terms as are determined by the Secretary to be necessary for the equitable treatment of eligible specialty crop producers.

(3) PROVISION OF GRANTS.—

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

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

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

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

(A) use grant funds to assist eligible specialty crop producers;

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

(C) not later than 30 days after the date on which the State provides assistance to eligible specialty crop producers, submit to the Secretary a report that describes—

(i) the manner in which the State provided assistance;

(ii) the amounts of assistance provided by type of specialty crop; and

(iii) the process by which the State determined the levels of assistance to eligible specialty crop producers.

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

(d) COTTONSEED ASSISTANCE.—

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

(2) GENERAL TERMS.—Except as otherwise provided in this subsection, the Secretary shall provide disaster assistance under this subsection under the same terms and conditions as assistance provided under section 3015 of the Emergency Agricultural Disaster Assistance Act of 2006 (title III of Public Law 109-234; 120 Stat. 477).

(3) DISTRIBUTION OF ASSISTANCE.—The Secretary shall distribute assistance to first handlers for the benefit of eligible producers in a disaster county in an amount equal to the product obtained by multiplying—

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

(B) the county-eligible production, as determined under paragraph (5).

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

(A) the sum of the county-eligible production, as determined under paragraph (5); by

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

(5) COUNTY-ELIGIBLE PRODUCTION.—The county-eligible production shall be equal to the product obtained by multiplying—

(A) the number of acres planted to cotton in the disaster county, as reported to the Secretary by first-handlers;

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

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

(e) AQUACULTURE ASSISTANCE.—

(1) GRANT PROGRAM.—

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

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

(C) PROVISION OF GRANTS.—

(i) IN GENERAL.—The Secretary shall make grants to States under this subsection on a pro rata basis based on the amount of aquaculture feed used in each State during the 2008 calendar year, as determined by the Secretary.

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

(D) REQUIREMENTS.—The Secretary shall make grants under this subsection only to States that demonstrate to the satisfaction of the Secretary that the State will—

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

(ii) provide assistance to eligible aquaculture producers not later than 60 days after the date on which the State receives grant funds; and

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

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

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

(III) the process by which the State determined the levels of assistance to eligible aquaculture producers.

(2) **REDUCTION IN PAYMENTS.**—An eligible aquaculture producer that receives assistance under this subsection shall not be eligible to receive any other assistance under the supplemental agricultural disaster assistance program established under section 531 of the Federal Crop Insurance Act (7 U.S.C. 1531) and section 901 of the Trade Act of 1974 (19 U.S.C. 2497) for any losses in 2009 relating to the same species of aquaculture.

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

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

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

(f) **HAWAII TRANSPORTATION COOPERATIVE.**—Notwithstanding any other provision of law, the Secretary shall use \$21,000,000 of funds of the Commodity Credit Corporation to make a payment to an agricultural transportation cooperative in the State of Hawaii, the members of which are eligible to participate in the commodity loan program of the Farm Service Agency, for assistance to maintain and develop employment.

(g) **LIVESTOCK FORAGE DISASTER PROGRAM.**—

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

(A) **IN GENERAL.**—The term “disaster county” means a county included in the geographic area covered by a qualifying natural disaster declaration announced by the Secretary in calendar year 2009.

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

(2) **PAYMENTS.**—Of the funds of the Commodity Credit Corporation, the Secretary shall use not more than \$50,000,000 to carry out a program to make payments to eligible producers that had grazing losses in disaster counties in calendar year 2009.

(3) **CRITERIA.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), assistance under this subsection shall be determined under the same criteria as are used to carry out the programs under section 531(d) of the Federal Crop Insurance Act (7 U.S.C. 1531(d)) and section 901(d) of the Trade Act of 1974 (19 U.S.C. 2497(d)).

(B) **DROUGHT INTENSITY.**—For purposes of this subsection, an eligible producer shall not be required to meet the drought intensity requirements of section 531(d)(3)(D)(ii) of the Federal Crop Insurance Act (7 U.S.C. 1531(d)(3)(D)(ii)) and section 901(d)(3)(D)(ii) of the Trade Act of 1974 (19 U.S.C. 2497(d)(3)(D)(ii)).

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

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

(h) **EMERGENCY LOANS FOR POULTRY PRODUCERS.**—

(1) **DEFINITIONS.**—In this subsection:

(A) **ANNOUNCEMENT DATE.**—The term “announcement date” means the date on which

the Secretary announces the emergency loan program under this subsection.

(B) **POULTRY INTEGRATOR.**—The term “poultry integrator” means a poultry integrator that filed proceedings under chapter 11 of title 11, United States Code, in United States Bankruptcy Court during the 30-day period beginning on December 1, 2008.

(2) **LOAN PROGRAM.**—

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

(B) **TERMS AND CONDITIONS.**—Except as otherwise provided in this subsection, emergency loans under this subsection shall be subject to such terms and conditions as are determined by the Secretary.

(3) **LOANS.**—

(A) **IN GENERAL.**—An emergency loan made to a poultry producer under this subsection shall be for the purpose of providing financing to the poultry producer in response to financial losses associated with the termination or nonrenewal of any contract between the poultry producer and a poultry integrator.

(B) **ELIGIBILITY.**—

(i) **IN GENERAL.**—To be eligible for an emergency loan under this subsection, not later than 90 days after the announcement date, a poultry producer shall submit to the Secretary evidence that—

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

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

(ii) **REQUIREMENT TO OFFER LOANS.**—Notwithstanding any other provision of law, if a poultry producer meets the eligibility requirements described in clause (i), subject to the availability of funds under paragraph (2)(A), the Secretary shall offer to make a loan under this subsection to the poultry producer with a minimum term of 2 years.

(4) **ADDITIONAL REQUIREMENTS.**—

(A) **IN GENERAL.**—A poultry producer that receives an emergency loan under this subsection may use the emergency loan proceeds only to repay the amount that the poultry producer owes to any lender.

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

(i) **ADMINISTRATION.**—

(I) **REGULATIONS.**—

(A) **IN GENERAL.**—As soon as practicable after the date of enactment of this Act, the Secretary shall promulgate such regulations as are necessary to implement this section.

(B) **PROCEDURE.**—The promulgation of the regulations and administration of this section shall be made without regard to—

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

(ii) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(iii) chapter 35 of title 44, United States Code (commonly known as the “Paperwork Reduction Act”).

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

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

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

SEC. 246. SMALL BUSINESS LOAN GUARANTEE ENHANCEMENT EXTENSIONS.

(a) **APPROPRIATION.**—There is appropriated, out of any funds in the Treasury not otherwise appropriated, for an additional amount for “Small Business Administration – Business Loans Program Account”, \$354,000,000, to remain available through December 31, 2010, for the cost of—

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

(2) loan guarantees under section 502 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 152), as amended by this section. *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

(b) **EXTENSION OF PROGRAMS.**—

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

(2) **LOAN GUARANTEES.**—Section 502(f) of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 153) is amended by striking “February 28, 2010” and inserting “December 31, 2010”.

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.

(a) **AMENDMENTS TO ERISA.**—

(1) **IN GENERAL.**—Paragraph (2) of section 303(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1083(c)) is amended by adding at the end the following subparagraph:

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

“(i) **IN GENERAL.**—If a plan sponsor elects to apply this subparagraph with respect to the shortfall amortization base of a plan for any eligible plan year (in this subparagraph and paragraph (7) referred to as an “election year”), then, notwithstanding subparagraphs (A) and (B)—

“(I) the shortfall amortization installments with respect to such base shall be determined under clause (ii) or (iii), whichever is specified in the election, and

“(II) the shortfall amortization installment for any plan year in the 9-plan-year period described in clause (ii) or the 15-plan-year period described in clause (iii), respectively, with respect to such shortfall amortization base is the annual installment determined under the applicable clause for that year for that base.

“(ii) **2 PLUS 7 AMORTIZATION SCHEDULE.**—The shortfall amortization installments determined under this clause are—

“(I) in the case of the first 2 plan years in the 9-plan-year period beginning with the election year, interest on the shortfall amortization base of the plan for the election year (determined using the effective interest rate for the plan for the election year), and

“(II) in the case of the last 7 plan years in such 9-plan-year period, the amounts necessary to amortize the remaining balance of the shortfall amortization base of the plan for the election year in level annual installments over such last 7 plan years (using the segment rates under subparagraph (C) for the election year).

“(iii) 15-YEAR AMORTIZATION.—The shortfall amortization installments determined under this subparagraph are the amounts necessary to amortize the shortfall amortization base of the plan for the election year in level annual installments over the 15-plan-year period beginning with the election year (using the segment rates under subparagraph (C) for the election year).

“(iv) ELECTION.—

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

“(II) AMORTIZATION SCHEDULE.—Such election shall specify whether the amortization schedule under clause (i) or (iii) shall apply to an election year, except that if a plan sponsor elects to have this subparagraph apply to 2 eligible plan years, the plan sponsor must elect the same schedule for both years.

“(III) OTHER RULES.—Such election shall be made at such time, and in such form and manner, as shall be prescribed by the Secretary of the Treasury, and may be revoked only with the consent of the Secretary of the Treasury. The Secretary of the Treasury shall, before granting a revocation request, provide the Pension Benefit Guaranty Corporation an opportunity to comment on the conditions applicable to the treatment of any portion of the election year shortfall amortization base that remains unamortized as of the revocation date.

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

“(vi) REPORTING.—A plan sponsor of a plan who makes an election under clause (i) shall inform the Pension Benefit Guaranty Corporation of such election in such form and manner as the Director of the Pension Benefit Guaranty Corporation may prescribe.

“(vii) INCREASES IN REQUIRED INSTALLMENTS IN CERTAIN CASES.—For increases in required contributions in cases of excess compensation or extraordinary dividends or stock redemptions, see paragraph (7).”.

(2) INCREASES IN REQUIRED INSTALLMENTS IN CERTAIN CASES.—Section 303(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1083(c)) is amended by adding at the end the following paragraph:

“(7) INCREASES IN ALTERNATE REQUIRED INSTALLMENTS IN CASES OF EXCESS COMPENSATION OR EXTRAORDINARY DIVIDENDS OR STOCK REDEMPTIONS.—

“(A) IN GENERAL.—If there is an installment acceleration amount with respect to a plan for any plan year in the restriction period with respect to an election year under paragraph (2)(D), then the shortfall amortization installment otherwise determined and

payable under such paragraph for such plan year shall, subject to the limitation under subparagraph (B), be increased by such amount.

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

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

“(ii) subsequent shortfall amortization installments with respect to such base shall, in reverse order of the otherwise required installments, be reduced to the extent necessary to limit the present value of such subsequent shortfall amortization installments (after application of this paragraph) to the present value of the remaining unamortized shortfall amortization base.

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

“(i) IN GENERAL.—The term ‘installment acceleration amount’ means, with respect to any plan year in a restriction period with respect to an election year, the sum of—

“(I) the aggregate amount of excess employee compensation determined under subparagraph (D) with respect to all employees for the plan year, plus

“(II) the aggregate amount of extraordinary dividends and redemptions determined under subparagraph (E) for the plan year.

“(ii) LIMITATION TO AGGREGATE REDUCED REQUIRED CONTRIBUTIONS.—The installment acceleration amount for any plan year shall not exceed the excess (if any) of—

“(I) the sum of the shortfall amortization installments for the plan year and all preceding plan years in the amortization period elected under paragraph (2)(D) with respect to the shortfall amortization base with respect to an election year, determined without regard to paragraph (2)(D) and this paragraph, over

“(II) the sum of the shortfall amortization installments for such plan year and all such preceding plan years, determined after application of paragraph (2)(D) (and in the case of any preceding plan year, after application of this paragraph).

“(iii) CARRYOVER OF EXCESS INSTALLMENT ACCELERATION AMOUNTS.—

“(I) IN GENERAL.—If the installment acceleration amount for any plan year (determined without regard to clause (ii)) exceeds the limitation under clause (ii), then, subject to subclause (II), such excess shall be treated as an installment acceleration amount with respect to the succeeding plan year (without regard to whether such succeeding plan year is in the restriction period).

“(II) CAP TO APPLY.—If any amount treated as an installment acceleration amount under subclause (I) or this subclause with respect any succeeding plan year, when added to other installment acceleration amounts (determined without regard to clause (ii)) with respect to the plan year, exceeds the limitation under clause (ii), the portion of such amount representing such excess shall be treated as an installment acceleration amount with respect to the next succeeding plan year (without regard to whether such succeeding plan year is in the restriction period).

“(III) ORDERING RULES.—For purposes of applying subclause (II), installment acceleration amounts for the plan year (determined without regard to any carryover under this

clause) shall be applied first against the limitation under clause (ii) and then carryovers to such plan year shall be applied against such limitation on a first-in, first-out basis.

“(D) EXCESS EMPLOYEE COMPENSATION.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘excess employee compensation’ means, with respect to any employee for any plan year, the excess (if any) of—

“(I) the aggregate amount includible in income under chapter 1 of the Internal Revenue Code of 1986 for remuneration during the calendar year in which such plan year begins for services performed by the employee for the plan sponsor (whether or not performed during such calendar year), over

“(II) \$1,000,000.

“(ii) AMOUNTS SET ASIDE FOR NONQUALIFIED DEFERRED COMPENSATION.—If during any calendar year assets are set aside or reserved (directly or indirectly) in a trust (or other arrangement as determined by the Secretary of the Treasury), or transferred to such a trust or other arrangement, by a plan sponsor for purposes of paying deferred compensation of an employee under a nonqualified deferred compensation plan (as defined in section 409A of such Code) of the plan sponsor, then, for purposes of clause (i), the amount of such assets shall be treated as remuneration of the employee includible in income for the calendar year unless such amount is otherwise includible in income for such year. An amount to which the preceding sentence applies shall not be taken into account under this paragraph for any subsequent calendar year.

“(iii) ONLY REMUNERATION FOR CERTAIN POST-2009 SERVICES COUNTED.—Remuneration shall be taken into account under clause (i) only to the extent attributable to services performed by the employee for the plan sponsor after February 4, 2010.

“(iv) EXCEPTION FOR CERTAIN EQUITY PAYMENTS.—

“(I) IN GENERAL.—There shall not be taken into account under clause (i)(I) any amount includible in income with respect to the granting on or after February 4, 2010, of service recipient stock (within the meaning of section 409A of the Internal Revenue Code of 1986) that, upon such grant, is subject to a substantial risk of forfeiture (as defined under section 83(c)(1) of such Code) for at least 5 years from the date of such grant.

“(II) SECRETARIAL AUTHORITY.—The Secretary of the Treasury may by regulation provide for the application of this clause in the case of a person other than a corporation.

“(v) OTHER EXCEPTIONS.—The following amounts includible in income shall not be taken into account under clause (i)(I):

“(I) COMMISSIONS.—Any remuneration payable on a commission basis solely on account of income directly generated by the individual performance of the individual to whom such remuneration is payable.

“(II) CERTAIN PAYMENTS UNDER EXISTING CONTRACTS.—Any remuneration consisting of nonqualified deferred compensation, restricted stock, stock options, or stock appreciation rights payable or granted under a written binding contract that was in effect on February 4, 2010, and which was not modified in any material respect before such remuneration is paid.

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

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

“(I) such dollar amount, multiplied by

“(II) the cost-of-living adjustment determined under section 1(f)(3) of such Code for the calendar year, determined by substituting ‘calendar year 2009’ for ‘calendar year 1992’ in subparagraph (B) thereof.

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

“(E) EXTRAORDINARY DIVIDENDS AND REDEMPTIONS.—

“(i) IN GENERAL.—The amount determined under this subparagraph for any plan year is the excess (if any) of—

“(I) the sum of the dividends declared during the plan year by the plan sponsor plus the aggregate fair market value of the stock of the plan sponsor redeemed during the plan year, over

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

“(ii) ONLY CERTAIN POST-2009 DIVIDENDS AND REDEMPTIONS COUNTED.—For purposes of clause (i), there shall only be taken into account dividends declared, and redemptions occurring, after February 4, 2010.

“(iii) EXCEPTION FOR INTRA-GROUP DIVIDENDS.—Dividends paid by one member of a controlled group (as defined in section 302(d)(3)) to another member of such group shall not be taken into account under clause (i).

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

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

“(ii) RESTRICTION PERIOD.—The term ‘restriction period’ means, with respect to any election year—

“(I) except as provided in subclause (II), the 4-year period beginning with the election year, and

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

“(iii) ELECTIONS FOR MULTIPLE PLANS.—If a plan sponsor makes elections under paragraph (2)(D) with respect to 2 or more plans, the Secretary of the Treasury shall provide rules for the application of this paragraph to such plans, including rules for the ratable allocation of any installment acceleration amount among such plans on the basis of each plan’s relative reduction in the plan’s shortfall amortization installment for the first plan year in the amortization period described in subparagraph (A) (determined without regard to this paragraph).

“(iv) MERGERS AND ACQUISITIONS.—The Secretary of the Treasury shall prescribe rules for the application of paragraph (2)(D) and this paragraph in any case where there is a merger or acquisition involving a plan sponsor making the election under paragraph (2)(D).”

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

(A) in subsection (c)(1), by striking “the shortfall amortization bases for such plan year and each of the 6 preceding plan years” and inserting “any shortfall amortization base which has not been fully amortized under this subsection”, and

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

“(F) QUARTERLY CONTRIBUTIONS NOT TO INCLUDE CERTAIN INCREASED CONTRIBUTIONS.—Subparagraph (D) shall be applied without

regard to any increase under subsection (c)(7).”

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

(1) IN GENERAL.—Paragraph (2) of section 430(c) is amended by adding at the end the following subparagraph:

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

“(i) IN GENERAL.—If a plan sponsor elects to apply this subparagraph with respect to the shortfall amortization base of a plan for any eligible plan year (in this subparagraph and paragraph (7) referred to as an ‘election year’), then, notwithstanding subparagraphs (A) and (B)—

“(I) the shortfall amortization installments with respect to such base shall be determined under clause (ii) or (iii), whichever is specified in the election, and

“(II) the shortfall amortization installment for any plan year in the 9-plan-year period described in clause (ii) or the 15-plan-year period described in clause (iii), respectively, with respect to such shortfall amortization base is the annual installment determined under the applicable clause for that year for that base.

“(ii) 2 PLUS 7 AMORTIZATION SCHEDULE.—The shortfall amortization installments determined under this clause are—

“(I) in the case of the first 2 plan years in the 9-plan-year period beginning with the election year, interest on the shortfall amortization base of the plan for the election year (determined using the effective interest rate for the plan for the election year), and

“(II) in the case of the last 7 plan years in such 9-plan-year period, the amounts necessary to amortize the remaining balance of the shortfall amortization base of the plan for the election year in level annual installments over such last 7 plan years (using the segment rates under subparagraph (C) for the election year).

“(iii) 15-YEAR AMORTIZATION.—The shortfall amortization installments determined under this subparagraph are the amounts necessary to amortize the shortfall amortization base of the plan for the election year in level annual installments over the 15-plan-year period beginning with the election year (using the segment rates under subparagraph (C) for the election year).

“(iv) ELECTION.—

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

“(II) AMORTIZATION SCHEDULE.—Such election shall specify whether the amortization schedule under clause (ii) or (iii) shall apply to an election year, except that if a plan sponsor elects to have this subparagraph apply to 2 eligible plan years, the plan sponsor must elect the same schedule for both years.

“(III) OTHER RULES.—Such election shall be made at such time, and in such form and manner, as shall be prescribed by the Secretary, and may be revoked only with the consent of the Secretary. The Secretary shall, before granting a revocation request, provide the Pension Benefit Guaranty Corporation an opportunity to comment on the conditions applicable to the treatment of any portion of the election year shortfall amortization base that remains unamortized as of the revocation date.

“(v) ELIGIBLE PLAN YEAR.—For purposes of this subparagraph, the term ‘eligible plan year’ means any plan year beginning in 2008, 2009, 2010, or 2011, except that a plan year shall only be treated as an eligible plan year

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

“(vi) REPORTING.—A plan sponsor of a plan who makes an election under clause (i) shall inform the Pension Benefit Guaranty Corporation of such election in such form and manner as the Director of the Pension Benefit Guaranty Corporation may prescribe.

“(vii) INCREASES IN REQUIRED INSTALLMENTS IN CERTAIN CASES.—For increases in required contributions in cases of excess compensation or extraordinary dividends or stock redemptions, see paragraph (7).”

(2) INCREASES IN REQUIRED CONTRIBUTIONS IF EXCESS COMPENSATION PAID.—Section 430(c) is amended by adding at the end the following paragraph:

“(7) INCREASES IN ALTERNATE REQUIRED INSTALLMENTS IN CASES OF EXCESS COMPENSATION OR EXTRAORDINARY DIVIDENDS OR STOCK REDEMPTIONS.—

“(A) IN GENERAL.—If there is an installment acceleration amount with respect to a plan for any plan year in the restriction period with respect to an election year under paragraph (2)(D), then the shortfall amortization installment otherwise determined and payable under such paragraph for such plan year shall, subject to the limitation under subparagraph (B), be increased by such amount.

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

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

“(ii) subsequent shortfall amortization installments with respect to such base shall, in reverse order of the otherwise required installments, be reduced to the extent necessary to limit the present value of such subsequent shortfall amortization installments (after application of this paragraph) to the present value of the remaining unamortized shortfall amortization base.

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

“(i) IN GENERAL.—The term ‘installment acceleration amount’ means, with respect to any plan year in a restriction period with respect to an election year, the sum of—

“(I) the aggregate amount of excess employee compensation determined under subparagraph (D) with respect to all employees for the plan year, plus

“(II) the aggregate amount of extraordinary dividends and redemptions determined under subparagraph (E) for the plan year.

“(ii) LIMITATION TO AGGREGATE REDUCED REQUIRED CONTRIBUTIONS.—The installment acceleration amount for any plan year shall not exceed the excess (if any) of—

“(I) the sum of the shortfall amortization installments for the plan year and all preceding plan years in the amortization period elected under paragraph (2)(D) with respect to the shortfall amortization base with respect to an election year, determined without regard to paragraph (2)(D) and this paragraph, over

“(II) the sum of the shortfall amortization installments for such plan year and all such preceding plan years, determined after application of paragraph (2)(D) (and in the case of any preceding plan year, after application of this paragraph).

“(iii) CARRYOVER OF EXCESS INSTALLMENT ACCELERATION AMOUNTS.—

“(I) IN GENERAL.—If the installment acceleration amount for any plan year (determined without regard to clause(ii)) exceeds the limitation under clause (ii), then, subject to subclause (II), such excess shall be treated as an installment acceleration amount with respect to the succeeding plan year (without regard to whether such succeeding plan year is in the restriction period).

“(II) CAP TO APPLY.—If any amount treated as an installment acceleration amount under subclause (I) or this subclause with respect to any succeeding plan year, when added to other installment acceleration amounts (determined without regard to clause (ii)) with respect to the plan year, exceeds the limitation under clause (ii), the portion of such amount representing such excess shall be treated as an installment acceleration amount with respect to the next succeeding plan year (without regard to whether such succeeding plan year is in the restriction period).

“(III) ORDERING RULES.—For purposes of applying subclause (II), installment acceleration amounts for the plan year (determined without regard to any carryover under this clause) shall be applied first against the limitation under clause (ii) and then carryovers to such plan year shall be applied against such limitation on a first-in, first-out basis.

“(D) EXCESS EMPLOYEE COMPENSATION.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘excess employee compensation’ means, with respect to any employee for any plan year, the excess (if any) of—

“(I) the aggregate amount includible in income under this chapter for remuneration during the calendar year in which such plan year begins for services performed by the employee for the plan sponsor (whether or not performed during such calendar year), over

“(II) \$1,000,000.

“(ii) AMOUNTS SET ASIDE FOR NONQUALIFIED DEFERRED COMPENSATION.—If during any calendar year assets are set aside or reserved (directly or indirectly) in a trust (or other arrangement as determined by the Secretary), or transferred to such a trust or other arrangement, by a plan sponsor for purposes of paying deferred compensation of an employee under a nonqualified deferred compensation plan (as defined in section 409A) of the plan sponsor, then, for purposes of clause (i), the amount of such assets shall be treated as remuneration of the employee includible in income for the calendar year unless such amount is otherwise includible in income for such year. An amount to which the preceding sentence applies shall not be taken into account under this paragraph for any subsequent calendar year.

“(iii) ONLY REMUNERATION FOR CERTAIN POST-2009 SERVICES COUNTED.—Remuneration shall be taken into account under clause (i) only to the extent attributable to services performed by the employee for the plan sponsor after February 4, 2010.

“(iv) EXCEPTION FOR CERTAIN EQUITY PAYMENTS.—

“(I) IN GENERAL.—There shall not be taken into account under clause (i)(I) any amount includible in income with respect to the granting on or after February 4, 2010, of service recipient stock (within the meaning of section 409A) that, upon such grant, is subject to a substantial risk of forfeiture (as defined under section 83(c)(1)) for at least 5 years from the date of such grant.

“(II) SECRETARIAL AUTHORITY.—The Secretary may by regulation provide for the application of this clause in the case of a person other than a corporation.

“(v) OTHER EXCEPTIONS.—The following amounts includible in income shall not be taken into account under clause (i)(I):

“(I) COMMISSIONS.—Any remuneration payable on a commission basis solely on account of income directly generated by the individual performance of the individual to whom such remuneration is payable.

“(II) CERTAIN PAYMENTS UNDER EXISTING CONTRACTS.—Any remuneration consisting of nonqualified deferred compensation, restricted stock, stock options, or stock appreciation rights payable or granted under a written binding contract that was in effect on February 4, 2010, and which was not modified in any material respect before such remuneration is paid.

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

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

“(I) such dollar amount, multiplied by

“(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting ‘calendar year 2009’ for ‘calendar year 1992’ in subparagraph (B) thereof.

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

“(E) EXTRAORDINARY DIVIDENDS AND REDEMPTIONS.—

“(i) IN GENERAL.—The amount determined under this subparagraph for any plan year is the excess (if any) of—

“(I) the sum of the dividends declared during the plan year by the plan sponsor plus the aggregate fair market value of the stock of the plan sponsor redeemed during the plan year, over

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

“(ii) ONLY CERTAIN POST-2009 DIVIDENDS AND REDEMPTIONS COUNTED.—For purposes of clause (i), there shall only be taken into account dividends declared, and redemptions occurring, after February 4, 2010.

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

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

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

“(ii) RESTRICTION PERIOD.—The term ‘restriction period’ means, with respect to any election year—

“(I) except as provided in subclause (II), the 4-year period beginning with the election year, and

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

“(iii) ELECTIONS FOR MULTIPLE PLANS.—If a plan sponsor makes elections under paragraph (2)(D) with respect to 2 or more plans, the Secretary shall provide rules for the application of this paragraph to such plans, including rules for the ratable allocation of any installment acceleration amount among

such plans on the basis of each plan’s relative reduction in the plan’s shortfall amortization installment for the first plan year in the amortization period described in subparagraph (A) (determined without regard to this paragraph).

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

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

(A) in subsection (c)(1), by striking “the shortfall amortization bases for such plan year and each of the 6 preceding plan years” and inserting “any shortfall amortization base which has not been fully amortized under this subsection”, and

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

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

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2007.

SEC. 302. APPLICATION OF EXTENDED AMORTIZATION PERIOD TO PLANS SUBJECT TO PRIOR LAW FUNDING RULES.

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

“SEC. 107. APPLICATION OF EXTENDED AMORTIZATION PERIODS TO PLANS WITH DELAYED EFFECTIVE DATE.

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

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

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

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

“(A) in the case of the increased unfunded new liability of the plan, the applicable percentage described in section 302(d)(4)(C) of such Act and section 412(l)(4)(C) of such Code shall be the third segment rate described in sections 104(b), 105(b), and 106(b) of this Act, and

“(B) in the case of the excess of the unfunded new liability over the increased unfunded new liability, such applicable percentage shall be determined without regard to this section.

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

“(1) in the case of the increased unfunded new liability of the plan, the applicable percentage described in section 302(d)(4)(C) of such Act and section 412(l)(4)(C) of such Code for any pre-effective date plan year beginning with or after the first election year shall be the ratio of—

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

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

“(2) in the case of the excess of the unfunded new liability over the increased unfunded new liability, such applicable percentage shall be determined without regard to this section.

“(d) ELECTION.—

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

“(2) AMORTIZATION SCHEDULE.—Such election shall specify whether the rules under subsection (b) or (c) shall apply to an election year, except that if a plan sponsor elects to have this section apply to 2 eligible plan years, the plan sponsor must elect the same rule for both years.

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

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

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

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

“(3) INCREASED UNFUNDED NEW LIABILITY.—The term ‘increased unfunded new liability’ means, with respect to a year, the excess (if any) of the unfunded new liability over the amount of unfunded new liability determined as if the value of the plan’s assets determined under subsection 302(c)(2) of such Act and section 412(c)(2) of such Code equalled the product of the current liability of the plan for the year multiplied by the funded current liability percentage (as defined in section 302(d)(8)(B) of such Act and 412(l)(8)(B) of such Code) of the plan for the second plan year preceding the first election year of such plan.

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

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

(1) by striking “eligible cooperative plan” wherever it appears in subsections (a) and (b) and inserting “eligible cooperative plan or an eligible charity plan”, and

(2) by adding at the end the following new subsection:

“(d) ELIGIBLE CHARITY PLAN DEFINED.—For purposes of this section, a plan shall be treated as an eligible charity plan for a plan year if the plan is maintained by more than one employer and 100 percent of the employers are described in section 501(c)(3) of such Code.”

(c) EFFECTIVE DATE.—

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

(2) ELIGIBLE CHARITY PLAN.—The amendments made by subsection (b) shall apply to plan years beginning after December 31, 2007, except that a plan sponsor may elect to apply such amendments to plan years beginning after December 31, 2008. Any such election shall be made at such time, and in such form and manner, as shall be prescribed by the Secretary of the Treasury, and may be revoked only with the consent of the Secretary of the Treasury.

SEC. 303. LOOKBACK FOR CERTAIN BENEFIT RESTRICTIONS.

(a) IN GENERAL.—

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

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

“(i) IN GENERAL.—For plan years beginning on or after October 1, 2008, and before October 1, 2010, the adjusted funding target attainment percentage of a plan shall be the greater of—

“(I) such percentage, as determined without regard to this subparagraph, or

“(II) the adjusted funding target attainment percentage for such plan for the plan year beginning after October 1, 2007, and before October 1, 2008, as determined under rules prescribed by the Secretary of the Treasury.

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

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

“(II) clause (i)(II) shall apply based on the last plan year beginning before November 1, 2007, as determined under rules prescribed by the Secretary of the Treasury.

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

“(I) paragraph (3), but only for purposes of applying such paragraph to a payment which, as determined under rules prescribed by the Secretary of the Treasury, is a payment under a social security leveling option which accelerates payments under the plan before, and reduces payments after, a participant starts receiving social security benefits in order to provide substantially similar aggregate payments both before and after such benefits are received, and

“(II) paragraph (4).”

(2) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Section 436(j) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

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

“(A) IN GENERAL.—For plan years beginning on or after October 1, 2008, and before October 1, 2010, the adjusted funding target attainment percentage of a plan shall be the greater of—

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

“(ii) the adjusted funding target attainment percentage for such plan for the plan year beginning after October 1, 2007, and before October 1, 2008, as determined under rules prescribed by the Secretary.

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

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

“(ii) subparagraph (A)(ii) shall apply based on the last plan year beginning before November 1, 2007, as determined under rules prescribed by the Secretary.

“(C) APPLICABLE PROVISION.—For purposes of this paragraph, the term ‘applicable provision’ means—

“(i) subsection (d), but only for purposes of applying such paragraph to a payment which, as determined under rules prescribed by the Secretary, is a payment under a social security leveling option which accelerates payments under the plan before, and reduces payments after, a participant starts receiving social security benefits in order to provide substantially similar aggregate payments both before and after such benefits are received, and

“(ii) subsection (e).”

(b) INTERACTION WITH WRERA RULE.—Section 203 of the Worker, Retiree, and Employer Recovery Act of 2008 shall apply to a plan for any plan year in lieu of the amendments made by this section applying to sections 206(g)(4) of the Employee Retirement Income Security Act of 1974 and 436(e) of the Internal Revenue Code of 1986 only to the extent that such section produces a higher adjusted funding target attainment percentage for such plan for such year.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan years beginning on or after October 1, 2008.

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

Subtitle B—Multiemployer Plans

SEC. 311. ADJUSTMENTS TO FUNDING STANDARD ACCOUNT RULES.

(a) ADJUSTMENTS.—

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

“(8) SPECIAL RELIEF RULES.—Notwithstanding any other provision of this subsection—

“(A) AMORTIZATION OF NET INVESTMENT LOSSES.—

“(i) IN GENERAL.—A multiemployer plan with respect to which the solvency test under subparagraph (C) is met may treat the portion of its experience loss attributable to the net investment losses (if any) incurred in either or both of the first two plan years ending after August 31, 2008, as an item separate from other experience losses, to be amortized in equal annual installments (until fully amortized) over a period of 30 plan years.

“(ii) COORDINATION WITH EXTENSIONS.—If this subparagraph applies for any plan year—

“(I) no extension of the amortization period under clause (i) shall be allowed under subsection (d), and

“(II) if an extension was granted under subsection (d) for any plan year before the election to have this subparagraph apply to the plan year, such extension shall not result

in such amortization period exceeding 30 years.

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

“(I) IN GENERAL.—Net investment losses shall be determined in the manner prescribed by the Secretary of the Treasury on the basis of the difference between actual and expected returns (including any difference attributable to any criminally fraudulent investment arrangement).

“(II) CRIMINALLY FRAUDULENT INVESTMENT ARRANGEMENTS.—The determination as to whether an arrangement is a criminally fraudulent investment arrangement shall be made under rules substantially similar to the rules prescribed by the Secretary of the Treasury for purposes of section 165 of the Internal Revenue Code of 1986.

“(B) EXPANDED SMOOTHING PERIOD.—

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

“(I) spreads the difference between expected and actual returns for either or both of the first 2 plan years ending after August 31, 2008, over a period of not more than 10 years,

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

“(III) makes both changes described in subsections (I) and (II) to such method.

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

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

“(II) such changes shall be deemed approved by such Secretary under section 302(d)(1) and section 412(d)(1) of such Code.

“(iii) AMORTIZATION OF REDUCTION IN UNFUNDED ACCRUED LIABILITY.—If this subparagraph and subparagraph (A) both apply for any plan year, the plan shall treat any reduction in unfunded accrued liability resulting from the application of this subparagraph as a separate experience amortization base, to be amortized in equal annual installments (until fully amortized) over a period of 30 plan years rather than the period such liability would otherwise be amortized over.

“(C) SOLVENCY TEST.—The solvency test under this paragraph is met only if the plan actuary certifies that the plan is projected to have sufficient assets to timely pay expected benefits and anticipated expenditures over the amortization period, taking into account the changes in the funding standard account under this paragraph.

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

“(i) the plan actuary certifies that—

“(I) any such increase is paid for out of additional contributions not allocated to the plan immediately before the application of this paragraph to the plan, and

“(II) the plan's funded percentage and projected credit balances for such 2 plan years are reasonably expected to be at least as high as such percentage and balances would have been if the benefit increase had not been adopted, or

“(ii) the amendment is required as a condition of qualification under part I of subchapter D of chapter 1 of the Internal Rev-

enue Code of 1986 or to comply with other applicable law.

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

(2) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Section 431(b) is amended by adding at the end the following new paragraph:

“(8) SPECIAL RELIEF RULES.—Notwithstanding any other provision of this subsection—

“(A) AMORTIZATION OF NET INVESTMENT LOSSES.—

“(i) IN GENERAL.—A multiemployer plan with respect to which the solvency test under subparagraph (C) is met may treat the portion of its experience loss attributable to the net investment losses (if any) incurred in either or both of the first two plan years ending after August 31, 2008, as an item separate from other experience losses, to be amortized in equal annual installments (until fully amortized) over a period of 30 plan years.

“(ii) COORDINATION WITH EXTENSIONS.—If this subparagraph applies for any plan year—

“(I) no extension of the amortization period under clause (i) shall be allowed under subsection (d), and

“(II) if an extension was granted under subsection (d) for any plan year before the election to have this subparagraph apply to the plan year, such extension shall not result in such amortization period exceeding 30 years.

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

“(I) IN GENERAL.—Net investment losses shall be determined in the manner prescribed by the Secretary on the basis of the difference between actual and expected returns (including any difference attributable to any criminally fraudulent investment arrangement).

“(II) CRIMINALLY FRAUDULENT INVESTMENT ARRANGEMENTS.—The determination as to whether an arrangement is a criminally fraudulent investment arrangement shall be made under rules substantially similar to the rules prescribed by the Secretary for purposes of section 165.

“(B) EXPANDED SMOOTHING PERIOD.—

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

“(I) spreads the difference between expected and actual returns for either or both of the first 2 plan years ending after August 31, 2008, over a period of not more than 10 years,

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

“(III) makes both changes described in subsections (I) and (II) to such method.

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

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

“(II) such changes shall be deemed approved by the Secretary under section 302(d)(1) of the Employee Retirement Income Security Act of 1974 and section 412(d)(1).

“(iii) AMORTIZATION OF REDUCTION IN UNFUNDED ACCRUED LIABILITY.—If this subparagraph and subparagraph (A) both apply for any plan year, the plan shall treat any reduction in unfunded accrued liability resulting from the application of this subpara-

graph as a separate experience amortization base, to be amortized in equal annual installments (until fully amortized) over a period of 30 plan years rather than the period such liability would otherwise be amortized over.

“(C) SOLVENCY TEST.—The solvency test under this paragraph is met only if the plan actuary certifies that the plan is projected to have sufficient assets to timely pay expected benefits and anticipated expenditures over the amortization period, taking into account the changes in the funding standard account under this paragraph.

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

“(i) the plan actuary certifies that—

“(I) any such increase is paid for out of additional contributions not allocated to the plan immediately before the application of this paragraph to the plan, and

“(II) the plan's funded percentage and projected credit balances for such 2 plan years are reasonably expected to be at least as high as such percentage and balances would have been if the benefit increase had not been adopted, or

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

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

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall take effect as of the first day of the first plan year ending after August 31, 2008, except that any election a plan makes pursuant to this section that affects the plan's funding standard account for the first plan year ending after August 31, 2008, shall be disregarded for purposes of applying the provisions of section 305 of the Employee Retirement Income Security Act of 1974 and section 432 of the Internal Revenue Code of 1986 to such plan year.

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

TITLE IV—OFFSET PROVISIONS

Subtitle A—Black Liquor

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

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

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

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

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

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

SEC. 402. PROHIBITION ON ALTERNATIVE FUEL CREDIT AND ALTERNATIVE FUEL MIXTURE CREDIT FOR BLACK LIQUOR.

(a) IN GENERAL.—The last sentence of section 6426(d)(2) is amended by striking “or

biodiesel" and inserting "biodiesel, or any fuel (including lignin, wood residues, or spent pulping liquors) derived from the production of paper or pulp".

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

Subtitle B—Homebuyer Credit

SEC. 411. TECHNICAL MODIFICATIONS TO HOME-BUYER CREDIT.

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

(1) by striking "or" at the end of paragraph (3),

(2) by striking the period at the end of paragraph (4) and inserting a comma, and

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

"(5) in the case of a taxpayer to whom such a credit would be allowed (but for this paragraph) by reason of subsection (c)(6), the taxpayer fails to attach to the return of tax for such taxable year a copy of such property tax bills or other documentation as are required by the Secretary to demonstrate compliance with the requirements of subsection (c)(6), or

"(6) in the case of a taxpayer to whom such a credit would be allowed (but for this paragraph) by reason of subsection (h)(2), the taxpayer fails to attach to the return of tax for such taxable year a copy of the binding contract which meets the requirements of subsection (h)(2)."

(b) **MODIFICATION OF EFFECTIVE DATE OF DOCUMENTATION REQUIREMENTS.**—Paragraph (2) of section 12(e) of the Worker, Homeownership, and Business Assistance Act of 2009 is amended by striking "returns for taxable years ending after the date of the enactment of this Act" and inserting "returns filed after the date of the enactment of this Act".

(c) **EFFECTIVE DATES.**—

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

(2) **EFFECTIVE DATE OF WORKER, HOMEOWNERSHIP, AND BUSINESS ASSISTANCE ACT.**—The amendment made by subsection (b) shall apply to purchases of a principal residence on or after the date of the enactment of the Worker, Homeownership, and Business Assistance Act of 2009.

Subtitle C—Economic Substance

SEC. 421. CODIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; PENALTIES.

(a) **IN GENERAL.**—Section 7701 is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) **CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.**—

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

"(A) the transaction changes in a meaningful way (apart from Federal income tax effects) the taxpayer's economic position, and

"(B) the taxpayer has a substantial purpose (apart from Federal income tax effects) for entering into such transaction.

"(2) **SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.**—

"(A) **IN GENERAL.**—The potential for profit of a transaction shall be taken into account in determining whether the requirements of subparagraphs (A) and (B) of paragraph (1) are met with respect to the transaction only if the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value

of the expected net tax benefits that would be allowed if the transaction were respected.

"(B) **TREATMENT OF FEES AND FOREIGN TAXES.**—Fees and other transaction expenses shall be taken into account as expenses in determining pre-tax profit under subparagraph (A). The Secretary may issue regulations requiring foreign taxes to be treated as expenses in determining pre-tax profit in appropriate cases.

"(3) **STATE AND LOCAL TAX BENEFITS.**—For purposes of paragraph (1), any State or local income tax effect which is related to a Federal income tax effect shall be treated in the same manner as a Federal income tax effect.

"(4) **FINANCIAL ACCOUNTING BENEFITS.**—For purposes of paragraph (1)(B), achieving a financial accounting benefit shall not be taken into account as a purpose for entering into a transaction if the origin of such financial accounting benefit is a reduction of Federal income tax.

"(5) **DEFINITIONS AND SPECIAL RULES.**—For purposes of this subsection—

"(A) **ECONOMIC SUBSTANCE DOCTRINE.**—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

"(B) **EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.**—In the case of an individual, paragraph (1) shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

"(C) **OTHER COMMON LAW DOCTRINES NOT AFFECTED.**—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

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

"(E) **TRANSACTION.**—The term 'transaction' includes a series of transactions.

"(6) **REGULATIONS.**—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection."

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

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

"(6) Any disallowance of claimed tax benefits by reason of a transaction lacking economic substance (within the meaning of section 7701(o)) or failing to meet the requirements of any similar rule of law."

(2) **INCREASED PENALTY FOR NONDISCLOSED TRANSACTIONS.**—Section 6662 is amended by adding at the end the following new subsection:

"(1) **INCREASE IN PENALTY IN CASE OF NONDISCLOSED NONECONOMIC SUBSTANCE TRANSACTIONS.**—

"(1) **IN GENERAL.**—In the case of any portion of an underpayment which is attributable to one or more nondisclosed noneconomic substance transactions, subsection (a) shall be applied with respect to such portion by substituting '40 percent' for '20 percent'.

"(2) **NONDISCLOSED NONECONOMIC SUBSTANCE TRANSACTIONS.**—For purposes of this subsection, the term 'nondisclosed noneconomic substance transaction' means any portion of a transaction described in subsection (b)(6) with respect to which the relevant facts af-

fecting the tax treatment are not adequately disclosed in the return nor in a statement attached to the return.

"(3) **SPECIAL RULE FOR AMENDED RETURNS.**—Except as provided in regulations, in no event shall any amendment or supplement to a return of tax be taken into account for purposes of this subsection if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary."

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

(A) by striking "section 6662(h)" and inserting "subsections (h) or (i) of section 6662"; and

(B) by striking "GROSS VALUATION MISSTATEMENT PENALTY" in the heading and inserting "CERTAIN INCREASED UNDERPAYMENT PENALTIES".

(c) **REASONABLE CAUSE EXCEPTION NOT APPLICABLE TO NONECONOMIC SUBSTANCE TRANSACTIONS.**—

(1) **REASONABLE CAUSE EXCEPTION FOR UNDERPAYMENTS.**—Subsection (c) of section 6664 is amended—

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

(B) by striking "paragraph (2)" in paragraph (4)(A), as so redesignated, and inserting "paragraph (3)"; and

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

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

(2) **REASONABLE CAUSE EXCEPTION FOR REPORTABLE TRANSACTION UNDERSTATEMENTS.**—Subsection (d) of section 6664 is amended—

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

(B) by striking "paragraph (2)(C)" in paragraph (4), as so redesignated, and inserting "paragraph (3)(C)"; and

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

"(2) **EXCEPTION.**—Paragraph (1) shall not apply to any portion of a reportable transaction understatement which is attributable to one or more transactions described in section 6662(b)(6)."

(d) **APPLICATION OF PENALTY FOR ERRONEOUS CLAIM FOR REFUND OR CREDIT TO NONECONOMIC SUBSTANCE TRANSACTIONS.**—Section 6676 is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

"(c) **NONECONOMIC SUBSTANCE TRANSACTIONS TREATED AS LACKING REASONABLE BASIS.**—For purposes of this section, any excessive amount which is attributable to any transaction described in section 6662(b)(6) shall not be treated as having a reasonable basis."

(e) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—Except as otherwise provided in this subsection, the amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

(2) **UNDERPAYMENTS.**—The amendments made by subsections (b) and (c)(1) shall apply to underpayments attributable to transactions entered into after the date of the enactment of this Act.

(3) **UNDERSTATEMENTS.**—The amendments made by subsection (c)(2) shall apply to understatements attributable to transactions entered into after the date of the enactment of this Act.

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

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

Subtitle D—Additional Provisions

SEC. 431. REVISION TO THE MEDICARE IMPROVEMENT FUND.

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

TITLE V—SATELLITE TELEVISION EXTENSION

SEC. 501. SHORT TITLE.

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

Subtitle A—Statutory Licenses

SEC. 501. REFERENCE.

Except as otherwise provided, whenever in this subtitle an amendment is made to a section or other provision, the reference shall be considered to be made to such section or provision of title 17, United States Code.

SEC. 502. MODIFICATIONS TO STATUTORY LICENSE FOR SATELLITE CARRIERS.

(a) HEADING RENAMED.—

(1) IN GENERAL.—The heading of section 119 is amended by striking “**superstations and network stations for private home viewing**” and inserting “**distant television programming by satellite**”.

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

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

(b) UNSERVED HOUSEHOLD DEFINED.—

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

(A) by striking subparagraph (A) and inserting the following:

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

“(i) if the signal originates as an analog signal, Grade B intensity as defined by the Federal Communications Commission in section 73.683(a) of title 47, Code of Federal Regulations, as in effect on January 1, 1999; or

“(ii) if the signal originates as a digital signal, intensity defined in the values for the digital television noise-limited service contour, as defined in regulations issued by the Federal Communications Commission (section 73.622(e) of title 47, Code of Federal Regulations), as such regulations may be amended from time to time;”;

(B) in subparagraph (B)—

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

(ii) by striking “Satellite Home Viewer Extension and Reauthorization Act of 2004” and inserting “Satellite Television Extension and Localism Act of 2010”; and

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

(2) QUALIFYING DATE DEFINED.—Section 119(d) is amended by adding at the end the following:

“(14) QUALIFYING DATE.—The term ‘qualifying date’, for purposes of paragraph (10)(A), means—

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

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

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

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

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

(3) by adding at the end the following:

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

(d) DEPOSIT OF STATEMENTS AND FEES; VERIFICATION PROCEDURES.—Section 119(b) is amended—

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

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

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

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

(4) by inserting after paragraph (1) the following:

“(2) VERIFICATION OF ACCOUNTS AND FEE PAYMENTS.—The Register of Copyrights shall issue regulations to permit interested parties to verify and audit the statements of account and royalty fees submitted by satellite carriers under this subsection.”;

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

(A) by inserting “(including the filing fee specified in paragraph (1)(C))” after “shall receive all fees”; and

(B) by striking “paragraph (4)” and inserting “paragraph (5)”;

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

(A) by striking “paragraph (2)” and inserting “paragraph (3)”; and

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

(7) in paragraph (5), as redesignated, by striking “paragraph (2)” and inserting “paragraph (3)”.

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

(1) Paragraph (1) is amended—

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

(B) in subparagraph (A)—

(i) by striking “primary analog transmissions”; and inserting “primary transmissions”; and

(ii) by striking “July 1, 2004” and inserting “July 1, 2009”;

(C) in subparagraph (B)—

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

(ii) by striking “primary analog transmission” and inserting “primary transmissions”;

(D) in subparagraph (C), by striking “Librarian of Congress” and inserting “Copyright Royalty Judges”;

(E) in subparagraph (D)—

(i) in clause (i)—

(I) by striking “(i) Voluntary agreements” and inserting the following:

“(i) VOLUNTARY AGREEMENTS; FILING.—Voluntary agreements”; and

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

(ii) in clause (ii)—

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

“(ii) PROCEDURE FOR ADOPTION OF FEES.—(I) PUBLICATION OF NOTICE.—Within”; and

(II) in subclause (I), by striking “an arbitration proceeding pursuant to subparagraph

(E)” and inserting “a proceeding under subparagraph (F)”;

(III) in subclause (II), by striking “(II) Upon receiving a request under subclause (I), the Librarian of Congress” and inserting the following:

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

(IV) in subclause (III)—

(aa) by striking “(III) The Librarian” and inserting the following:

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

(bb) by striking “an arbitration proceeding” and inserting “the proceeding under subparagraph (F)”;

(cc) by striking “the arbitration proceeding” and inserting “that proceeding”;

(F) in subparagraph (E)—

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

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

(G) in subparagraph (F)—

(i) in the heading, by striking “COMPULSORY ARBITRATION” and inserting “COPYRIGHT ROYALTY JUDGES PROCEEDING”;

(ii) in clause (i)—

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

(II) in the matter preceding subclause (I)—

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

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

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

(dd) by striking “primary analog transmission” and inserting “the primary transmissions”; and

(ee) by striking “distributors” and inserting “distributors”;

(III) in subclause (II)—

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

(bb) by striking “arbitration”; and

(IV) by amending the last sentence to read as follows: “Such proceeding shall be conducted under chapter 8.”;

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

“(ii) ESTABLISHMENT OF ROYALTY FEES.—In determining royalty fees under this subparagraph, the Copyright Royalty Judges shall establish fees for the secondary transmissions of the primary transmissions of network stations and non-network stations that most clearly represent the fair market value of secondary transmissions, except that the Copyright Royalty Judges shall adjust royalty fees to account for the obligations of the parties under any applicable voluntary agreement filed with the Copyright Royalty Judges in accordance with subparagraph (D). In determining the fair market value, the Judges shall base their decision on economic, competitive, and programming information presented by the parties, including—

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

“(iii) EFFECTIVE DATE FOR DECISION OF COPYRIGHT ROYALTY JUDGES.—The obligation to pay the royalty fees established under a determination that is made by the Copyright Royalty Judges in a proceeding under this paragraph shall be effective as of January 1, 2010.”; and

(v) in clause (iv)—

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

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

(2) Paragraph (2) is amended to read as follows:

“(2) ANNUAL ROYALTY FEE ADJUSTMENT.—Effective January 1 of each year, the royalty fee payable under subsection (b)(1)(B) for the secondary transmission of the primary transmissions of network stations and non-network stations shall be adjusted by the Copyright Royalty Judges to reflect any changes occurring in the cost of living as determined by the most recent Consumer Price Index (for all consumers and for all items) published by the Secretary of Labor before December 1 of the preceding year. Notification of the adjusted fees shall be published in the Federal Register at least 25 days before January 1.”

(f) DEFINITIONS.—

(1) SUBSCRIBER.—Section 119(d)(8) is amended to read as follows:

“(8) SUBSCRIBER; SUBSCRIBE.—

“(A) SUBSCRIBER.—The term ‘subscriber’ means a person or entity that receives a secondary transmission service from a satellite carrier and pays a fee for the service, directly or indirectly, to the satellite carrier or to a distributor.

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

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

“(11) LOCAL MARKET.—The term ‘local market’ has the meaning given such term under section 122(j).”

(3) LOW POWER TELEVISION STATION.—Section 119(d) is amended by striking paragraph (12) and redesignating paragraphs (13) and (14) as paragraphs (12) and (13), respectively.

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

“(14) MULTICAST STREAM.—The term ‘multicast stream’ means a digital stream containing programming and program-related material affiliated with a television network, other than the primary stream.”

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

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

“(A) the single digital stream of programming as to which a television broadcast station has the right to mandatory carriage with a satellite carrier under the rules of the Federal Communications Commission in effect on July 1, 2009; or

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

“(i) the single digital stream of programming associated with the network last transmitted by the station as an analog signal; or

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

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

(g) SUPERSTATION REDESIGNATED AS NON-NETWORK STATION.—Section 119 is amended—

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

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

(h) REMOVAL OF CERTAIN PROVISIONS.—

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

(A) in paragraph (2), by striking subparagraph (C) and redesignating subparagraph (D) as subparagraph (C);

(B) by striking paragraph (3) and redesignating paragraphs (4) through (14) as paragraphs (3) through (13), respectively; and

(C) by striking paragraph (15) and redesignating paragraph (16) as paragraph (14).

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

(A) in subsection (a)—

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

(ii) in paragraph (2)—

(I) in subparagraph (A), by striking “subparagraphs (B) and (C) of this paragraph and paragraphs (5), (6), (7), and (8)” and inserting “subparagraph (B) of this paragraph and paragraphs (4), (5), (6), and (7)”; and

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

(III) in subparagraph (C) (as redesignated), by striking clauses (i) and (ii) and inserting the following:

“(i) INITIAL LISTS.—A satellite carrier that makes secondary transmissions of a primary transmission made by a network station pursuant to subparagraph (A) shall, not later than 90 days after commencing such secondary transmissions, submit to the network that owns or is affiliated with the network station a list identifying (by name and address, including street or rural route number, city, State, and 9-digit zip code) all subscribers to which the satellite carrier makes secondary transmissions of that primary transmission to subscribers in unserved households.

“(ii) MONTHLY LISTS.—After the submission of the initial lists under clause (i), the satellite carrier shall, not later than the 15th of each month, submit to the network a list, aggregated by designated market area, identifying (by name and address, including street or rural route number, city, State, and 9-digit zip code) any persons who have been added or dropped as subscribers under clause (i) since the last submission under this subparagraph.”; and

(iii) in subparagraph (E) of paragraph (3) (as redesignated)—

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

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

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

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

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

“(III) ACCURATE PREDICTIVE MODEL WITH RESPECT TO DIGITAL SIGNALS.—Notwithstanding subclause (I), in determining presumptively whether a person resides in an unserved household under subsection (d)(10)(A) with respect to digital signals, a court shall rely on a predictive model set forth by the Federal Communications Commission pursuant to a rulemaking as provided in section 339(c)(3) of the Communications Act of 1934 (47 U.S.C. 339(c)(3)), as that model may be amended by the Commission over time under such section to increase the accuracy of that model. Until such time as the Commission sets forth such model, a court shall rely on the predictive model as recommended by the Commission with respect to digital signals in its Report to Congress in ET Docket No. 05-182, FCC 05-199 (released December 9, 2005).”

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

(A) by striking “analog” each place it appears in a heading and text;

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

“(B) RULES FOR LAWFUL SUBSCRIBERS AS OF DATE OF ENACTMENT OF 2010 ACT.—In the case of a subscriber of a satellite carrier who, on the day before the date of the enactment of the Satellite Television Extension and Localism Act of 2010, was lawfully receiving the secondary transmission of the primary transmission of a network station under the statutory license under paragraph (2) (in this subparagraph referred to as the ‘distant signal’), other than subscribers to whom subparagraph (A) applies, the statutory license under paragraph (2) shall apply to secondary transmissions by that satellite carrier to that subscriber of the distant signal of a station affiliated with the same television network, and the subscriber’s household shall continue to be considered to be an unserved household with respect to such network, until such time as the subscriber elects to terminate such secondary transmissions, whether or not the subscriber elects to subscribe to receive the secondary transmission of the primary transmission of a local network station affiliated with the same network pursuant to the statutory license under section 122.

“(C) FUTURE APPLICABILITY.—

“(i) WHEN LOCAL SIGNAL AVAILABLE AT TIME OF SUBSCRIPTION.—The statutory license under paragraph (2) shall not apply to the secondary transmission by a satellite carrier of the primary transmission of a network station to a person who is not a subscriber lawfully receiving such secondary transmission as of the date of the enactment of the Satellite Television Extension and Localism Act of 2010 and, at the time such person seeks to subscribe to receive such secondary transmission, resides in a local market where the satellite carrier makes available to that person the secondary transmission of the primary transmission of a local network station affiliated with the same network pursuant to the statutory license under section 122.

“(ii) WHEN LOCAL SIGNAL AVAILABLE AFTER SUBSCRIPTION.—In the case of a subscriber who lawfully subscribes to and receives the secondary transmission by a satellite carrier of the primary transmission of a network station under the statutory license under paragraph (2) (in this clause referred to as the ‘distant signal’) on or after the date of the enactment of the Satellite Television Extension and Localism Act of 2010, the statutory license under paragraph (2) shall apply to secondary transmissions by that satellite carrier to that subscriber of the distant signal of a station affiliated with the same television network, and the subscriber’s household shall continue to be considered to be an unserved household with respect to such network, until such time as the subscriber elects to terminate such secondary transmissions, but only if such subscriber subscribes to the secondary transmission of the primary transmission of a local network station affiliated with the same network within 60 days after the satellite carrier makes available to the subscriber such secondary transmission of the primary transmission of such local network station.”

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

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

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

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

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

(B) in subparagraph (B)—

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

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

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

“The court shall direct one half of any statutory damages ordered under clause (i) to be deposited with the Register of Copyrights for distribution to copyright owners pursuant to subsection (b). The Copyright Royalty Judges shall issue regulations establishing procedures for distributing such funds, on a proportional basis, to copyright owners whose works were included in the secondary transmissions that were the subject of the statutory damages.”.

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

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

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

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

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

(2) in subsection (d)(6), by striking “or the Direct” and inserting “, or the Direct”.

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

(a) HEADING RENAMED.—

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

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

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

(b) STATUTORY LICENSE.—Section 122(a) is amended to read as follows:

“(a) SECONDARY TRANSMISSIONS INTO LOCAL MARKETS.—

“(1) SECONDARY TRANSMISSIONS OF TELEVISION BROADCAST STATIONS WITHIN A LOCAL MARKET.—A secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station into the station’s local market shall be subject to statutory licensing under this section if—

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

“(B) with regard to secondary transmissions, the satellite carrier is in compliance with the rules, regulations, or authorizations of the Federal Communications Commission governing the carriage of television broadcast station signals; and

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

“(i) each subscriber receiving the secondary transmission; or

“(ii) a distributor that has contracted with the satellite carrier for direct or indirect delivery of the secondary transmission to the public.

“(2) SIGNIFICANTLY VIEWED STATIONS.—

“(A) IN GENERAL.—A secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station to subscribers who receive secondary transmissions of primary transmissions under paragraph (1) shall be subject to statutory licensing under

this paragraph if the secondary transmission is of the primary transmission of a network station or a non-network station to a subscriber who resides outside the station’s local market but within a community in which the signal has been determined by the Federal Communications Commission to be significantly viewed in such community, pursuant to the rules, regulations, and authorizations of the Federal Communications Commission in effect on April 15, 1976, applicable to determining with respect to a cable system whether signals are significantly viewed in a community.

“(B) WAIVER.—A subscriber who is denied the secondary transmission of the primary transmission of a network station or a non-network station under subparagraph (A) may request a waiver from such denial by submitting a request, through the subscriber’s satellite carrier, to the network station or non-network station in the local market affiliated with the same network or non-network where the subscriber is located. The network station or non-network station shall accept or reject the subscriber’s request for a waiver within 30 days after receipt of the request. If the network station or non-network station fails to accept or reject the subscriber’s request for a waiver within that 30-day period, that network station or non-network station shall be deemed to agree to the waiver request.

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

“(A) IN GENERAL.—Subject to subparagraphs (B) and (C), a secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station to subscribers who receive secondary transmissions of primary transmissions under paragraph (1) shall be subject to statutory licensing under this paragraph if the secondary transmission is of the primary transmission of a television broadcast station that is licensed as a low power television station, to a subscriber who resides within the same designated market area as the station that originates the transmission.

“(B) NO APPLICABILITY TO REPEATERS AND TRANSLATORS.—Secondary transmissions provided for in subparagraph (A) shall not apply to any low power television station that retransmits the programs and signals of another television station for more than 2 hours each day.

“(C) NO IMPACT ON OTHER SECONDARY TRANSMISSIONS OBLIGATIONS.—A satellite carrier that makes secondary transmissions of a primary transmission of a low power television station under a statutory license provided under this section is not required, by reason of such secondary transmissions, to make any other secondary transmissions.

“(4) SPECIAL EXCEPTIONS.—A secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station to subscribers who receive secondary transmissions of primary transmissions under paragraph (1) shall, if the secondary transmission is made by a satellite carrier that complies with the requirements of paragraph (1), be subject to statutory licensing under this paragraph as follows:

“(A) STATES WITH SINGLE FULL-POWER NETWORK STATION.—In a State in which there is licensed by the Federal Communications Commission a single full-power station that was a network station on January 1, 1995, the statutory license provided for in this paragraph shall apply to the secondary transmission by a satellite carrier of the primary transmission of that station to any subscriber in a community that is located within that State and that is not within the first 50 television markets as listed in the regula-

tions of the Commission as in effect on such date (47 C.F.R. 76.51).

“(B) STATES WITH ALL NETWORK STATIONS AND NON-NETWORK STATIONS IN SAME LOCAL MARKET.—In a State in which all network stations and non-network stations licensed by the Federal Communications Commission within that State as of January 1, 1995, are assigned to the same local market and that local market does not encompass all counties of that State, the statutory license provided under this paragraph shall apply to the secondary transmission by a satellite carrier of the primary transmissions of such station to all subscribers in the State who reside in a local market that is within the first 50 major television markets as listed in the regulations of the Commission as in effect on such date (section 76.51 of title 47, Code of Federal Regulations).

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

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

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

the statutory license provided under this paragraph shall apply to secondary transmissions by a satellite carrier to subscribers in any such county of the primary transmissions of any network station located in that State, if the satellite carrier was making such secondary transmissions to any subscribers in that county on January 1, 2004.

“(D) CERTAIN ADDITIONAL STATIONS.—If 2 adjacent counties in a single State are in a local market comprised principally of counties located in another State, the statutory license provided for in this paragraph shall apply to the secondary transmission by a satellite carrier to subscribers in those 2 counties of the primary transmissions of any network station located in the capital of the State in which such 2 counties are located, if—

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

“(ii) the total number of television households in the 2 counties combined did not exceed 10,000 for the year 2003 according to Nielsen Media Research.

“(E) NETWORKS OF NONCOMMERCIAL EDUCATIONAL BROADCAST STATIONS.—In the case of a system of three or more noncommercial educational broadcast stations licensed to a single State, public agency, or political, educational, or special purpose subdivision of a State, the statutory license provided for in this paragraph shall apply to the secondary transmission of the primary transmission of such system to any subscriber in any county or county equivalent within such State, if such subscriber is located in a designated market area that is not otherwise eligible to receive the secondary transmission of the primary transmission of a noncommercial educational broadcast station located within the State pursuant to paragraph (1).

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

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

(1) in paragraph (1), by striking “station a list” and all that follows through the end and inserting the following: “station—

“(A) a list identifying (by name in alphabetical order and street address, including county and 9-digit zip code) all subscribers to

which the satellite carrier makes secondary transmissions of that primary transmission under subsection (a); and

“(B) a separate list, aggregated by designated market area (by name and address, including street or rural route number, city, State, and 9-digit zip code), which shall indicate those subscribers being served pursuant to paragraph (2) of subsection (a).”; and

(2) in paragraph (2), by striking “network a list” and all that follows through the end and inserting the following: “network—

“(A) a list identifying (by name in alphabetical order and street address, including county and 9-digit zip code) any subscribers who have been added or dropped as subscribers since the last submission under this subsection; and

“(B) a separate list, aggregated by designated market area (by name and street address, including street or rural route number, city, State, and 9-digit zip code), identifying those subscribers whose service pursuant to paragraph (2) of subsection (a) has been added or dropped since the last submission under this subsection.”.

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

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

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

(e) VIOLATIONS FOR TERRITORIAL RESTRICTIONS.—

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

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

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

(2) CONFORMING AMENDMENTS FOR ADDITIONAL STATIONS.—Section 122 is amended—

(A) in subsection (f), by striking “section 119 or” each place it appears and inserting the following: “section 119, subject to statutory licensing by reason of paragraph (2)(A), (3), or (4) of subsection (a), or subject to”; and

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

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

(1) in paragraph (1), by striking “which contracts” and inserting “that contracts”; and

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

(3) in paragraph (3)—

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

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

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

(4) by inserting after paragraph (2) the following:

“(3) LOW POWER TELEVISION STATION.—The term ‘low power television station’ means a low power TV station as defined in section 74.701(f) of title 47, Code of Federal Regulations, as in effect on June 1, 2004. For purposes of this paragraph, the term ‘low power television station’ includes a low power television station that has been accorded primary status as a Class A television licensee under section 73.6001(a) of title 47, Code of Federal Regulations.”;

(5) by inserting after paragraph (4) (as redesignated) the following:

“(5) NONCOMMERCIAL EDUCATIONAL BROADCAST STATION.—The term ‘noncommercial educational broadcast station’ means a tele-

vision broadcast station that is a non-commercial educational broadcast station as defined in section 397 of the Communications Act of 1934, as in effect on the date of the enactment of the Satellite Television Extension and Localism Act of 2010.”; and

(6) by amending paragraph (6) (as redesignated) to read as follows:

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

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

(a) HEADING RENAMED.—

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

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

“111. Limitations on exclusive rights: Secondary transmissions of broadcast programming by cable.”.

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

(c) STATUTORY LICENSE FOR SECONDARY TRANSMISSIONS BY CABLE SYSTEMS.—Section 111(d) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A)—

(i) by striking “A cable system whose secondary” and inserting the following: “STATEMENT OF ACCOUNT AND ROYALTY FEES.—Subject to paragraph (5), a cable system whose secondary”; and

(ii) by striking “by regulation—” and inserting “by regulation the following.”;

(B) in subparagraph (A)—

(i) by striking “a statement of account” and inserting “A statement of account”; and

(ii) by striking “; and” and inserting a period; and

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

“(B) Except in the case of a cable system whose royalty fee is specified in subparagraph (E) or (F), a total royalty fee payable to copyright owners pursuant to paragraph (3) for the period covered by the statement, computed on the basis of specified percentages of the gross receipts from subscribers to the cable service during such period for the basic service of providing secondary transmissions of primary broadcast transmitters, as follows:

“(i) 1.064 percent of such gross receipts for the privilege of further transmitting, beyond the local service area of such primary transmitter, any non-network programming of a primary transmitter in whole or in part, such amount to be applied against the fee, if any, payable pursuant to clauses (ii) through (iv);

“(ii) 1.064 percent of such gross receipts for the first distant signal equivalent;

“(iii) 0.701 percent of such gross receipts for each of the second, third, and fourth distant signal equivalents; and

“(iv) 0.330 percent of such gross receipts for the fifth distant signal equivalent and each distant signal equivalent thereafter.

“(C) In computing amounts under clauses (ii) through (iv) of subparagraph (B)—

“(i) any fraction of a distant signal equivalent shall be computed at its fractional value;

“(ii) in the case of any cable system located partly within and partly outside of the local service area of a primary transmitter,

gross receipts shall be limited to those gross receipts derived from subscribers located outside of the local service area of such primary transmitter; and

“(iii) if a cable system provides a secondary transmission of a primary transmitter to some but not all communities served by that cable system—

“(I) the gross receipts and the distant signal equivalent values for such secondary transmission shall be derived solely on the basis of the subscribers in those communities where the cable system provides such secondary transmission; and

“(II) the total royalty fee for the period paid by such system shall not be less than the royalty fee calculated under subparagraph (B)(i) multiplied by the gross receipts from all subscribers to the system.

“(D) A cable system that, on a statement submitted before the date of the enactment of the Satellite Television Extension and Localism Act of 2010, computed its royalty fee consistent with the methodology under subparagraph (C)(iii), or that amends a statement filed before such date of enactment to compute the royalty fee due using such methodology, shall not be subject to an action for infringement, or eligible for any royalty refund or offset, arising out of its use of such methodology on such statement.

“(E) If the actual gross receipts paid by subscribers to a cable system for the period covered by the statement for the basic service of providing secondary transmissions of primary broadcast transmitters are \$263,800 or less—

“(i) gross receipts of the cable system for the purpose of this paragraph shall be computed by subtracting from such actual gross receipts the amount by which \$263,800 exceeds such actual gross receipts, except that in no case shall a cable system's gross receipts be reduced to less than \$10,400; and

“(ii) the royalty fee payable under this paragraph to copyright owners pursuant to paragraph (3) shall be 0.5 percent, regardless of the number of distant signal equivalents, if any.

“(F) If the actual gross receipts paid by subscribers to a cable system for the period covered by the statement for the basic service of providing secondary transmissions of primary broadcast transmitters are more than \$263,800 but less than \$527,600, the royalty fee payable under this paragraph to copyright owners pursuant to paragraph (3) shall be—

“(i) 0.5 percent of any gross receipts up to \$263,800, regardless of the number of distant signal equivalents, if any; and

“(ii) 1 percent of any gross receipts in excess of \$263,800, but less than \$527,600, regardless of the number of distant signal equivalents, if any.

“(G) A filing fee, as determined by the Register of Copyrights pursuant to section 708(a).”; and

(2) in paragraph (2), in the first sentence—

(A) by striking “The Register of Copyrights” and inserting the following “HANDLING OF FEES.—The Register of Copyrights”; and

(B) by inserting “(including the filing fee specified in paragraph (1)(G))” after “shall receive all fees”;

(3) in paragraph (3)—

(A) by striking “The royalty fees” and inserting the following: “DISTRIBUTION OF ROYALTY FEES TO COPYRIGHT OWNERS.—The royalty fees”;

(B) in subparagraph (A)—

(i) by striking “any such” and inserting “Any such”; and

(ii) by striking “; and” and inserting a period;

(C) in subparagraph (B)—

(i) by striking “any such” and inserting “Any such”; and

(ii) by striking the semicolon and inserting a period; and

(D) in subparagraph (C), by striking “any such” and inserting “Any such”;

(4) in paragraph (4), by striking “The royalty fees” and inserting the following: “PROCEDURES FOR ROYALTY FEE DISTRIBUTION.—The royalty fees”; and

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

“(5) 3.75 PERCENT RATE AND SYNDICATED EXCLUSIVITY SURCHARGE NOT APPLICABLE TO MULTICAST STREAMS.—The royalty rates specified in sections 256.2(c) and 256.2(d) of title 37, Code of Federal Regulations (commonly referred to as the ‘3.75 percent rate’ and the ‘syndicated exclusivity surcharge’, respectively), as in effect on the date of the enactment of the Satellite Television Extension and Localism Act of 2010, as such rates may be adjusted, or such sections redesignated, thereafter by the Copyright Royalty Judges, shall not apply to the secondary transmission of a multicast stream.

“(6) VERIFICATION OF ACCOUNTS AND FEE PAYMENTS.—The Register of Copyrights shall issue regulations to provide for the confidential verification by copyright owners whose works were embodied in the secondary transmissions of primary transmissions pursuant to this section of the information reported on the semiannual statements of account filed under this subsection on or after January 1, 2010, in order that the auditor designated under subparagraph (A) is able to confirm the correctness of the calculations and royalty payments reported therein. The regulations shall—

“(A) establish procedures for the designation of a qualified independent auditor—

“(i) with exclusive authority to request verification of such a statement of account on behalf of all copyright owners whose works were the subject of secondary transmissions of primary transmissions by the cable system (that deposited the statement) during the accounting period covered by the statement; and

“(ii) who is not an officer, employee, or agent of any such copyright owner for any purpose other than such audit;

“(B) establish procedures for safeguarding all non-public financial and business information provided under this paragraph;

“(C)(i) require a consultation period for the independent auditor to review its conclusions with a designee of the cable system;

“(ii) establish a mechanism for the cable system to remedy any errors identified in the auditor’s report and to cure any underpayment identified; and

“(iii) provide an opportunity to remedy any disputed facts or conclusions;

“(D) limit the frequency of requests for verification for a particular cable system and the number of audits that a multiple system operator can be required to undergo in a single year; and

“(E) permit requests for verification of a statement of account to be made only within 3 years after the last day of the year in which the statement of account is filed.

“(7) ACCEPTANCE OF ADDITIONAL DEPOSITS.—Any royalty fee payments received by the Copyright Office from cable systems for the secondary transmission of primary transmissions that are in addition to the payments calculated and deposited in accordance with this subsection shall be deemed to have been deposited for the particular accounting period for which they are received and shall be distributed as specified under this subsection.”.

(d) EFFECTIVE DATE OF NEW ROYALTY FEE RATES.—The royalty fee rates established in section 111(d)(1)(B) of title 17, United States

Code, as amended by subsection (c)(1)(C) of this section, shall take effect commencing with the first accounting period occurring in 2010.

(e) DEFINITIONS.—Section 111(f) is amended—

(1) by striking the first undesignated paragraph and inserting the following:

“(1) PRIMARY TRANSMISSION.—A ‘primary transmission’ is a transmission made to the public by a transmitting facility whose signals are being received and further transmitted by a secondary transmission service, regardless of where or when the performance or display was first transmitted. In the case of a television broadcast station, the primary stream and any multicast streams transmitted by the station constitute primary transmissions.”;

(2) in the second undesignated paragraph—

(A) by striking “A ‘secondary transmission’” and inserting the following:

“(2) SECONDARY TRANSMISSION.—A ‘secondary transmission’”; and

(B) by striking “‘cable system’” and inserting “‘cable system’”;

(3) in the third undesignated paragraph—

(A) by striking “A ‘cable system’” and inserting the following:

“(3) CABLE SYSTEM.—A ‘cable system’”; and

(B) by striking “Territory, Trust Territory, or Possession” and inserting “territory, trust territory, or possession of the United States”;

(4) in the fourth undesignated paragraph, in the first sentence—

(A) by striking “The ‘local service area of a primary transmitter’, in the case of a television broadcast station, comprises the area in which such station is entitled to insist” and inserting the following:

“(4) LOCAL SERVICE AREA OF A PRIMARY TRANSMITTER.—The ‘local service area of a primary transmitter’, in the case of both the primary stream and any multicast streams transmitted by a primary transmitter that is a television broadcast station, comprises the area where such primary transmitter could have insisted”;

(B) by striking “76.59 of title 47 of the Code of Federal Regulations” and inserting the following: “76.59 of title 47, Code of Federal Regulations, or within the noise-limited contour as defined in 73.622(e)(1) of title 47, Code of Federal Regulations”; and

(C) by striking “as defined by the rules and regulations of the Federal Communications Commission.”;

(5) by amending the fifth undesignated paragraph to read as follows:

“(5) DISTANT SIGNAL EQUIVALENT.—

“(A) IN GENERAL.—Except as provided under subparagraph (B), a ‘distant signal equivalent’—

“(i) is the value assigned to the secondary transmission of any non-network television programming carried by a cable system in whole or in part beyond the local service area of the primary transmitter of such programming; and

“(ii) is computed by assigning a value of one to each primary stream and to each multicast stream (other than a simulcast) that is an independent station, and by assigning a value of one-quarter to each primary stream and to each multicast stream (other than a simulcast) that is a network station or a noncommercial educational station.

“(B) EXCEPTIONS.—The values for independent, network, and noncommercial educational stations specified in subparagraph (A) are subject to the following:

“(i) Where the rules and regulations of the Federal Communications Commission require a cable system to omit the further transmission of a particular program and

such rules and regulations also permit the substitution of another program embodying a performance or display of a work in place of the omitted transmission, or where such rules and regulations in effect on the date of the enactment of the Copyright Act of 1976 permit a cable system, at its election, to effect such omission and substitution of a nonlive program or to carry additional programs not transmitted by primary transmitters within whose local service area the cable system is located, no value shall be assigned for the substituted or additional program.

“(ii) Where the rules, regulations, or authorizations of the Federal Communications Commission in effect on the date of the enactment of the Copyright Act of 1976 permit a cable system, at its election, to omit the further transmission of a particular program and such rules, regulations, or authorizations also permit the substitution of another program embodying a performance or display of a work in place of the omitted transmission, the value assigned for the substituted or additional program shall be, in the case of a live program, the value of one full distant signal equivalent multiplied by a fraction that has as its numerator the number of days in the year in which such substitution occurs and as its denominator the number of days in the year.

“(iii) In the case of the secondary transmission of a primary transmitter that is a television broadcast station pursuant to the late-night or specialty programming rules of the Federal Communications Commission, or the secondary transmission of a primary transmitter that is a television broadcast station on a part-time basis where full-time carriage is not possible because the cable system lacks the activated channel capacity to retransmit on a full-time basis all signals that it is authorized to carry, the values for independent, network, and noncommercial educational stations set forth in subparagraph (A), as the case may be, shall be multiplied by a fraction that is equal to the ratio of the broadcast hours of such primary transmitter retransmitted by the cable system to the total broadcast hours of the primary transmitter.

“(iv) No value shall be assigned for the secondary transmission of the primary stream or any multicast streams of a primary transmitter that is a television broadcast station in any community that is within the local service area of the primary transmitter.”;

(6) by striking the sixth undesignated paragraph and inserting the following:

“(6) NETWORK STATION.—

“(A) TREATMENT OF PRIMARY STREAM.—The term ‘network station’ shall be applied to a primary stream of a television broadcast station that is owned or operated by, or affiliated with, one or more of the television networks in the United States providing nationwide transmissions, and that transmits a substantial part of the programming supplied by such networks for a substantial part of the primary stream’s typical broadcast day.

“(B) TREATMENT OF MULTICAST STREAMS.—The term ‘network station’ shall be applied to a multicast stream on which a television broadcast station transmits all or substantially all of the programming of an interconnected program service that—

“(i) is owned or operated by, or affiliated with, one or more of the television networks described in subparagraph (A); and

“(ii) offers programming on a regular basis for 15 or more hours per week to at least 25 of the affiliated television licensees of the interconnected program service in 10 or more States.”;

(7) by striking the seventh undesignated paragraph and inserting the following:

“(7) INDEPENDENT STATION.—The term ‘independent station’ shall be applied to the primary stream or a multicast stream of a television broadcast station that is not a network station or a noncommercial educational station.”;

(8) by striking the eighth undesignated paragraph and inserting the following:

“(8) NONCOMMERCIAL EDUCATIONAL STATION.—The term ‘noncommercial educational station’ shall be applied to the primary stream or a multicast stream of a television broadcast station that is a noncommercial educational broadcast station as defined in section 397 of the Communications Act of 1934, as in effect on the date of the enactment of the Satellite Television Extension and Localism Act of 2010.”; and

(9) by adding at the end the following:

“(9) PRIMARY STREAM.—A ‘primary stream’ is—

“(A) the single digital stream of programming that, before June 12, 2009, was substantially duplicating the programming transmitted by the television broadcast station as an analog signal; or

“(B) if there is no stream described in subparagraph (A), then the single digital stream of programming transmitted by the television broadcast station for the longest period of time.

“(10) PRIMARY TRANSMITTER.—A ‘primary transmitter’ is a television or radio broadcast station licensed by the Federal Communications Commission, or by an appropriate governmental authority of Canada or Mexico, that makes primary transmissions to the public.

“(11) MULTICAST STREAM.—A ‘multicast stream’ is a digital stream of programming that is transmitted by a television broadcast station and is not the station’s primary stream.

“(12) SIMULCAST.—A ‘simulcast’ is a multicast stream of a television broadcast station that duplicates the programming transmitted by the primary stream or another multicast stream of such station.

“(13) SUBSCRIBER; SUBSCRIBE.—

“(A) SUBSCRIBER.—The term ‘subscriber’ means a person or entity that receives a secondary transmission service from a cable system and pays a fee for the service, directly or indirectly, to the cable system.

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

(f) TIMING OF SECTION 111 PROCEEDINGS.—Section 804(b)(1) is amended by striking “2005” each place it appears and inserting “2015”.

(g) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) CORRECTIONS TO FIX LEVEL DESIGNATIONS.—Section 111 is amended—

(A) in subsections (a), (c), and (e), by striking “clause” each place it appears and inserting “paragraph”;

(B) in subsection (c)(1), by striking “clauses” and inserting “paragraphs”; and

(C) in subsection (e)(1)(F), by striking “subclause” and inserting “subparagraph”.

(2) CONFORMING AMENDMENT TO HYPHENATE NONNETWORK.—Section 111 is amended by striking “nonnetwork” each place it appears and inserting “non-network”.

(3) PREVIOUSLY UNDESIGNATED PARAGRAPH.—Section 111(e)(1) is amended by striking “second paragraph of subsection (f)” and inserting “subsection (f)(2)”.

(4) REMOVAL OF SUPERFLUOUS ANDS.—Section 111(e) is amended—

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

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

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

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

(E) in paragraph (2)(A), by striking “and” at the end.

(5) REMOVAL OF VARIANT FORMS REFERENCES.—Section 111 is amended—

(A) in subsection (e)(4), by striking “, and each of its variant forms,”; and

(B) in subsection (f), by striking “and their variant forms”.

(6) CORRECTION TO TERRITORY REFERENCE.—Section 111(e)(2) is amended in the matter preceding subparagraph (A) by striking “three territories” and inserting “five entities”.

(h) EFFECTIVE DATE WITH RESPECT TO MULTICAST STREAMS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the amendments made by this section, to the extent such amendments assign a distant signal equivalent value to the secondary transmission of the multicast stream of a primary transmitter, shall take effect on the date of the enactment of this Act.

(2) DELAYED APPLICABILITY.—

(A) SECONDARY TRANSMISSIONS OF A MULTICAST STREAM BEYOND THE LOCAL SERVICE AREA OF ITS PRIMARY TRANSMITTER BEFORE 2010 ACT.—In any case in which a cable system was making secondary transmissions of a multicast stream beyond the local service area of its primary transmitter before the date of the enactment of this Act, a distant signal equivalent value (referred to in paragraph (1)) shall not be assigned to secondary transmissions of such multicast stream that are made on or before June 30, 2010.

(B) MULTICAST STREAMS SUBJECT TO PRE-EXISTING WRITTEN AGREEMENTS FOR THE SECONDARY TRANSMISSION OF SUCH STREAMS.—In any case in which the secondary transmission of a multicast stream of a primary transmitter is the subject of a written agreement entered into on or before June 30, 2009, between a cable system or an association representing the cable system and a primary transmitter or an association representing the primary transmitter, a distant signal equivalent value (referred to in paragraph (1)) shall not be assigned to secondary transmissions of such multicast stream beyond the local service area of its primary transmitter that are made on or before the date on which such written agreement expires.

(C) NO REFUNDS OR OFFSETS FOR PRIOR STATEMENTS OF ACCOUNT.—A cable system that has reported secondary transmissions of a multicast stream beyond the local service area of its primary transmitter on a statement of account deposited under section 111 of title 17, United States Code, before the date of the enactment of this Act shall not be entitled to any refund, or offset, of royalty fees paid on account of such secondary transmissions of such multicast stream.

(3) DEFINITIONS.—In this subsection, the terms “cable system”, “secondary transmission”, “multicast stream”, and “local service area of a primary transmitter” have the meanings given those terms in section 111(f) of title 17, United States Code, as amended by this section.

SEC. 505. CERTAIN WAIVERS GRANTED TO PROVIDERS OF LOCAL-INTO-LOCAL SERVICE FOR ALL DMAS.

Section 119 is amended by adding at the end the following new subsection:

“(g) CERTAIN WAIVERS GRANTED TO PROVIDERS OF LOCAL-INTO-LOCAL SERVICE TO ALL DMAS.—

“(1) INJUNCTION WAIVER.—A court that issued an injunction pursuant to subsection (a)(7)(B) before the date of the enactment of this subsection shall waive such injunction if the court recognizes the entity against which the injunction was issued as a qualified carrier.

“(2) LIMITED TEMPORARY WAIVER.—

“(A) IN GENERAL.—Upon a request made by a satellite carrier, a court that issued an injunction against such carrier under subsection (a)(7)(B) before the date of the enactment of this subsection shall waive such injunction with respect to the statutory license provided under subsection (a)(2) to the extent necessary to allow such carrier to make secondary transmissions of primary transmissions made by a network station to unserved households located in short markets in which such carrier was not providing local service pursuant to the license under section 122 as of December 31, 2009.

“(B) EXPIRATION OF TEMPORARY WAIVER.—A temporary waiver of an injunction under subparagraph (A) shall expire after the end of the 120-day period beginning on the date such temporary waiver is issued unless extended for good cause by the court making the temporary waiver.

“(C) FAILURE TO PROVIDE LOCAL-INTO-LOCAL SERVICE TO ALL DMAS.—

“(i) FAILURE TO ACT REASONABLY AND IN GOOD FAITH.—If the court issuing a temporary waiver under subparagraph (A) determines that the satellite carrier that made the request for such waiver has failed to act reasonably or has failed to make a good faith effort to provide local-into-local service to all DMAs, such failure—

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

“(II) shall result in the termination of the waiver issued under subparagraph (A).

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

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

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

“(III) the severity and duration of any service interruption.

“(D) SINGLE TEMPORARY WAIVER AVAILABLE.—An entity may only receive one temporary waiver under this paragraph.

“(E) SHORT MARKET DEFINED.—For purposes of this paragraph, the term ‘short market’ means a local market in which programming of one or more of the four most widely viewed television networks nationwide as measured on the date of the enactment of this subsection is not offered on the primary stream transmitted by any local television broadcast station.

“(3) ESTABLISHMENT OF QUALIFIED CARRIER RECOGNITION.—

“(A) STATEMENT OF ELIGIBILITY.—An entity seeking to be recognized as a qualified carrier under this subsection shall file a statement of eligibility with the court that imposed the injunction. A statement of eligibility must include—

“(i) an affidavit that the entity is providing local-into-local service to all DMAs;

“(ii) a request for a waiver of the injunction; and

“(iii) a certification issued pursuant to section 342(a) of Communications Act of 1934.

“(B) GRANT OF RECOGNITION AS A QUALIFIED CARRIER.—Upon receipt of a statement of eligibility, the court shall recognize the entity as a qualified carrier and issue the waiver under paragraph (1).

“(C) VOLUNTARY TERMINATION.—At any time, an entity recognized as a qualified carrier may file a statement of voluntary termination with the court certifying that it no longer wishes to be recognized as a qualified carrier. Upon receipt of such statement, the court shall reinstate the injunction waived under paragraph (1).

“(D) LOSS OF RECOGNITION PREVENTS FUTURE RECOGNITION.—No entity may be recognized as a qualified carrier if such entity had previously been recognized as a qualified carrier and subsequently lost such recognition or voluntarily terminated such recognition under subparagraph (C).

“(4) QUALIFIED CARRIER OBLIGATIONS AND COMPLIANCE.—

“(A) CONTINUING OBLIGATIONS.—

“(i) IN GENERAL.—An entity recognized as a qualified carrier shall continue to provide local-into-local service to all DMAs.

“(ii) COOPERATION WITH GAO EXAMINATION.—An entity recognized as a qualified carrier shall fully cooperate with the Comptroller General in the examination required by subparagraph (B).

“(B) QUALIFIED CARRIER COMPLIANCE EXAMINATION.—

“(i) EXAMINATION AND REPORT.—The Comptroller General shall conduct an examination and publish a report concerning the qualified carrier's compliance with the royalty payment and household eligibility requirements of the license under this section. The report shall address the qualified carrier's conduct during the period beginning on the date on which the qualified carrier is recognized as such under paragraph (3)(B) and ending on December 31, 2011.

“(ii) RECORDS OF QUALIFIED CARRIER.—Beginning on the date that is one year after the date on which the qualified carrier is recognized as such under paragraph (3)(B), but not later than October 1, 2011, the qualified carrier shall provide the Comptroller General with all records that the Comptroller General, in consultation with the Register of Copyrights, considers to be directly pertinent to the following requirements under this section:

“(I) Proper calculation and payment of royalties under the statutory license under this section.

“(II) Provision of service under this license to eligible subscribers only.

“(iii) SUBMISSION OF REPORT.—The Comptroller General shall file the report required by clause (i) not later than March 1, 2012, with the court referred to in paragraph (1) that issued the injunction, the Register of Copyrights, the Committees on the Judiciary and on Energy and Commerce of the House of Representatives, and the Committees on the Judiciary and on Commerce, Science, and Transportation of the Senate.

“(iv) EVIDENCE OF INFRINGEMENT.—The Comptroller General shall include in the report a statement of whether the examination by the Comptroller General indicated that there is substantial evidence that a copyright holder could bring a successful action under this section against the qualified carrier for infringement. The Comptroller General shall consult with the Register of Copyrights in preparing such statement.

“(v) SUBSEQUENT EXAMINATION.—If the report includes the Comptroller General's statement that there is substantial evidence that a copyright holder could bring a successful action under this section against the qualified carrier for infringement, the Comptroller General shall, not later than 6 months after the report under clause (i) is published, initiate another examination of the qualified carrier's compliance with the royalty payment and household eligibility requirements of the license under this section since the last report was filed under

clause (iii). The Comptroller General shall file a report on such examination with the court referred to in paragraph (1) that issued the injunction, the Register of Copyrights, the Committees on the Judiciary and on Energy and Commerce of the House of Representatives, and the Committees on the Judiciary and on Commerce, Science, and Transportation of the Senate. The report shall include a statement described in clause (iv), prepared in consultation with the Register of Copyrights.

“(vi) COMPLIANCE.—Upon motion filed by an aggrieved copyright owner, the court recognizing an entity as a qualified carrier shall terminate such designation upon finding that the entity has failed to cooperate with the examinations required by this subparagraph.

“(C) AFFIRMATION.—A qualified carrier shall file an affidavit with the district court and the Register of Copyrights 30 months after such status was granted stating that, to the best of the affiant's knowledge, it is in compliance with the requirements for a qualified carrier.

“(D) COMPLIANCE DETERMINATION.—Upon the motion of an aggrieved television broadcast station, the court recognizing an entity as a qualified carrier may make a determination of whether the entity is providing local-into-local service to all DMAs.

“(E) PLEADING REQUIREMENT.—In any motion brought under subparagraph (D), the party making such motion shall specify one or more designated market areas (as such term is defined in section 122(j)(2)(C)) for which the failure to provide service is being alleged, and, for each such designated market area, shall plead with particularity the circumstances of the alleged failure.

“(F) BURDEN OF PROOF.—In any proceeding to make a determination under subparagraph (D), and with respect to a designated market area for which failure to provide service is alleged, the entity recognized as a qualified carrier shall have the burden of proving that the entity provided local-into-local service with a good quality satellite signal to at least 90 percent of the households in such designated market area (based on the most recent census data released by the United States Census Bureau) at the time and place alleged.

“(5) FAILURE TO PROVIDE SERVICE.—

“(A) PENALTIES.—If the court recognizing an entity as a qualified carrier finds that such entity has willfully failed to provide local-into-local service to all DMAs, such finding shall result in the loss of recognition of the entity as a qualified carrier and the termination of the waiver provided under paragraph (1), and the court may, in its discretion—

“(i) treat such failure as an act of infringement under section 501, and subject such infringement to the remedies provided for in sections 502 through 506 and subsection (a)(6)(B) of this section; and

“(ii) impose a fine of not less than \$250,000 and not more than \$5,000,000.

“(B) EXCEPTION FOR NONWILLFUL VIOLATION.—If the court determines that the failure to provide local-into-local service to all DMAs is nonwillful, the court may in its discretion impose financial penalties for non-compliance that reflect—

“(i) the degree of control the entity had over the circumstances that resulted in the failure;

“(ii) the quality of the entity's efforts to remedy the failure and restore service; and

“(iii) the severity and duration of any service interruption.

“(6) PENALTIES FOR VIOLATIONS OF LICENSE.—A court that finds, under subsection (a)(6)(A), that an entity recognized as a qualified carrier has willfully made a sec-

ondary transmission of a primary transmission made by a network station and embodying a performance or display of a work to a subscriber who is not eligible to receive the transmission under this section shall reinstate the injunction waived under paragraph (1), and the court may order statutory damages of not more than \$2,500,000.

“(7) LOCAL-INTO-LOCAL SERVICE TO ALL DMAs DEFINED.—For purposes of this subsection:

“(A) IN GENERAL.—An entity provides ‘local-into-local service to all DMAs’ if the entity provides local service in all designated market areas (as such term is defined in section 122(j)(2)(C)) pursuant to the license under section 122.

“(B) HOUSEHOLD COVERAGE.—For purposes of subparagraph (A), an entity that makes available local-into-local service with a good quality satellite signal to at least 90 percent of the households in a designated market area based on the most recent census data released by the United States Census Bureau shall be considered to be providing local service to such designated market area.

“(C) GOOD QUALITY SATELLITE SIGNAL DEFINED.—The term ‘good quality signal’ has the meaning given such term under section 342(e)(2) of Communications Act of 1934.”

SEC. 506. COPYRIGHT OFFICE FEES.

Section 708(a) is amended—

(1) in paragraph (8), by striking “and” after the semicolon;

(2) in paragraph (9), by striking the period and inserting a semicolon;

(3) by inserting after paragraph (9) the following:

“(10) on filing a statement of account based on secondary transmissions of primary transmissions pursuant to section 119 or 122; and

“(11) on filing a statement of account based on secondary transmissions of primary transmissions pursuant to section 111.”; and

(4) by adding at the end the following new sentence: “Fees established under paragraphs (10) and (11) shall be reasonable and may not exceed one-half of the cost necessary to cover reasonable expenses incurred by the Copyright Office for the collection and administration of the statements of account and any royalty fees deposited with such statements.”

SEC. 507. TERMINATION OF LICENSE.

Section 1003(a)(2)(A) of Public Law 111-118 is amended by striking “February 28, 2010” and inserting “December 31, 2014”.

SEC. 508. CONSTRUCTION.

Nothing in section 111, 119, or 122 of title 17, United States Code, including the amendments made to such sections by this subtitle, shall be construed to affect the meaning of any terms under the Communications Act of 1934, except to the extent that such sections are specifically cross-referenced in such Act or the regulations issued thereunder.

Subtitle B—Communications Provisions

SEC. 521. REFERENCE.

Except as otherwise provided, whenever in this subtitle an amendment is made to a section or other provision, the reference shall be considered to be made to such section or provision of the Communications Act of 1934 (47 U.S.C. 151 et seq.).

SEC. 522. EXTENSION OF AUTHORITY.

Section 325(b) is amended—

(1) in paragraph (2)(C), by striking “February 28, 2010” and inserting “December 31, 2014”; and

(2) in paragraph (3)(C), by striking “March 1, 2010” each place it appears in clauses (ii) and (iii) and inserting “January 1, 2015”.

SEC. 523. SIGNIFICANTLY VIEWED STATIONS.

(a) IN GENERAL.—Paragraphs (1) and (2) of section 340(b) are amended to read as follows:

“(1) SERVICE LIMITED TO SUBSCRIBERS TAKING LOCAL-INTO-LOCAL SERVICE.—This section shall apply only to retransmissions to subscribers of a satellite carrier who receive retransmissions of a signal from that satellite carrier pursuant to section 338.

“(2) SERVICE LIMITATIONS.—A satellite carrier may retransmit to a subscriber in high definition format the signal of a station determined by the Commission to be significantly viewed under subsection (a) only if such carrier also retransmits in high definition format the signal of a station located in the local market of such subscriber and affiliated with the same network whenever such format is available from such station.”.

(b) RULEMAKING REQUIRED.—Within 180 days after the date of the enactment of this Act, the Federal Communications Commission shall take all actions necessary to promulgate a rule to implement the amendments made by subsection (a).

SEC. 524. DIGITAL TELEVISION TRANSITION CONFORMING AMENDMENTS.

(a) SECTION 338.—Section 338 is amended—

(1) in subsection (a), by striking “(3) EFFECTIVE DATE.—No satellite” and all that follows through “until January 1, 2002.”; and

(2) by amending subsection (g) to read as follows:

“(g) CARRIAGE OF LOCAL STATIONS ON A SINGLE RECEPTION ANTENNA.—

“(1) SINGLE RECEPTION ANTENNA.—Each satellite carrier that retransmits the signals of local television broadcast stations in a local market shall retransmit such stations in such market so that a subscriber may receive such stations by means of a single reception antenna and associated equipment.

“(2) ADDITIONAL RECEPTION ANTENNA.—If the carrier retransmits the signals of local television broadcast stations in a local market in high definition format, the carrier shall retransmit such signals in such market so that a subscriber may receive such signals by means of a single reception antenna and associated equipment, but such antenna and associated equipment may be separate from the single reception antenna and associated equipment used to comply with paragraph (1).”.

(b) SECTION 339.—Section 339 is amended—

(1) in subsection (a)—

(A) in paragraph (1)(B), by striking “Such two network stations” and all that follows through “more than two network stations.”; and

(B) in paragraph (2)—

(i) in the heading for subparagraph (A), by striking “TO ANALOG SIGNALS”;

(ii) in subparagraph (A)—

(I) in the heading for clause (i), by striking “ANALOG”;

(II) in clause (i)—

(aa) by striking “analog” each place it appears; and

(bb) by striking “October 1, 2004” and inserting “October 1, 2009”;

(III) in the heading for clause (ii), by striking “ANALOG”; and

(IV) in clause (ii)—

(aa) by striking “analog” each place it appears; and

(bb) by striking “2004” and inserting “2009”;

(iii) by amending subparagraph (B) to read as follows:

“(B) RULES FOR OTHER SUBSCRIBERS.—

“(i) IN GENERAL.—In the case of a subscriber of a satellite carrier who is eligible to receive the signal of a network station under this section (in this subparagraph referred to as a ‘distant signal’), other than subscribers to whom subparagraph (A) applies, the following shall apply:

“(I) In a case in which the satellite carrier makes available to that subscriber, on January 1, 2005, the signal of a local network sta-

tion affiliated with the same television network pursuant to section 338, the carrier may only provide the secondary transmissions of the distant signal of a station affiliated with the same network to that subscriber if the subscriber’s satellite carrier, not later than March 1, 2005, submits to that television network the list and statement required by subparagraph (F)(i).

“(II) In a case in which the satellite carrier does not make available to that subscriber, on January 1, 2005, the signal of a local network station pursuant to section 338, the carrier may only provide the secondary transmissions of the distant signal of a station affiliated with the same network to that subscriber if—

“(aa) that subscriber seeks to subscribe to such distant signal before the date on which such carrier commences to carry pursuant to section 338 the signals of stations from the local market of such local network station; and

“(bb) the satellite carrier, within 60 days after such date, submits to each television network the list and statement required by subparagraph (F)(ii).

“(ii) SPECIAL CIRCUMSTANCES.—A subscriber of a satellite carrier who was lawfully receiving the distant signal of a network station on the day before the date of enactment of the Satellite Television Extension and Localism Act of 2010 may receive both such distant signal and the local signal of a network station affiliated with the same network until such subscriber chooses to no longer receive such distant signal from such carrier, whether or not such subscriber elects to subscribe to such local signal.”;

(iv) in subparagraph (C)—

(I) by striking “analog”;

(II) in clause (i), by striking “the Satellite Home Viewer Extension and Reauthorization Act of 2004; and” and inserting the following:

“the Satellite Television Extension and Localism Act of 2010 and, at the time such person seeks to subscribe to receive such secondary transmission, resides in a local market where the satellite carrier makes available to that person the signal of a local network station affiliated with the same television network pursuant to section 338 (and the retransmission of such signal by such carrier can reach such subscriber); or”;

(III) by amending clause (ii) to read as follows:

“(ii) lawfully subscribes to and receives a distant signal on or after the date of enactment of the Satellite Television Extension and Localism Act of 2010, and, subsequent to such subscription, the satellite carrier makes available to that subscriber the signal of a local network station affiliated with the same network as the distant signal (and the retransmission of such signal by such carrier can reach such subscriber), unless such person subscribes to the signal of the local network station within 60 days after such signal is made available.”;

(v) in subparagraph (D)—

(I) in the heading, by striking “DIGITAL”;

(II) by striking clauses (i), (iii) through (v), (vii) through (ix), and (xi);

(III) by redesignating clause (vi) as clause (i) and transferring such clause to appear before clause (ii);

(IV) by amending such clause (i) (as so redesignated) to read as follows:

“(i) ELIGIBILITY AND SIGNAL TESTING.—A subscriber of a satellite carrier shall be eligible to receive a distant signal of a network station affiliated with the same network under this section if, with respect to a local network station, such subscriber—

“(I) is a subscriber whose household is not predicted by the model specified in subsection (c)(3) to receive the signal intensity

required under section 73.622(e)(1) or, in the case of a low-power station or translator station transmitting an analog signal, section 73.683(a) of title 47, Code of Federal Regulations, or a successor regulation;

“(II) is determined, based on a test conducted in accordance with section 73.686(d) of title 47, Code of Federal Regulations, or any successor regulation, not to be able to receive a signal that exceeds the signal intensity standard in section 73.622(e)(1) or, in the case of a low-power station or translator station transmitting an analog signal, section 73.683(a) of such title, or a successor regulation; or

“(III) is in an unserved household, as determined under section 119(d)(10)(A) of title 17, United States Code.”;

(V) in clause (ii)—

(aa) by striking “DIGITAL” in the heading;

(bb) by striking “digital” the first two places such term appears;

(cc) by striking “Satellite Home Viewer Extension and Reauthorization Act of 2004” and inserting “Satellite Television Extension and Localism Act of 2010”; and

(dd) by striking “, whether or not such subscriber elects to subscribe to local digital signals”;

(VI) by inserting after clause (ii) the following new clause:

“(iii) TIME-SHIFTING PROHIBITED.—In a case in which the satellite carrier makes available to an eligible subscriber under this subparagraph the signal of a local network station pursuant to section 338, the carrier may only provide the distant signal of a station affiliated with the same network to that subscriber if, in the case of any local market in the 48 contiguous States of the United States, the distant signal is the secondary transmission of a station whose prime time network programming is generally broadcast simultaneously with, or later than, the prime time network programming of the affiliate of the same network in the local market.”; and

(VII) by redesignating clause (x) as clause (iv); and

(vi) in subparagraph (E), by striking “distant analog signal or” and all that follows through “(B), or (D))” and inserting “distant signal”;

(2) in subsection (c)—

(A) by amending paragraph (3) to read as follows:

“(3) ESTABLISHMENT OF IMPROVED PREDICTIVE MODEL AND ON-LOCATION TESTING REQUIRED.—

“(A) PREDICTIVE MODEL.—Within 180 days after the date of the enactment of the Satellite Television Extension and Localism Act of 2010, the Commission shall develop and prescribe by rule a point-to-point predictive model for reliably and presumptively determining the ability of individual locations, through the use of an antenna, to receive signals in accordance with the signal intensity standard in section 73.622(e)(1) of title 47, Code of Federal Regulations, or a successor regulation, including to account for the continuing operation of translator stations and low power television stations. In prescribing such model, the Commission shall rely on the Individual Location Longley-Rice model set forth by the Commission in CS Docket No. 98-201, as previously revised with respect to analog signals, and as recommended by the Commission with respect to digital signals in its Report to Congress in ET Docket No. 05-182, FCC 05-199 (released December 9, 2005). The Commission shall establish procedures for the continued refinement in the application of the model by the use of additional data as it becomes available.

“(B) ON-LOCATION TESTING.—The Commission shall issue an order completing its rule-making proceeding in ET Docket No. 06-94 within 180 days after the date of enactment of the Satellite Television Extension and Localism Act of 2010. In conducting such rule-making, the Commission shall seek ways to minimize consumer burdens associated with on-location testing.”;

(B) by amending paragraph (4)(A) to read as follows:

“(A) IN GENERAL.—If a subscriber’s request for a waiver under paragraph (2) is rejected and the subscriber submits to the subscriber’s satellite carrier a request for a test verifying the subscriber’s inability to receive a signal of the signal intensity referenced in clause (i) of subsection (a)(2)(D), the satellite carrier and the network station or stations asserting that the retransmission is prohibited with respect to that subscriber shall select a qualified and independent person to conduct the test referenced in such clause. Such test shall be conducted within 30 days after the date the subscriber submits a request for the test. If the written findings and conclusions of a test conducted in accordance with such clause demonstrate that the subscriber does not receive a signal that meets or exceeds the requisite signal intensity standard in such clause, the subscriber shall not be denied the retransmission of a signal of a network station under section 119(d)(10)(A) of title 17, United States Code.”;

(C) in paragraph (4)(B), by striking “the signal intensity” and all that follows through “United States Code” and inserting “such requisite signal intensity standard”;

and

(D) in paragraph (4)(E), by striking “Grade B intensity”.

(c) SECTION 340.—Section 340(i) is amended by striking paragraph (4).

SEC. 525. APPLICATION PENDING COMPLETION OF RULEMAKINGS.

(a) IN GENERAL.—During the period beginning on the date of the enactment of this Act and ending on the date on which the Federal Communications Commission adopts rules pursuant to the amendments to the Communications Act of 1934 made by section 523 and section 524 of this title, the Federal Communications Commission shall follow its rules and regulations promulgated pursuant to sections 338, 339, and 340 of the Communications Act of 1934 as in effect on the day before the date of the enactment of this Act.

(b) TRANSLATOR STATIONS AND LOW POWER TELEVISION STATIONS.—Notwithstanding subsection (a), for purposes of determining whether a subscriber within the local market served by a translator station or a low power television station affiliated with a television network is eligible to receive distant signals under section 339 of the Communications Act of 1934, the rules and regulations of the Federal Communications Commission for determining such subscriber’s eligibility as in effect on the day before the date of the enactment of this Act shall apply until the date on which the translator station or low power television station is licensed to broadcast a digital signal.

(c) DEFINITIONS.—As used in this subtitle:

(1) LOCAL MARKET; LOW POWER TELEVISION STATION; SATELLITE CARRIER; SUBSCRIBER; TELEVISION BROADCAST STATION.—The terms “local market”, “low power television station”, “satellite carrier”, “subscriber”, and “television broadcast station” have the meanings given such terms in section 338(k) of the Communications Act of 1934.

(2) NETWORK STATION; TELEVISION NETWORK.—The terms “network station” and “television network” have the meanings given such terms in section 339(d) of such Act.

SEC. 526. PROCESS FOR ISSUING QUALIFIED CARRIER CERTIFICATION.

Part I of title III is amended by adding at the end the following new section:

“SEC. 342. PROCESS FOR ISSUING QUALIFIED CARRIER CERTIFICATION.

“(a) CERTIFICATION.—The Commission shall issue a certification for the purposes of section 119(g)(3)(A)(iii) of title 17, United States Code, if the Commission determines that—

“(1) a satellite carrier is providing local service pursuant to the statutory license under section 122 of such title in each designated market area; and

“(2) with respect to each designated market area in which such satellite carrier was not providing such local service as of the date of enactment of the Satellite Television Extension and Localism Act of 2010—

“(A) the satellite carrier’s satellite beams are designed, and predicted by the satellite manufacturer’s pre-launch test data, to provide a good quality satellite signal to at least 90 percent of the households in each such designated market area based on the most recent census data released by the United States Census Bureau; and

“(B) there is no material evidence that there has been a satellite or sub-system failure subsequent to the satellite’s launch that precludes the ability of the satellite carrier to satisfy the requirements of subparagraph (A).

“(b) INFORMATION REQUIRED.—Any entity seeking the certification provided for in subsection (a) shall submit to the Commission the following information:

“(1) An affidavit stating that, to the best of the affiant’s knowledge, the satellite carrier provides local service in all designated market areas pursuant to the statutory license provided for in section 122 of title 17, United States Code, and listing those designated market areas in which local service was provided as of the date of enactment of the Satellite Television Extension and Localism Act of 2010.

“(2) For each designated market area not listed in paragraph (1):

“(A) Identification of each such designated market area and the location of its local receive facility.

“(B) Data showing the number of households, and maps showing the geographic distribution thereof, in each such designated market area based on the most recent census data released by the United States Census Bureau.

“(C) Maps, with superimposed effective isotropically radiated power predictions obtained in the satellite manufacturer’s pre-launch tests, showing that the contours of the carrier’s satellite beams as designed and the geographic area that the carrier’s satellite beams are designed to cover are predicted to provide a good quality satellite signal to at least 90 percent of the households in such designated market area based on the most recent census data released by the United States Census Bureau.

“(D) For any satellite relied upon for certification under this section, an affidavit stating that, to the best of the affiant’s knowledge, there have been no satellite or sub-system failures subsequent to the satellite’s launch that would degrade the design performance to such a degree that a satellite transponder used to provide local service to any such designated market area is precluded from delivering a good quality satellite signal to at least 90 percent of the households in such designated market area based on the most recent census data released by the United States Census Bureau.

“(E) Any additional engineering, designated market area, or other information the Commission considers necessary to de-

termine whether the Commission shall grant a certification under this section.

“(c) CERTIFICATION ISSUANCE.—

“(1) PUBLIC COMMENT.—The Commission shall provide 30 days for public comment on a request for certification under this section.

“(2) DEADLINE FOR DECISION.—The Commission shall grant or deny a request for certification within 90 days after the date on which such request is filed.

“(d) SUBSEQUENT AFFIRMATION.—An entity granted qualified carrier status pursuant to section 119(g) of title 17, United States Code, shall file an affidavit with the Commission 30 months after such status was granted stating that, to the best of the affiant’s knowledge, it is in compliance with the requirements for a qualified carrier.

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

“(1) DESIGNATED MARKET AREA.—The term ‘designated market area’ has the meaning given such term in section 122(j)(2)(C) of title 17, United States Code.

“(2) GOOD QUALITY SATELLITE SIGNAL.—

“(A) IN GENERAL.—The term “good quality satellite signal” means—

“(i) a satellite signal whose power level as designed shall achieve reception and demodulation of the signal at an availability level of at least 99.7 percent using—

“(I) models of satellite antennas normally used by the satellite carrier’s subscribers; and

“(II) the same calculation methodology used by the satellite carrier to determine predicted signal availability in the top 100 designated market areas; and

“(ii) taking into account whether a signal is in standard definition format or high definition format, compression methodology, modulation, error correction, power level, and utilization of advances in technology that do not circumvent the intent of this section to provide for non-discriminatory treatment with respect to any comparable television broadcast station signal, a video signal transmitted by a satellite carrier such that—

“(I) the satellite carrier treats all television broadcast stations’ signals the same with respect to statistical multiplexer prioritization; and

“(II) the number of video signals in the relevant satellite transponder is not more than the then current greatest number of video signals carried on any equivalent transponder serving the top 100 designated market areas.

“(B) DETERMINATION.—For the purposes of subparagraph (A), the top 100 designated market areas shall be as determined by Nielsen Media Research and published in the Nielsen Station Index Directory and Nielsen Station Index United States Television Household Estimates or any successor publication as of the date of a satellite carrier’s application for certification under this section.”.

SEC. 527. NONDISCRIMINATION IN CARRIAGE OF HIGH DEFINITION DIGITAL SIGNALS OF NONCOMMERCIAL EDUCATIONAL TELEVISION STATIONS.

(a) IN GENERAL.—Section 338(a) is amended by adding at the end the following new paragraph:

“(5) NONDISCRIMINATION IN CARRIAGE OF HIGH DEFINITION SIGNALS OF NONCOMMERCIAL EDUCATIONAL TELEVISION STATIONS.—

“(A) EXISTING CARRIAGE OF HIGH DEFINITION SIGNALS.—If, before the date of enactment of the Satellite Television Extension and Localism Act of 2010, an eligible satellite carrier is providing, under section 122 of title 17, United States Code, any secondary transmissions in high definition format to subscribers located within the local market of a television broadcast station of a primary

transmission made by that station, then such satellite carrier shall carry the signals in high-definition format of qualified non-commercial educational television stations located within that local market in accordance with the following schedule:

“(i) By December 31, 2010, in at least 50 percent of the markets in which such satellite carrier provides such secondary transmissions in high definition format.

“(ii) By December 31, 2011, in every market in which such satellite carrier provides such secondary transmissions in high definition format.

“(B) NEW INITIATION OF SERVICE.—If, on or after the date of enactment of the Satellite Television Extension and Localism Act of 2010, an eligible satellite carrier initiates the provision, under section 122 of title 17, United States Code, of any secondary transmissions in high definition format to subscribers located within the local market of a television broadcast station of a primary transmission made by that station, then such satellite carrier shall carry the signals in high-definition format of all qualified noncommercial educational television stations located within that local market.”.

(b) DEFINITIONS.—Section 338(k) is amended—

(1) by redesignating paragraphs (2) through (8) as paragraphs (3) through (9), respectively;

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

“(2) ELIGIBLE SATELLITE CARRIER.—The term ‘eligible satellite carrier’ means any satellite carrier that is not a party to a carriage contract that—

“(A) governs carriage of at least 30 qualified noncommercial educational television stations; and

“(B) is in force and effect within 60 days after the date of enactment of the Satellite Television Extension and Localism Act of 2010.”;

(3) by redesignating paragraphs (6) through (9) (as previously redesignated) as paragraphs (7) through (10), respectively; and

(4) by inserting after paragraph (5) (as so redesignated) the following new paragraph:

“(6) QUALIFIED NONCOMMERCIAL EDUCATIONAL TELEVISION STATION.—The term ‘qualified noncommercial educational television station’ means any full-power television broadcast station that—

“(A) under the rules and regulations of the Commission in effect on March 29, 1990, is licensed by the Commission as a noncommercial educational broadcast station and is owned and operated by a public agency, nonprofit foundation, nonprofit corporation, or nonprofit association; and

“(B) has as its licensee an entity that is eligible to receive a community service grant, or any successor grant thereto, from the Corporation for Public Broadcasting, or any successor organization thereto, on the basis of the formula set forth in section 396(k)(6)(B) of this title.”.

SEC. 528. SAVINGS CLAUSE REGARDING DEFINITIONS.

Nothing in this subtitle or the amendments made by this subtitle shall be construed to affect—

(1) the meaning of the terms “program related” and “primary video” under the Communications Act of 1934; or

(2) the meaning of the term “multicast” in any regulations issued by the Federal Communications Commission.

SEC. 529. STATE PUBLIC AFFAIRS BROADCASTS.

Section 335(b) is amended—

(1) by inserting “STATE PUBLIC AFFAIRS,” after “EDUCATIONAL,” in the heading;

(2) by striking paragraph (1) and inserting the following:

“(1) CHANNEL CAPACITY REQUIRED.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the Commission shall require, as a condition of any provision, initial authorization, or authorization renewal for a provider of direct broadcast satellite service providing video programming, that the provider of such service reserve a portion of its channel capacity, equal to not less than 4 percent nor more than 7 percent, exclusively for noncommercial programming of an educational or informational nature.

“(B) REQUIREMENT FOR QUALIFIED SATELLITE PROVIDER.—The Commission shall require, as a condition of any provision, initial authorization, or authorization renewal for a qualified satellite provider of direct broadcast satellite service providing video programming, that such provider reserve a portion of its channel capacity, equal to not less than 3.5 percent nor more than 7 percent, exclusively for noncommercial programming of an educational or informational nature.”;

(3) in paragraph (5), by striking “For purposes of the subsection—” and inserting “For purposes of this subsection.”; and

(4) by adding at the end of paragraph (5) the following:

“(C) The term ‘qualified satellite provider’ means any provider of direct broadcast satellite service that—

“(i) provides the retransmission of the State public affairs networks of at least 15 different States;

“(ii) offers the programming of State public affairs networks upon reasonable prices, terms, and conditions as determined by the Commission under paragraph (4); and

“(iii) does not delete any noncommercial programming of an educational or informational nature in connection with the carriage of a State public affairs network.

“(D) The term ‘State public affairs network’ means a non-commercial non-broadcast network or a noncommercial educational television station—

“(i) whose programming consists of information about State government deliberations and public policy events; and

“(ii) that is operated by—

“(I) a State government or subdivision thereof;

“(II) an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of such Code and that is governed by an independent board of directors; or

“(III) a cable system.”.

Subtitle C—Reports and Savings Provision

SEC. 531. DEFINITION.

In this subtitle, the term “appropriate Congressional committees” means the Committees on the Judiciary and on Commerce, Science, and Transportation of the Senate and the Committees on the Judiciary and on Energy and Commerce of the House of Representatives.

SEC. 532. REPORT ON MARKET BASED ALTERNATIVES TO STATUTORY LICENSING.

Not later than 1 year after the date of the enactment of this Act, and after consultation with the Federal Communications Commission, the Register of Copyrights shall submit to the appropriate Congressional committees a report containing—

(1) proposed mechanisms, methods, and recommendations on how to implement a phase-out of the statutory licensing requirements set forth in sections 111, 119, and 122 of title 17, United States Code, by making such sections inapplicable to the secondary transmission of a performance or display of a work embodied in a primary transmission of a broadcast station that is authorized to license the same secondary transmission directly with respect to all of the performances and displays embodied in such primary transmission;

(2) any recommendations for alternative means to implement a timely and effective phase-out of the statutory licensing requirements set forth in sections 111, 119, and 122 of title 17, United States Code; and

(3) any recommendations for legislative or administrative actions as may be appropriate to achieve such a phase-out.

SEC. 533. REPORT ON COMMUNICATIONS IMPLICATIONS OF STATUTORY LICENSING MODIFICATIONS.

(a) STUDY.—The Comptroller General shall conduct a study that analyzes and evaluates the changes to the carriage requirements currently imposed on multichannel video programming distributors under the Communications Act of 1934 (47 U.S.C. 151 et seq.) and the regulations promulgated by the Federal Communications Commission that would be required or beneficial to consumers, and such other matters as the Comptroller General deems appropriate, if Congress implemented a phase-out of the current statutory licensing requirements set forth under sections 111, 119, and 122 of title 17, United States Code. Among other things, the study shall consider the impact such a phase-out and related changes to carriage requirements would have on consumer prices and access to programming.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall report to the appropriate Congressional committees the results of the study, including any recommendations for legislative or administrative actions.

SEC. 534. REPORT ON IN-STATE BROADCAST PROGRAMMING.

Not later than 1 year after the date of the enactment of this Act, the Federal Communications Commission shall submit to the appropriate Congressional committees a report containing an analysis of—

(1) the number of households in a State that receive the signals of local broadcast stations assigned to a community of license that is located in a different State;

(2) the extent to which consumers in each local market have access to in-state broadcast programming over the air or from a multichannel video programming distributor; and

(3) whether there are alternatives to the use of designated market areas, as defined in section 122 of title 17, United States Code, to define local markets that would provide more consumers with in-state broadcast programming.

SEC. 535. LOCAL NETWORK CHANNEL BROADCAST REPORTS.

(a) REQUIREMENT.—

(1) IN GENERAL.—On the 180th day after the date of the enactment of this Act, and on each succeeding anniversary of such 180th day, each satellite carrier shall submit an annual report to the Federal Communications Commission setting forth—

(A) each local market in which it—

(i) retransmits signals of 1 or more television broadcast stations with a community of license in that market;

(ii) has commenced providing such signals in the preceding 1-year period; and

(iii) has ceased to provide such signals in the preceding 1-year period; and

(B) detailed information regarding the use and potential use of satellite capacity for the retransmission of local signals in each local market.

(2) TERMINATION.—The requirement under paragraph (1) shall cease after each satellite carrier has submitted 5 reports under such paragraph.

(b) FCC STUDY; REPORT.—

(1) STUDY.—If no satellite carrier files a request for a certification under section 342 of

the Communications Act of 1934 (as added by section 526 of this title) within 180 days after the date of the enactment of this Act, the Federal Communications Commission shall initiate a study of—

(A) incentives that would induce a satellite carrier to provide the signals of 1 or more television broadcast stations licensed to provide signals in local markets in which the satellite carrier does not provide such signals; and

(B) the economic and satellite capacity conditions affecting delivery of local signals by satellite carriers to these markets.

(2) REPORT.—Within 1 year after the date of the initiation of the study under paragraph (1), the Federal Communications Commission shall submit a report to the appropriate Congressional committees containing its findings, conclusions, and recommendations.

(c) DEFINITIONS.—In this section—

(1) the terms “local market” and “satellite carrier” have the meaning given such terms in section 339(d) of the Communications Act of 1934 (47 U.S.C. 339(d)); and

(2) the term “television broadcast station” has the meaning given such term in section 325(b)(7) of such Act (47 U.S.C. 325(b)(7)).

SEC. 536. SAVINGS PROVISION REGARDING USE OF NEGOTIATED LICENSES.

(a) IN GENERAL.—Nothing in this title, title 17, United States Code, the Communications Act of 1934, regulations promulgated by the Register of Copyrights under this title or title 17, United States Code, or regulations promulgated by the Federal Communications Commission under this title or the Communications Act of 1934 shall be construed to prevent a multichannel video programming distributor from retransmitting a performance or display of a work pursuant to an authorization granted by the copyright owner or, if within the scope of its authorization, its licensee.

(b) LIMITATION.—Nothing in subsection (a) shall be construed to affect any obligation of a multichannel video programming distributor under section 325(b) of the Communications Act of 1934 to obtain the authority of a television broadcast station before retransmitting that station's signal.

SEC. 537. EFFECTIVE DATE; NONINFRINGEMENT OF COPYRIGHT.

Unless specifically provided otherwise, this title, and the amendments made by this title, shall take effect on February 27, 2010, and all references to enactment of this Act shall be deemed to refer to such date unless otherwise specified. The secondary transmission of a performance or display of a work embodied in a primary transmission is not an infringement of copyright if it was made by a satellite carrier on or after February 27, 2010 and prior to enactment of this Act, and was in compliance with the law as in existence on February 27, 2010.

Subtitle D—Severability

SEC. 541. SEVERABILITY.

If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of such provision or amendment to any person or circumstance shall not be affected thereby.

TITLE VI—OTHER PROVISIONS

SEC. 601. INCREASE IN THE MEDICARE PHYSICIAN PAYMENT UPDATE.

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

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

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

TITLE VII—DETERMINATION OF BUDGETARY EFFECTS

SEC. 701. DETERMINATION OF BUDGETARY EFFECTS.

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

(b) EMERGENCY DESIGNATION.—Sections 201, 211, and 232 of this Act are designated as an emergency requirement pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010 (Public Law 111-139; 2 U.S.C. 933(g)) and section 403(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010. In the House of Representatives, sections 201, 211, and 232 of this Act are designated as an emergency for purposes of pay-as-you-go principles.

SA 3337. Mr. SESSIONS (for himself and Mrs. MCCASKILL) proposed an amendment to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 01. DISCRETIONARY SPENDING LIMITS.

(a) IN GENERAL.—Title III of the Congressional Budget Act of 1974 is amended by inserting at the end the following:

“DISCRETIONARY SPENDING LIMITS

“SEC. 316. (a) DISCRETIONARY SPENDING LIMITS.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, or conference report that includes any provision that would cause the discretionary spending limits as set forth in this section to be exceeded.

“(b) LIMITS.—In this section, the term ‘discretionary spending limits’ has the following meaning subject to adjustments in subsection (c):

“(1) For fiscal year 2011—

“(A) for the defense category (budget function 050), \$564,293,000,000 in budget authority; and

“(B) for the nondefense category, \$529,662,000,000 in budget authority.

“(2) For fiscal year 2012—

“(A) for the defense category (budget function 050), \$573,612,000,000 in budget authority; and

“(B) for the nondefense category, \$533,232,000,000 in budget authority.

“(3) For fiscal year 2013—

“(A) for the defense category (budget function 050), \$584,421,000,000 in budget authority; and

“(B) for the nondefense category, \$540,834,000,000 in budget authority.

“(4) For fiscal year 2014—

“(A) for the defense category (budget function 050), \$598,249,000,000 in budget authority; and

“(B) for the nondefense category, \$550,509,000,000 in budget authority.

“(5) With respect to fiscal years following 2014, the President shall recommend and the Congress shall consider legislation setting limits for those fiscal years.

“(c) ADJUSTMENTS.—

“(1) IN GENERAL.—After the reporting of a bill or joint resolution relating to any mat-

ter described in paragraph (2), or the offering of an amendment thereto or the submission of a conference report thereon—

“(A) the Chairman of the Senate Committee on the Budget may adjust the discretionary spending limits, the budgetary aggregates in the concurrent resolution on the budget most recently adopted by the Senate and the House of Representatives, and allocations pursuant to section 302(a) of the Congressional Budget Act of 1974, by the amount of new budget authority in that measure for that purpose and the outlays flowing there from; and

“(B) following any adjustment under subparagraph (A), the Senate Committee on Appropriations may report appropriately revised suballocations pursuant to section 302(b) of the Congressional Budget Act of 1974 to carry out this subsection.

“(2) MATTERS DESCRIBED.—Matters referred to in paragraph (1) are as follows:

“(A) OVERSEAS DEPLOYMENTS AND OTHER ACTIVITIES.—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, 2013, or 2014, that provides funding for overseas deployments and other activities, the adjustment for purposes paragraph (1) shall be the amount of budget authority in that measure for that purpose but not to exceed—

“(i) with respect to fiscal year 2011, \$50,000,000,000 in new budget authority;

“(ii) with respect to fiscal year 2012, \$50,000,000,000 in new budget authority;

“(iii) with respect to fiscal year 2013, \$50,000,000,000 in new budget authority; and

“(iv) with respect to fiscal year 2014, \$50,000,000,000 in new budget authority.

“(B) EMERGENCY SPENDING.—For fiscal year 2011, 2012, 2013, or 2014 for appropriations for discretionary accounts designated as emergency requirements, the adjustment for purposes of paragraph (1) shall be the total of such appropriations in discretionary accounts designated as emergency requirements, but not to exceed \$10,454,000,000 for 2011, \$10,558,000,000 for 2012, \$10,664,000,000 for 2013, and \$10,877,000,000 for 2014. Appropriations designated as emergencies in excess of these limitations shall be treated as new budget authority.

“(C) INTERNAL REVENUE SERVICE TAX ENFORCEMENT.—

“(i) IN GENERAL.—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, 2013, or 2014 that includes the amount described in clause (ii)(I), plus an additional amount for enhanced tax enforcement to address the Federal tax gap (taxes owed but not paid) described in clause (ii)(II), the adjustment for purposes of paragraph (1) shall be the amount of budget authority in that measure for that initiative not exceeding the amount specified in clause (ii)(II) for that fiscal year.

“(ii) AMOUNTS.—The amounts referred to in clause (i) are as follows:

“(I) For fiscal year 2011, \$7,171,000,000, for fiscal year 2012, \$7,243,000,000, for fiscal year 2013, \$7,315,000,000, and for fiscal year 2014, \$7,461,000,000.

“(II) For fiscal year 2011, \$899,000,000, for fiscal year 2012, \$908,000,000, for fiscal year 2013, \$917,000,000, and for fiscal year 2014, \$935,000,000.

“(D) CONTINUING DISABILITY REVIEWS AND SSI REDETERMINATIONS.—

“(i) IN GENERAL.—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, 2013, or 2014 that includes the amount described in clause (ii)(I), plus an additional amount for Continuing Disability Reviews and Supplemental Security Income Redeterminations for the Social Security Administration described in clause

(ii)(II), the adjustment for purposes of paragraph (1) shall be the amount of budget authority in that measure for that initiative not exceeding the amount specified in clause (ii)(II) for that fiscal year.

“(ii) AMOUNTS.—The amounts referred to in clause (i) are as follows:

“(I) For fiscal year 2011, \$276,000,000; for fiscal year 2012, \$278,000,000; for fiscal year 2013, \$281,000,000; for fiscal year 2014, \$287,000,000.

“(II) For fiscal year 2011, \$490,000,000; for fiscal year 2012, \$495,000,000; for fiscal year 2013, \$500,000,000; for fiscal year 2014, \$510,000,000.

“(iii) ASSET VERIFICATION.—

“(I) IN GENERAL.—The additional appropriation permitted under clause (ii)(II) may also provide that a portion of that amount, not to exceed the amount specified in subclause (II) for that fiscal year instead may be used for asset verification for Supplemental Security Income recipients, but only if, and to the extent that the Office of the Chief Actuary estimates that the initiative would be at least as cost effective as the redeterminations of eligibility described in this subparagraph.

“(II) AMOUNTS.—For fiscal year 2011, \$34,340,000, for fiscal year 2012, \$34,683,000, for fiscal year 2013, \$35,030,000 and for fiscal year 2014, \$35,731,000.

“(E) HEALTH CARE FRAUD AND ABUSE.—

“(i) IN GENERAL.—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, 2013, or 2014 that includes the amount described in clause (ii) for the Health Care Fraud and Abuse Control program at the Department of Health & Human Services for that fiscal year, the adjustment for purposes of paragraph (1) shall be the amount of budget authority in that measure for that initiative but not to exceed the amount described in clause (ii).

“(ii) AMOUNT.—The amount referred to in clause (i) is for fiscal year 2011, \$314,000,000, for fiscal year 2012, \$317,000,000, for fiscal year 2013, \$320,000,000, and for fiscal year 2014, \$327,000,000.

“(F) UNEMPLOYMENT INSURANCE IMPROPER PAYMENT REVIEWS.—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, 2013, or 2014 that includes \$10,000,000, plus an additional amount for in-person reemployment and eligibility assessments and unemployment improper payment reviews for the Department of Labor, the adjustment for purposes paragraph (1) shall be the amount of budget authority in that measure for that initiative but not to exceed—

“(i) with respect to fiscal year 2011, \$51,000,000 in new budget authority; and

“(ii) with respect to fiscal year 2012, \$51,000,000 in new budget authority.

“(iii) with respect to fiscal year 2013, \$52,000,000 in new budget authority; and

“(iv) with respect to fiscal year 2014, \$53,000,000 in new budget authority.

“(G) LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP).—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, 2013, or 2014 that includes \$3,200,000,000 in funding for the Low-Income Home Energy Assistance Program and provides an additional amount up to \$1,900,000,000 for that program, the adjustment for purposes of paragraph (1) shall be the amount of budget authority in that measure for that initiative but not to exceed \$1,900,000,000.

“(d) EMERGENCY SPENDING.—

“(1) AUTHORITY TO DESIGNATE.—In the Senate, with respect to a provision of direct spending or receipts legislation or appropriations for discretionary accounts that Congress designates as an emergency requirement in such measure, the amounts of new budget authority, outlays, and receipts in all

fiscal years resulting from that provision shall be treated as an emergency requirement for the purpose of this subsection.

“(2) EXEMPTION OF EMERGENCY PROVISIONS.—Subject to the limitations provided in subsection (c)(2)(B), any new budget authority, outlays, and receipts resulting from any provision designated as an emergency requirement, pursuant to this subsection, in any bill, joint resolution, amendment, or conference report shall not count for purposes of sections 302 and 311 of the Congressional Budget Act of 1974, section 201 of S. Con. Res. 21 (110th Congress) (relating to pay-as-you-go), and section 311 of S. Con. Res. 70 (110th Congress) (relating to long-term deficits).

“(3) DESIGNATIONS.—If a provision of legislation is designated as an emergency requirement under this subsection, the committee report and any statement of managers accompanying that legislation shall include an explanation of the manner in which the provision meets the criteria in paragraph (6).

“(4) DEFINITIONS.—In this subsection, the terms ‘direct spending’, ‘receipts’, and ‘appropriations for discretionary accounts’ mean any provision of a bill, joint resolution, amendment, motion, or conference report that affects direct spending, receipts, or appropriations as those terms have been defined and interpreted for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

“(5) POINT OF ORDER.—

“(A) IN GENERAL.—When the Senate is considering a bill, resolution, amendment, motion, 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.

“(B) SUPERMAJORITY WAIVER AND APPEALS.—

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

“(ii) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this paragraph 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 paragraph.

“(C) DEFINITION OF AN EMERGENCY DESIGNATION.—For purposes of subparagraph (A), a provision shall be considered an emergency designation if it designates any item as an emergency requirement pursuant to this paragraph.

“(D) FORM OF THE POINT OF ORDER.—A point of order under subparagraph (A) may be raised by a Senator as provided in section 313(e) of the Congressional Budget Act of 1974.

“(E) 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 paragraph, 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 debatable. 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.

“(6) CRITERIA.—

“(A) IN GENERAL.—For purposes of this subsection, any provision is an emergency requirement if the situation addressed by such provision is—

“(i) necessary, essential, or vital (not merely useful or beneficial);

“(ii) sudden, quickly coming into being, and not building up over time;

“(iii) an urgent, pressing, and compelling need requiring immediate action;

“(iv) subject to clause (ii), unforeseen, unpredictable, and unanticipated; and

“(v) not permanent, temporary in nature.

“(7) UNFORESEEN.—An emergency that is part of an aggregate level of anticipated emergencies, particularly when normally estimated in advance, is not unforeseen.

“(e) LIMITATIONS ON CHANGES TO EXEMPTIONS.—It shall not be in order in the Senate or the House of Representatives to consider any bill, resolution, amendment, or conference report that would exempt any new budget authority, outlays, and receipts from being counted for purposes of this section.

“(f) POINT OF ORDER IN THE SENATE.—

“(1) WAIVER.—The provisions of this section shall be waived or suspended in the Senate only—

“(A) by the affirmative vote of two-thirds of the Members, duly chosen and sworn; or

“(B) in the case of the defense budget authority, if Congress declares war or authorizes the use of force.

“(2) APPEAL.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the measure. An affirmative vote of two-thirds 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 section.

“(3) LIMITATIONS ON CHANGES TO THIS SUBSECTION.—It shall not be in order in the Senate or the House of Representatives to consider any bill, resolution, amendment, or conference report that would repeal or otherwise change this subsection.”.

(b) TABLE OF CONTENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 315 the following new item:

“Sec. 316. Discretionary spending limits.”.

SA 3338. Mr. THUNE submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; as follows:

At the end, insert the following:

TITLE —ADDITIONAL BUSINESS TAX RELIEF

Subtitle A—General Provisions

SEC. —01. PERMANENT INCREASE IN LIMITATIONS ON EXPENSING OF CERTAIN DEPRECIABLE BUSINESS ASSETS.

(a) PERMANENT INCREASE.—Subsection (b) of section 179 is amended—

(1) by striking “\$25,000” and all that follows in paragraph (1) and inserting “\$500,000.”,

(2) by striking “\$200,000” and all that follows in paragraph (2) and inserting “\$2,000,000”.

(3) by striking “after 2007 and before 2011, the \$120,000 and \$500,000” in paragraph (5)(A) and inserting “after 2009, the \$500,000 and the \$2,000,000”;

(4) by striking “2006” in paragraph (5)(A)(ii) and inserting “2008”;

(5) by striking paragraph (7).

(b) PERMANENT EXPENSING OF COMPUTER SOFTWARE.—Section 179(d)(1)(A)(ii) is amended by striking “and before 2011”.

(c) EFFECTIVE DATE.—The amendments made by subsections (b) and (c) shall apply to taxable years beginning after December 31, 2008.

SEC. —02. EXTENSION OF ADDITIONAL FIRST-YEAR DEPRECIATION FOR 50 PERCENT OF THE BASIS OF CERTAIN QUALIFIED PROPERTY.

(a) IN GENERAL.—Paragraph (2) of section 168(k), as amended by the American Recovery and Reinvestment Tax Act of 2009, is amended—

(1) by striking “January 1, 2011” in subparagraph (A)(iv) and inserting “January 1, 2012”;

(2) by striking “January 1, 2010” each place it appears and inserting “January 1, 2011”.

(b) CONFORMING AMENDMENTS.—

(1) The heading for subsection (k) of section 168, as amended by the American Recovery and Reinvestment Tax Act of 2009, is amended by striking “JANUARY 1, 2010” and inserting “JANUARY 1, 2011”.

(2) The heading for clause (ii) of section 168(k)(2)(B), as so amended, is amended by striking “PRE-JANUARY 1, 2010” and inserting “PRE-JANUARY 1, 2011”.

(3) Subparagraph (D) of section 168(k)(4) is amended by striking “and” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting a comma, and by adding at the end the following new clauses:

“(iv) ‘January 1, 2011’ shall be substituted for ‘January 1, 2012’ in subparagraph (A)(iv) thereof; and

“(v) ‘January 1, 2010’ shall be substituted for ‘January 1, 2011’ each place it appears in subparagraph (A) thereof.”

(4) Subparagraph (B) of section 168(l)(5), as so amended, is amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(5) Subparagraph (C) of section 168(n)(2), as so amended, is amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(6) Subparagraph (D) of section 1400L(b)(2) is amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(7) Subparagraph (B) of section 1400N(d)(3), as so amended, is amended by striking “January 1, 2010” and inserting “January 1, 2011”.

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

SEC. —03. INCREASED EXCLUSION AND OTHER MODIFICATIONS APPLICABLE TO QUALIFIED SMALL BUSINESS STOCK.

(a) INCREASED EXCLUSION.—

(1) IN GENERAL.—Subsection (a) of section 1202 is amended to read as follows:

“(a) EXCLUSION.—

“(1) IN GENERAL.—In the case of a taxpayer other than a corporation, gross income shall not include the applicable percentage of any gain from the sale or exchange of qualified small business stock held for more than 5 years.

“(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is—

“(A) 50 percent, in the case of stock issued after August 10, 1993, and on or before February 18, 2009,

“(B) 75 percent, in the case of stock issued after February 18, 2009, and on or before the date of the enactment of the American Workers, State, and Business Relief Act of 2010, and

“(C) 100 percent, in the case of stock issued after the date of the enactment of the Amer-

ican Workers, State, and Business Relief Act of 2010.

“(3) EMPOWERMENT ZONE BUSINESSES.—

“(A) IN GENERAL.—In the case of qualified small business stock acquired after December 21, 2000, and on or before February 18, 2009, in a corporation which is a qualified business entity (as defined in section 1397C(b)) during substantially all of the taxpayer’s holding period for such stock, paragraph (2)(A) shall be applied by substituting ‘60 percent’ for ‘50 percent’.

“(B) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (5) and (7) of section 1400B(b) shall apply for purposes of this paragraph.

“(C) GAIN AFTER 2014 NOT QUALIFIED.—Subparagraph (A) shall not apply to gain attributable to periods after December 31, 2014.

“(D) TREATMENT OF DC ZONE.—The District of Columbia Enterprise Zone shall not be treated as an empowerment zone for purposes of this paragraph.”

(2) CONFORMING AMENDMENTS.—

(A) The heading for section 1202 is amended by striking “PARTIAL”.

(B) The item relating to section 1202 in the table of sections for part I of subchapter P of chapter 1 is amended by striking “Partial exclusion” and inserting “Exclusion”.

(C) Section 1223(13) is amended by striking “1202(a)(2)”,

(b) REPEAL OF MINIMUM TAX PREFERENCE.—Paragraph (7) of section 57(a) is amended by adding at the end the following: “The preceding sentence shall not apply to stock issued after the date of the enactment of the American Workers, State, and Business Relief Act of 2010.”

(c) INCREASE IN LIMITATION.—

(1) IN GENERAL.—Subparagraph (A) of section 1202(b)(1) is amended by striking “\$10,000,000” and inserting “\$15,000,000”.

(2) MARRIED INDIVIDUALS.—Subparagraph (A) of section 1202(b)(3) is amended by striking “paragraph (1)(A) shall be applied by substituting ‘\$5,000,000’ for ‘\$10,000,000’” and inserting “the amount under paragraph (1)(A) shall be half of the amount otherwise in effect”.

(d) MODIFICATION OF DEFINITION OF QUALIFIED SMALL BUSINESS.—Section 1202(d)(1) is amended by striking “\$50,000,000” each place it appears and inserting “\$75,000,000”.

(e) INFLATION ADJUSTMENTS.—Section 1202 is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

“(k) INFLATION ADJUSTMENT.—

“(1) IN GENERAL.—In the case of any taxable year beginning after 2010, the \$15,000,000 amount in subsection (b)(1)(A), the \$75,000,000 amount in subsection (d)(1)(A), and the \$75,000,000 amount in subsection (d)(1)(B) shall each be increased by an amount equal to—

“(A) such dollar amount, multiplied by

“(B) the cost of living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting ‘calendar year 2009’ for ‘calendar year 1992’ in subparagraph (B) thereof.

“(2) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of \$1,000,000 such amount shall be rounded to the next lowest multiple of \$1,000,000.”

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), and (d) shall apply to stock acquired after the date of the enactment of this Act.

(2) LIMITATION; INFLATION ADJUSTMENT.—The amendments made by subsections (c) and (e) shall apply to taxable years ending after the date of the enactment of this Act.

SEC. —04. DEDUCTION FOR ELIGIBLE SMALL BUSINESS INCOME.

(a) IN GENERAL.—Paragraph (1) of section 199(a) is amended to read as follows:

“(1) IN GENERAL.—There shall be allowed as a deduction an amount equal to the sum of—

“(A) 9 percent of the lesser of—

“(i) the qualified production activities income of the taxpayer for the taxable year, or

“(ii) taxable income (determined without regard to this section) for the taxable year, and

“(B) in the case of an eligible small business for any taxable year beginning after 2009, 20 percent of the lesser of—

“(i) the eligible small business income of the taxpayer for the taxable year, or

“(ii) taxable income (determined without regard to this section) for the taxable year.”

(b) ELIGIBLE SMALL BUSINESS; ELIGIBLE SMALL BUSINESS INCOME.—Section 199 is amended by adding at the end the following new subsection:

“(e) ELIGIBLE SMALL BUSINESS; ELIGIBLE SMALL BUSINESS INCOME.—

“(1) ELIGIBLE SMALL BUSINESS.—For purposes of this section, the term ‘eligible small business’ means, with respect to any taxable year—

“(A) a corporation the stock of which is not publicly traded, or

“(B) a partnership, which meets the gross receipts test of section 448(c) (determined by substituting ‘\$50,000,000’ for ‘\$5,000,000’ each place it appears in such section) for the taxable year (or, in the case of a sole proprietorship, which would meet such test if such proprietorship were a corporation).

“(2) ELIGIBLE SMALL BUSINESS INCOME.—

“(A) IN GENERAL.—For purposes of this section, the term ‘eligible small business income’ means the excess of—

“(i) the income of the eligible small business which—

“(I) is attributable to the actual conduct of a trade or business,

“(II) is income from sources within the United States (within the meaning of section 861), and

“(III) is not passive income (as defined in section 904(d)(2)(B)), over

“(ii) the sum of—

“(I) the cost of goods sold that are allocable to such income, and

“(II) other expenses, losses, or deductions (other than the deduction allowed under this section), which are properly allocable to such income.

“(B) EXCEPTIONS.—The following shall not be treated as income of an eligible small business for purposes of subparagraph (A):

“(i) Any income which is attributable to any property described in section 1400N(p)(3).

“(ii) Any income which is attributable to the ownership or management of any professional sports team.

“(iii) Any income which is attributable to a trade or business described in subparagraph (B) of section 1202(e)(3).

“(iv) Any income which is attributable to any property with respect to which records are required to be maintained under section 2257 of title 18, United States Code.

“(C) ALLOCATION RULES, ETC.—Rules similar to the rules of paragraphs (2), (3), (4)(D), and (7) of subsection (c) shall apply for purposes of this paragraph.

“(3) SPECIAL RULES.—Except as otherwise provided by the Secretary, rules similar to the rules of subsection (d) shall apply for purposes of this subsection.”

(c) CONFORMING AMENDMENT.—Section 199(a)(2) is amended by striking “paragraph (1)” and inserting “paragraph (1)(A)”.

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

SEC. —05. NONAPPLICATION OF CERTAIN LABOR STANDARDS.

Section 1601 of the American Recovery and Reinvestment Tax Act of 2009 is hereby repealed.

Subtitle B—Transfer of Stimulus Funds

SEC. —11. TRANSFER OF STIMULUS FUNDS.

Notwithstanding section 5 of the American Recovery and Reinvestment Act of 2009 (Pub. Law 111-5), from the amounts appropriated or made available and remaining unobligated under such Act, the Director of the Office of Management and Budget shall transfer from time to time to the general fund of the Treasury an amount equal to the sum of the amount of any net reduction in revenues and the amount of any net increase in spending resulting from the enactment of this Act.

SA 3339. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . ARRA REPORTING.

Section 1512 of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 287) is amended—

(1) in subsection (f)—

(A) by striking “Within 180 days” and inserting the following:

“(1) IN GENERAL.—Within 180 days”; and

(B) by adding at the end the following:

“(2) PENALTIES.—

“(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (D), the head of an agency distributing recovery funds may impose a civil penalty in an amount not more than \$250,000 on a recipient of recovery funds from the agency that does not provide the information required under subsection (c) or knowingly provides information under subsection (c) that contains a material omission or misstatement. Any amounts received from a civil penalty under this paragraph shall be deposited in the general fund of the Treasury.

“(B) NOTIFICATION.—

“(i) IN GENERAL.—The head of an agency shall provide a written notification to a recipient of recovery funds from the agency that fails to provide the information required under subsection (c). A notification under this subparagraph shall provide the recipient with information on how to comply with the necessary reporting requirements and notice of the penalties for failing to do so.

“(ii) LIMITATION.—The head of an agency may not impose a civil penalty under subparagraph (A) relating to the failure to provide information required under subsection (c) if, not later than 31 days after the date of the notification under clause (i), the recipient of the recovery funds provides the information.

“(C) GUIDELINES.—In determining the amount of a penalty under this paragraph for a recipient of recovery funds, the head of an agency shall consider—

“(i) the number of times the recipient has failed to provide the information required under subsection (c);

“(ii) the amount of recovery funds provided to the recipient;

“(iii) whether the recipient is a government, nonprofit entity, or educational institution; and

“(iv) whether the recipient is a small business concern (as defined under section 3 of the Small Business Act (15 U.S.C. 632)), with particular consideration given to businesses with not more than 50 employees.

“(D) APPLICABILITY.—This paragraph shall apply to any grant, contract, task order, or other type of funding mechanism—

“(i) made or entered into after the date of enactment of this paragraph (including any renewal of a grant, contract, task order, or other type of funding mechanism after the date of enactment of this paragraph); or

“(ii) that includes terms allowing the terms of the grant, contract, task order, or other type of funding mechanism to be modified by Act of Congress.

“(E) NONEXCLUSIVITY.—The imposition of a civil penalty under this subsection shall not preclude any other criminal, civil, or administrative remedy available to the United States or any other person under Federal or State law.

“(3) TECHNICAL ASSISTANCE.—Each agency distributing recovery funds shall provide technical assistance, as necessary, to assist recipients of recovery funds in complying with the requirements to provide information under subsection (c), which shall include providing recipients with a reminder regarding each reporting requirement.

“(4) PUBLIC LISTING.—

“(A) IN GENERAL.—Not later than 45 days after the end of each calendar quarter, and subject to the notification requirements under paragraph (2)(B), each agency distributing recovery funds shall make available on a website of the agency a list of all recipients of recovery funds from the agency that did not provide the information required under subsection (c) for the calendar quarter.

“(B) CONTENTS.—A list made available under subparagraph (A) shall, for each recipient of recovery funds on the list, include the name and address of the recipient, the identification number for the award, the amount of recovery funds awarded to the recipient, a description of the activity for which the recovery funds were provided, and, to the extent known by the head of the agency, the reason for noncompliance.

“(5) OMB GUIDANCE AND REPORTING.—

“(A) GUIDANCE.—Not later than 30 days after the date of enactment of this paragraph, the Director of the Office of Management and Budget, in consultation with the Chairperson, shall promulgate regulations regarding implementation of this section by agencies.

“(B) REPORTING.—

“(i) IN GENERAL.—Not later than July 1, 2010, and every 3 months thereafter, the Director of the Office of Management and Budget, in consultation with the Chairperson, shall submit to Congress a report on the extent of noncompliance by recipients of recovery funds with the reporting requirements under this section.

“(ii) CONTENTS.—Each report submitted under clause (i) shall include—

“(I) information, for the quarter and in total, regarding the number and amount of civil penalties imposed and collected under this subsection, sorted by agency and program;

“(II) information on the steps taken by the Federal Government to reduce the level of noncompliance; and

“(III) any other information determined appropriate by the Director.”; and

(2) by adding at the end the following:

“(i) TERMINATION.—The reporting requirements under this section shall terminate on September 30, 2013.”.

SA 3340. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . ARRA PLANNING.

Section 1512(d) of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 288) is amended—

(1) in the subsection heading, by inserting “PLANS AND” after “AGENCY”;;

(2) by striking “Not later than” and inserting the following:

“(1) DEFINITION.—In this subsection, the term ‘covered program’ means a program for which funds are appropriated under this division—

“(A) in an amount that is—

“(i) more than \$2,000,000,000; and

“(ii) more than 150 percent of the funds appropriated for the program for fiscal year 2008; or

“(B) that did not exist before the date of enactment of this Act.

“(2) PLANS.—Not later than July 1, 2010, the head of each agency that distributes recovery funds shall submit to Congress and make available on the website of the agency a plan for each covered program, which shall, at a minimum, contain—

“(A) a description of the goals for the covered program using recovery funds;

“(B) a discussion of how the goals described in subparagraph (A) relate to the goals for ongoing activities of the covered program, if applicable;

“(C) a description of the activities that the agency will undertake to achieve the goals described in subparagraph (A);

“(D) a description of the total recovery funding for the covered program and the recovery funding for each activity under the covered program, including identifying whether the activity will be carried out using grants, contracts, or other types of funding mechanisms;

“(E) a schedule of milestones for major phases of the activities under the covered program, with planned delivery dates;

“(F) performance measures the agency will use to track the progress of each of the activities under the covered program in meeting the goals described in subparagraph (A), including performance targets, the frequency of measurement, and a description of the methodology for each measure;

“(G) a description of the process of the agency for the periodic review of the progress of the covered program towards meeting the goals described in subparagraph (A); and

“(H) a description of how the agency will hold program managers accountable for achieving the goals described in subparagraph (A).

“(3) REPORTS.—

“(A) IN GENERAL.—Not later than”; and

(3) by adding at the end the following:

“(B) REPORTS ON PLANS.—Not later than 30 days after the end of the calendar quarter ending September 30, 2010, and every calendar quarter thereafter during which the agency obligates or expends recovery funds, the head of each agency that developed a plan for a covered program under paragraph (2) shall submit to Congress and make available on a website of the agency a report for each covered program that—

“(i) discusses the progress of the agency in implementing the plan;

“(ii) describes the progress towards achieving the goals described in paragraph (2)(A) for the covered program;

“(iii) discusses the status of each activity carried out under the covered program, including whether the activity is completed;

“(iv) details the unobligated and unexpired balances and total obligations and outlays under the covered program;

“(v) discusses—

“(I) whether the covered program has met the milestones for the covered program described in paragraph (2)(E);

“(II) if the covered program has failed to meet the milestones, the reasons why; and

“(III) any changes in the milestones for the covered program, including the reasons for the change;

“(vi) discusses the performance of the covered program, including—

“(I) whether the covered program has met the performance measures for the covered program described in paragraph (2)(F);

“(II) if the covered program has failed to meet the performance measures, the reasons why; and

“(III) any trends in information relating to the performance of the covered program; and

“(vii) evaluates the ability of the covered program to meet the goals of the covered program given the performance of the covered program.”.

SA 3341. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 4213, to amend the Internal Revenue code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . ARRA PLANNING AND REPORTING.

Section 1512 of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 287) is amended—

(1) in subsection (d)—

(A) in the subsection heading, by inserting “PLANS AND” after “AGENCY”;;

(B) by striking “Not later than” and inserting the following:

“(1) **DEFINITION.**—In this subsection, the term ‘covered program’ means a program for which funds are appropriated under this division—

“(A) in an amount that is—

“(i) more than \$2,000,000,000; and

“(ii) more than 150 percent of the funds appropriated for the program for fiscal year 2008; or

“(B) that did not exist before the date of enactment of this Act.

“(2) **PLANS.**—Not later than July 1, 2010, the head of each agency that distributes recovery funds shall submit to Congress and make available on the website of the agency a plan for each covered program, which shall, at a minimum, contain—

“(A) a description of the goals for the covered program using recovery funds;

“(B) a discussion of how the goals described in subparagraph (A) relate to the goals for ongoing activities of the covered program, if applicable;

“(C) a description of the activities that the agency will undertake to achieve the goals described in subparagraph (A);

“(D) a description of the total recovery funding for the covered program and the recovery funding for each activity under the covered program, including identifying whether the activity will be carried out using grants, contracts, or other types of funding mechanisms;

“(E) a schedule of milestones for major phases of the activities under the covered program, with planned delivery dates;

“(F) performance measures the agency will use to track the progress of each of the activities under the covered program in meeting the goals described in subparagraph (A), including performance targets, the frequency of measurement, and a description of the methodology for each measure;

“(G) a description of the process of the agency for the periodic review of the

progress of the covered program towards meeting the goals described in subparagraph (A); and

“(H) a description of how the agency will hold program managers accountable for achieving the goals described in subparagraph (A).

“(3) **REPORTS.**—

“(A) **IN GENERAL.**—Not later than”; and

(C) by adding at the end the following:

“(B) **REPORTS ON PLANS.**—Not later than 30 days after the end of the calendar quarter ending September 30, 2010, and every calendar quarter thereafter during which the agency obligates or expends recovery funds, the head of each agency that developed a plan for a covered program under paragraph (2) shall submit to Congress and make available on a website of the agency a report for each covered program that—

“(i) discusses the progress of the agency in implementing the plan;

“(ii) describes the progress towards achieving the goals described in paragraph (2)(A) for the covered program;

“(iii) discusses the status of each activity carried out under the covered program, including whether the activity is completed;

“(iv) details the unobligated and unexpired balances and total obligations and outlays under the covered program;

“(v) discusses—

“(I) whether the covered program has met the milestones for the covered program described in paragraph (2)(E);

“(II) if the covered program has failed to meet the milestones, the reasons why; and

“(III) any changes in the milestones for the covered program, including the reasons for the change;

“(vi) discusses the performance of the covered program, including—

“(I) whether the covered program has met the performance measures for the covered program described in paragraph (2)(F);

“(II) if the covered program has failed to meet the performance measures, the reasons why; and

“(III) any trends in information relating to the performance of the covered program; and

“(vii) evaluates the ability of the covered program to meet the goals of the covered program given the performance of the covered program.”;

(2) in subsection (f)—

(A) by striking “Within 180 days” and inserting the following:

“(1) **IN GENERAL.**—Within 180 days”; and

(B) by adding at the end the following:

“(2) **PENALTIES.**—

“(A) **IN GENERAL.**—Subject to subparagraphs (B), (C), and (D), the head of an agency distributing recovery funds may impose a civil penalty in an amount not more than \$250,000 on a recipient of recovery funds from the agency that does not provide the information required under subsection (c) or knowingly provides information under subsection (c) that contains a material omission or misstatement. Any amounts received from a civil penalty under this paragraph shall be deposited in the general fund of the Treasury.

“(B) **NOTIFICATION.**—

“(i) **IN GENERAL.**—The head of an agency shall provide a written notification to a recipient of recovery funds from the agency that fails to provide the information required under subsection (c). A notification under this subparagraph shall provide the recipient with information on how to comply with the necessary reporting requirements and notice of the penalties for failing to do so.

“(ii) **LIMITATION.**—The head of an agency may not impose a civil penalty under subparagraph (A) relating to the failure to provide information required under subsection

(c) if, not later than 31 days after the date of the notification under clause (i), the recipient of the recovery funds provides the information.

“(C) **GUIDELINES.**—In determining the amount of a penalty under this paragraph for a recipient of recovery funds, the head of an agency shall consider—

“(i) the number of times the recipient has failed to provide the information required under subsection (c);

“(ii) the amount of recovery funds provided to the recipient;

“(iii) whether the recipient is a government, nonprofit entity, or educational institution; and

“(iv) whether the recipient is a small business concern (as defined under section 3 of the Small Business Act (15 U.S.C. 632)), with particular consideration given to businesses with not more than 50 employees.

“(D) **APPLICABILITY.**—This paragraph shall apply to any grant, contract, task order, or other type of funding mechanism—

“(i) made or entered into after the date of enactment of this paragraph (including any renewal of a grant, contract, task order, or other type of funding mechanism after the date of enactment of this paragraph); or

“(ii) that includes terms allowing the terms of the grant, contract, task order, or other type of funding mechanism to be modified by Act of Congress.

“(E) **NONEXCLUSIVITY.**—The imposition of a civil penalty under this subsection shall not preclude any other criminal, civil, or administrative remedy available to the United States or any other person under Federal or State law.

“(3) **TECHNICAL ASSISTANCE.**—Each agency distributing recovery funds shall provide technical assistance, as necessary, to assist recipients of recovery funds in complying with the requirements to provide information under subsection (c), which shall include providing recipients with a reminder regarding each reporting requirement.

“(4) **PUBLIC LISTING.**—

“(A) **IN GENERAL.**—Not later than 45 days after the end of each calendar quarter, and subject to the notification requirements under paragraph (2)(B), each agency distributing recovery funds shall make available on a website of the agency a list of all recipients of recovery funds from the agency that did not provide the information required under subsection (c) for the calendar quarter.

“(B) **CONTENTS.**—A list made available under subparagraph (A) shall, for each recipient of recovery funds on the list, include the name and address of the recipient, the identification number for the award, the amount of recovery funds awarded to the recipient, a description of the activity for which the recovery funds were provided, and, to the extent known by the head of the agency, the reason for noncompliance.

“(5) **OMB GUIDANCE AND REPORTING.**—

“(A) **GUIDANCE.**—Not later than 30 days after the date of enactment of this paragraph, the Director of the Office of Management and Budget, in consultation with the Chairperson, shall promulgate regulations regarding implementation of this section by agencies.

“(B) **REPORTING.**—

“(i) **IN GENERAL.**—Not later than July 1, 2010, and every 3 months thereafter, the Director of the Office of Management and Budget, in consultation with the Chairperson, shall submit to Congress a report on the extent of noncompliance by recipients of recovery funds with the reporting requirements under this section.

“(ii) **CONTENTS.**—Each report submitted under clause (i) shall include—

“(I) information, for the quarter and in total, regarding the number and amount of

civil penalties imposed and collected under this subsection, sorted by agency and program;

“(II) information on the steps taken by the Federal Government to reduce the level of noncompliance; and

“(III) any other information determined appropriate by the Director.”; and

(3) by adding at the end the following:

“(i) **TERMINATION.**—The reporting requirements under this section shall terminate on September 30, 2013.”.

SA 3342. Mr. WEBB (for himself and Mrs. BOXER) submitted an amendment intended to be proposed by him to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the end, insert the following:

TITLE —TAXPAYER FAIRNESS ACT

SEC. 01. SHORT TITLE.

This title may be cited as the “Taxpayer Fairness Act”.

SEC. 02. FINDINGS.

Congress finds the following:

(1) During the years 2008 and 2009, the Nation’s largest financial firms received extraordinary and unprecedented assistance from the public.

(2) Such assistance was critical to the success and in many cases the survival of these firms during the year 2009.

(3) High earners at such firms should contribute a portion of any excessive bonuses obtained for the year 2009 to help the Nation reduce the public debt and recover from the recession.

SEC. 03. EXCISE TAXES ON EXCESSIVE 2009 BONUSES RECEIVED FROM MAJOR RECIPIENTS OF FEDERAL EMERGENCY ECONOMIC ASSISTANCE.

(a) **IMPOSITION OF TAX.**—Chapter 46 is amended by adding at the end the following new section:

“SEC. 4999A. EXCESSIVE 2009 BONUSES RECEIVED FROM MAJOR RECIPIENTS OF FEDERAL EMERGENCY ECONOMIC ASSISTANCE.

“(a) **IMPOSITION OF TAX.**—There is hereby imposed on any person who receives a covered excessive 2009 bonus a tax equal to 50 percent of the amount of such bonus.

“(b) **DEFINITION.**—For purposes of this section, the term ‘covered excessive 2009 bonus’ has the meaning given such term by section 280I(b).

“(c) **ADMINISTRATIVE PROVISIONS AND SPECIAL RULES.**—

“(1) **WITHHOLDING.**—

“(A) **IN GENERAL.**—In the case of any covered excessive 2009 bonus which is treated as wages for purposes of section 3402, the amount otherwise required to be deducted and withheld under such section shall be increased by the amount of the tax imposed by this section on such bonus.

“(B) **BONUSES PAID BEFORE ENACTMENT.**—In the case of any covered excessive 2009 bonus to which subparagraph (A) applies which is paid before the date of the enactment of this section, no penalty, addition to tax, or interest shall be imposed with respect to any failure to deduct and withhold the tax imposed by this section on such bonus.

“(2) **TREATMENT OF TAX.**—For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.

“(3) **NOTICE REQUIREMENTS.**—The Secretary shall require each major Federal emergency economic assistance recipient (as defined in section 280I(d)(1)) to notify, as soon as practicable after the date of the enactment of

this section and at such other times as the Secretary determines appropriate, the Secretary and each covered employee (as defined in section 280I(e)) of the amount of covered excessive 2009 bonuses to which this section applies and the amount of tax deducted and withheld on such bonuses.

“(4) **SECRETARIAL AUTHORITY.**—The Secretary may prescribe such regulations, rules, and guidance of general applicability as may be necessary to carry out the provisions of this section, including—

“(A) to prescribe the due date and manner of payment of the tax imposed by this section with respect to any covered excessive 2009 bonus paid before the date of the enactment of this section, and

“(B) to prevent—

“(i) the recharacterization of a bonus payment as a payment which is not a bonus payment in order to avoid the purposes of this section,

“(ii) the treatment as other than an additional 2009 bonus payment of any payment of increased wages or other payments to a covered employee who receives a bonus payment subject to this section in order to reimburse such covered employee for the tax imposed by this section with regard to such bonus, or

“(iii) the avoidance of the purposes of this section through the use of partnerships or other pass-thru entities.”.

(b) **CLERICAL AMENDMENTS.**—

(1) The heading and table of sections for chapter 46 are amended to read as follows:

“CHAPTER 46—TAXES ON CERTAIN EXCESSIVE REMUNERATION

“Sec. 4999. Golden parachute payments.

“Sec. 4999A. Excessive 2009 bonuses received from major recipients of Federal emergency economic assistance.”.

(2) The item relating to chapter 46 in the table of chapters for subtitle D is amended to read as follows:

“Chapter 46. Taxes on certain excessive remuneration.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to payments of covered excessive 2009 bonuses after December 31, 2008, in taxable years ending after such date.

SEC. 04. LIMITATION ON DEDUCTION OF AMOUNTS PAID AS EXCESSIVE 2009 BONUSES BY MAJOR RECIPIENTS OF FEDERAL EMERGENCY ECONOMIC ASSISTANCE.

(a) **IN GENERAL.**—Part IX of subchapter B of chapter 1 is amended by adding at the end the following new section:

“SEC. 280I. EXCESSIVE 2009 BONUSES PAID BY MAJOR RECIPIENTS OF FEDERAL EMERGENCY ECONOMIC ASSISTANCE.

“(a) **GENERAL RULE.**—The deduction allowed under this chapter with respect to the amount of any covered excessive 2009 bonus shall not exceed 50 percent of the amount of such bonus.

“(b) **COVERED EXCESSIVE 2009 BONUS.**—For purposes of this section, the term ‘covered excessive 2009 bonus’ means any 2009 bonus payment paid during any calendar year to a covered employee by any major Federal emergency economic assistance recipient, to the extent that the aggregate of such 2009 bonus payments (without regard to the date on which such payments are paid) with respect to such employee exceeds the dollar amount of the compensation received by the President under section 102 of title 3, United States Code, for calendar year 2009.

“(c) **2009 BONUS PAYMENT.**—

“(1) **IN GENERAL.**—The term ‘2009 bonus payment’ means any payment which—

“(A) is a payment for services rendered,

“(B) is in addition to any amount payable to a covered employee for services performed

by such covered employee at a regular hourly, daily, weekly, monthly, or similar periodic rate,

“(C) in the case of a retention bonus, is paid for continued service during calendar year 2009 or 2010, and

“(D) in the case of a payment not described in subparagraph (C), is attributable to services performed by a covered employee during calendar year 2009 (without regard to the year in which such payment is paid).

Such term does not include payments to an employee as commissions, contributions to any qualified retirement plan (as defined in section 4974(c)), welfare and fringe benefits, overtime pay, or expense reimbursements. In the case of a payment which is attributable to services performed during multiple calendar years, such payment shall be treated as a 2009 bonus payment to the extent it is attributable to services performed during calendar year 2009.

“(2) DEFERRED DEDUCTION BONUS PAYMENTS.—

“(A) **IN GENERAL.**—The term ‘2009 bonus payment’ includes payments attributable to services performed in 2009 which are paid in the form of remuneration (within the meaning of section 162(m)(4)(E)) for which the deduction under this chapter (determined without regard to this section) for such payment is allowable in a subsequent taxable year.

“(B) **TIMING OF DEFERRED DEDUCTION BONUS PAYMENTS.**—For purposes of this section and section 4999A, the amount of any payment described in subparagraph (A) (as determined in the year in which the deduction under this chapter, determined without regard to this section, for such payment would be allowable) shall be treated as having been made in the calendar year in which any interest in such amount is granted to a covered employee (without regard to the date on which any portion of such interest vests).

“(3) **RETENTION BONUS.**—The term ‘retention bonus’ means any bonus payment (without regard to the date such payment is paid) to a covered employee which—

“(A) is contingent on the completion of a period of service with a major Federal emergency economic assistance recipient, the completion of a specific project or other activity for the major Federal emergency economic assistance recipient, or such other circumstances as the Secretary may prescribe, and

“(B) is not based on the performance of the covered employee (other than a requirement that the employee not be separated from employment for cause).

A bonus payment shall not be treated as based on performance for purposes of subparagraph (B) solely because the amount of the payment is determined by reference to a previous bonus payment which was based on performance.

“(d) **MAJOR FEDERAL EMERGENCY ECONOMIC ASSISTANCE RECIPIENT.**—For purposes of this section—

“(1) **IN GENERAL.**—The term ‘major Federal emergency economic assistance recipient’ means—

“(A) any financial institution (within the meaning of section 3 of the Emergency Economic Stabilization Act of 2008) if at any time after December 31, 2007, the Federal Government acquires—

“(i) an equity interest in such person pursuant to a program authorized by the Emergency Economic Stabilization Act of 2008 or the third undesignated paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 343), or

“(ii) any warrant (or other right) to acquire any equity interest with respect to such person pursuant to any such program,

but only if the total value of the equity interest described in clauses (i) and (ii) in such person is not less than \$5,000,000,000.

“(B) the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, and

“(C) any person which is a member of the same affiliated group (as defined in section 1504, determined without regard to subsection (b) thereof) as a person described in subparagraph (A) or (B).

“(2) TREATMENT OF CONTROLLED GROUPS.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as a single employer with respect to any covered employee.

“(e) COVERED EMPLOYEE.—For purposes of this section, the term ‘covered employee’ means, with respect to any major Federal emergency economic assistance recipient—

“(1) any employee of such recipient, and

“(2) any director of such recipient who is not an employee.

In the case of any major Federal emergency economic assistance recipient which is a partnership or other unincorporated trade or business, the term ‘employee’ shall include employees of such recipient within the meaning of section 401(c)(1).

“(f) REGULATIONS.—The Secretary may prescribe such regulations, rules, and guidance of general applicability as may be necessary to carry out the provisions of this section, including—

“(1) to prescribe the due date and manner of reporting and payment of any increase in the tax imposed by this chapter due to the application of this section to any covered excessive 2009 bonus paid before the date of the enactment of this section, and

“(2) to prevent—

“(A) the recharacterization of a bonus payment as a payment which is not a bonus payment in order to avoid the purposes of this section, or

“(B) the avoidance of the purposes of this section through the use of partnerships or other pass-thru entities.”.

(b) CLERICAL AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 is amended by adding at the end the following new item:

“Sec. 280I. Excessive 2009 bonuses paid by major recipients of Federal emergency economic assistance.”.

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (F) of section 162(m)(4) is amended—

(A) by inserting “AND EXCESSIVE 2009 BONUSES” after “PAYMENTS” in the heading,

(B) by striking “the amount” and inserting “the total amounts”, and

(C) by inserting “or 280I” before the period.

(2) Subparagraph (A) of section 3121(v)(2) is amended by inserting “, to any covered excessive 2009 bonus (as defined in section 280I(b)),” after “section 280G(b))”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments of covered excessive 2009 bonuses after December 31, 2008, in taxable years ending after such date.

SA 3343. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ SMALL BUSINESS TECHNICAL ASSISTANCE.

(a) MICROLOAN PROGRAM.—Section 7(m)(4)(B) of the Small Business Act (15 U.S.C. 636(m)(4)(B)) is amended—

(1) by striking “As a condition” and all that follows through “the Administration shall require” and inserting the following:

“(i) IN GENERAL.—Subject to clause (ii), as a condition of a grant made under subparagraph (A), the Administrator shall require”; and

(2) by adding at the end the following:

“(ii) WAIVER OF NON-FEDERAL SHARE.—

“(I) IN GENERAL.—Upon request by an intermediary, and in accordance with this clause, the Administrator may waive, in whole or in part, the requirement to obtain non-Federal funds under clause (i).

“(II) CONSIDERATIONS.—In determining whether to waive the requirement to obtain non-Federal funds under this clause, the Administrator shall consider—

“(aa) the economic conditions affecting the intermediary;

“(bb) the impact a waiver under this clause would have on the credibility of the microloan program under this subsection;

“(cc) the demonstrated ability of the intermediary to raise non-Federal funds; and

“(dd) the performance of the intermediary.

“(III) LIMITATION.—The Administrator may not waive the requirement to obtain non-Federal funds under this clause if granting the waiver would undermine the credibility of the microloan program under this subsection.”.

(b) WOMEN’S BUSINESS CENTER PROGRAM.—Section 29(c) of the Small Business Act (15 U.S.C. 656(c)) is amended—

(1) in paragraph (1), by striking “As a condition” and inserting “Subject to paragraph (5), as a condition”; and

(2) by adding at the end the following:

“(5) WAIVER OF NON-FEDERAL SHARE RELATING TO TECHNICAL ASSISTANCE AND COUNSELING.—

“(A) IN GENERAL.—Upon request by a recipient organization, and in accordance with this paragraph, the Administrator may waive, in whole or in part, the requirement to obtain non-Federal funds under this subsection for the technical assistance and counseling activities of the recipient organization carried out using financial assistance under this section.

“(B) CONSIDERATIONS.—In determining whether to waive the requirement to obtain non-Federal funds under this paragraph, the Administrator shall consider—

“(i) the economic conditions affecting the recipient organization;

“(ii) the impact a waiver under this clause would have on the credibility of the women’s business center program under this section;

“(iii) the demonstrated ability of the recipient organization to raise non-Federal funds; and

“(iv) the performance of the recipient organization.

“(C) LIMITATION.—The Administrator may not waive the requirement to obtain non-Federal funds under this paragraph if granting the waiver would undermine the credibility of the women’s business center program under this section.”.

SA 3344. Mr. LEVIN (for himself, Mrs. SHAHEEN, and Mr. WHITEHOUSE) submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes;

which was ordered to lie on the table; as follows:

At the end add the following:

TITLE VIII—STOP TAX HAVEN ABUSE

SEC. 801. AUTHORIZING SPECIAL MEASURES AGAINST FOREIGN JURISDICTIONS, FINANCIAL INSTITUTIONS, AND OTHERS THAT IMPEDE UNITED STATES TAX ENFORCEMENT.

Section 5318A of title 31, United States Code, is amended—

(1) by striking the section heading and inserting the following:

“§5318A. Special measures for jurisdictions, financial institutions, or international transactions that are of primary money laundering concern or impede United States tax enforcement”;

(2) in subsection (a), by striking the subsection heading and inserting the following:

“(a) SPECIAL MEASURES TO COUNTER MONEY LAUNDERING AND EFFORTS TO IMPEDE UNITED STATES TAX ENFORCEMENT.—”;

(3) in subsection (c), by striking the subsection heading and inserting the following:

“(c) CONSULTATIONS AND INFORMATION TO BE CONSIDERED IN FINDING JURISDICTIONS, INSTITUTIONS, TYPES OF ACCOUNTS, OR TRANSACTIONS TO BE OF PRIMARY MONEY LAUNDERING CONCERN OR TO BE IMPEDING UNITED STATES TAX ENFORCEMENT.—”;

(4) in subsection (a)(1), by inserting “or is impeding United States tax enforcement” after “primary money laundering concern”;

(5) in subsection (a)(4)—

(A) in subparagraph (A)—

(i) by inserting “in matters involving money laundering,” before “shall consult”; and

(ii) by striking “and” at the end;

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following:

“(B) in matters involving United States tax enforcement, shall consult with the Commissioner of the Internal Revenue, the Secretary of State, the Attorney General of the United States, and in the sole discretion of the Secretary, such other agencies and interested parties as the Secretary may find to be appropriate; and”;

(6) in each of paragraphs (1)(A), (2), (3), and (4) of subsection (b), by inserting “or to be impeding United States tax enforcement” after “primary money laundering concern” each place that term appears;

(7) in subsection (b), by striking paragraph (5) and inserting the following:

“(5) PROHIBITIONS OR CONDITIONS ON OPENING OR MAINTAINING CERTAIN CORRESPONDENT OR PAYABLE-THROUGH ACCOUNTS OR AUTHORIZING CERTAIN PAYMENT CARDS.—If the Secretary finds a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, or 1 or more classes of transactions within or involving a jurisdiction outside of the United States to be of primary money laundering concern or to be impeding United States tax enforcement, the Secretary, in consultation with the Secretary of State, the Attorney General of the United States, and the Chairman of the Board of Governors of the Federal Reserve System, may prohibit, or impose conditions upon—

“(A) the opening or maintaining in the United States of a correspondent account or payable-through account; or

“(B) the authorization, approval, or use in the United States of a credit card, charge card, debit card, or similar credit or debit financial instrument by any domestic financial institution, financial agency, or credit card company or association, for or on behalf

of a foreign banking institution, if such correspondent account, payable-through account, credit card, charge card, debit card, or similar credit or debit financial instrument, involves any such jurisdiction or institution, or if any such transaction may be conducted through such correspondent account, payable-through account, credit card, charge card, debit card, or similar credit or debit financial instrument.”; and

(8) in subsection (c)(1), by inserting “or is impeding United States tax enforcement” after “primary money laundering concern”;

(9) in subsection (c)(2)(A)—

(A) in clause (ii), by striking “bank secrecy or special regulatory advantages” and inserting “bank, tax, corporate, trust, or financial secrecy or regulatory advantages”;

(B) in clause (iii), by striking “supervisory and counter-money” and inserting “supervisory, international tax enforcement, and counter-money”;

(C) in clause (v), by striking “banking or secrecy” and inserting “banking, tax, or secrecy”; and

(D) in clause (vi), by inserting “, tax treaty, or tax information exchange agreement” after “treaty”;

(10) in subsection (c)(2)(B)—

(A) in clause (i), by inserting “or tax evasion” after “money laundering”; and

(B) in clause (iii), by inserting “, tax evasion,” after “money laundering”; and

(11) in subsection (d), by inserting “involving money laundering, and shall notify, in writing, the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives of any such action involving United States tax enforcement” after “such action”.

SA 3345. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE VIII—SMALL BUSINESS LOANS

SEC. 801. SHORT TITLE.

This title may be cited as the “Small Business Job Creation and Access to Capital Act of 2010”.

Subtitle A—Next Steps for Main Street Credit Availability

SEC. 821. SECTION 7(a) BUSINESS LOANS.

(a) AMENDMENT.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended—

(1) in paragraph (2)(A)—

(A) in clause (i), by striking “75 percent” and inserting “90 percent”; and

(B) in clause (ii), by striking “85 percent” and inserting “90 percent”; and

(2) in paragraph (3)(A), by striking “\$1,500,000 (or if the gross loan amount would exceed \$2,000,000)” and inserting “\$4,500,000 (or if the gross loan amount would exceed \$5,000,000)”.

(b) PROSPECTIVE REPEAL.—Effective January 1, 2011, section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended—

(1) in paragraph (2)(A)—

(A) in clause (i), by striking “90 percent” and inserting “75 percent”; and

(B) in clause (ii), by striking “90 percent” and inserting “85 percent”; and

(2) in paragraph (3)(A), by striking “\$4,500,000” and inserting “\$3,750,000”.

SEC. 822. MAXIMUM LOAN AMOUNTS UNDER 504 PROGRAM.

Section 502(2)(A) of the Small Business Investment Act of 1958 (15 U.S.C. 696(2)(A)) is amended—

(1) in clause (i), by striking “\$1,500,000” and inserting “\$5,000,000”;

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

(3) in clause (iii), by striking “\$4,000,000” and inserting “\$5,500,000”;

(4) in clause (iv), by striking “\$4,000,000” and inserting “\$5,500,000”; and

(5) in clause (v), by striking “\$4,000,000” and inserting “\$5,500,000”.

SEC. 823. MAXIMUM LOAN LIMITS UNDER MICROLOAN PROGRAM.

Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended—

(1) in paragraph (1)(B)(iii), by striking “\$35,000” and inserting “\$50,000”;

(2) in paragraph (3)—

(A) in subparagraph (C), by striking “\$3,500,000” and inserting “\$5,000,000”; and

(B) in subparagraph (E), by striking “\$35,000” each place that term appears and inserting “\$50,000”; and

(3) in paragraph (11)(B), by striking “\$35,000” and inserting “\$50,000”.

SEC. 824. NEW MARKETS VENTURE CAPITAL COMPANY INVESTMENT LIMITATIONS.

Section 355 of the Small Business Investment Act of 1958 (15 U.S.C. 689d) is amended by adding at the end the following:

“(e) INVESTMENT LIMITATIONS.—

“(1) DEFINITION.—In this subsection, the term ‘covered New Markets Venture Capital company’ means a New Markets Venture Capital company—

“(A) granted final approval by the Administrator under section 354(e) on or after March 1, 2002; and

“(B) that has obtained a financing from the Administrator.

“(2) LIMITATION.—Except to the extent approved by the Administrator, a covered New Markets Venture Capital company may not acquire or issue commitments for securities under this title for any single enterprise in an aggregate amount equal to more than 10 percent of the sum of—

“(A) the regulatory capital of the covered New Markets Venture Capital company; and

“(B) the total amount of leverage projected in the participation agreement of the covered New Markets Venture Capital.”.

“(3) LIMITATION.—Except to the extent approved by the Administrator, a covered New Markets Venture Capital company may not acquire or issue commitments for securities under this title for any single enterprise in an aggregate amount equal to more than 10 percent of the sum of—

“(A) the regulatory capital of the covered New Markets Venture Capital company; and

“(B) the total amount of leverage projected in the participation agreement of the covered New Markets Venture Capital.”.

SEC. 825. ALTERNATIVE SIZE STANDARDS.

Section 3(a) of the Small Business Act (15 U.S.C. 632(a)) is amended by adding at the end the following:

“(5) ALTERNATIVE SIZE STANDARD.—

“(A) IN GENERAL.—The Administrator shall establish an alternative size standard for applicants for business loans under section 7(a) and applicants for development company loans under title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.), that uses maximum tangible net worth and average net income as an alternative to the use of industry standards.

“(B) INTERIM RULE.—Until the date on which the alternative size standard established under subparagraph (A) is in effect, an applicant for a business loan under section 7(a) or an applicant for a development company loan under title V of the Small Business Investment Act of 1958 may be eligible for such a loan if—

“(i) the maximum tangible net worth of the applicant is not more than \$15,000,000; and

“(ii) the average net income after Federal income taxes (excluding any carry-over losses) of the applicant for the 2 full fiscal years before the date of the application is not more than \$5,000,000.”.

SEC. 826. SALE OF 7(a) LOANS IN SECONDARY MARKET.

Section 5(g) of the Small Business Act (15 U.S.C. 634(g)) is amended by adding at the end the following:

“(6) If the amount of the guaranteed portion of any loan under section 7(a) is more

than \$500,000, the Administrator shall, upon request of a pool assembler, divide the loan guarantee into increments of \$500,000 and 1 increment of any remaining amount less than \$500,000, in order to permit the maximum amount of any loan in a pool to be not more than \$500,000. Only 1 increment of any loan guarantee divided under this paragraph may be included in the same pool. Increments of loan guarantees to different borrowers that are divided under this paragraph may be included in the same pool.”.

SEC. 827. ONLINE LENDING PLATFORM.

It is the sense of Congress that the Administrator of the Small Business Administration should establish a website that—

(1) lists each lender that makes loans guaranteed by the Small Business Administration and provides information about the loan rates of each such lender; and

(2) allows prospective borrowers to compare rates on loans guaranteed by the Small Business Administration.

Subtitle B—Small Business Access to Capital

SEC. 841. LOW-INTEREST REFINANCING UNDER THE LOCAL DEVELOPMENT BUSINESS LOAN PROGRAM.

(a) REFINANCING.—Section 502(7) of the Small Business Investment Act of 1958 (15 U.S.C. 696(7)) is amended by adding at the end the following:

“(C) REFINANCING NOT INVOLVING EXPANSIONS.—

“(i) DEFINITIONS.—In this subparagraph—

“(I) the term ‘borrower’ means a small business concern that submits an application to a development company for financing under this subparagraph;

“(II) the term ‘eligible fixed asset’ means tangible property relating to which the Administrator may provide financing under this section; and

“(III) the term ‘qualified debt’ means indebtedness—

“(aa) that—

“(AA) was incurred not less than 2 years before the date of the application for assistance under this subparagraph;

“(BB) is a commercial loan;

“(CC) is not subject to a guarantee by a Federal agency;

“(DD) the proceeds of which were used to acquire an eligible fixed asset;

“(EE) was incurred for the benefit of the small business concern; and

“(FF) is collateralized by eligible fixed assets; and

“(bb) for which the borrower has been current on all payments for not less than 1 year before the date of the application.

“(ii) AUTHORITY.—A project that does not involve the expansion of a small business concern may include the refinancing of qualified debt if—

“(I) the amount of the financing is not more than 80 percent of the value of the collateral for the financing, except that, if the appraised value of the eligible fixed assets serving as collateral for the financing is less than the amount equal to 125 percent of the amount of the financing, the borrower may provide additional cash or other collateral to eliminate any deficiency;

“(II) the borrower has been in operation for all of the 2-year period ending on the date of the loan; and

“(III) for a financing for which the Administrator determines there will be an additional cost attributable to the refinancing of the qualified debt, the borrower agrees to pay a fee in an amount equal to the anticipated additional cost.

“(iii) FINANCING FOR BUSINESS EXPENSES.—

“(I) FINANCING FOR BUSINESS EXPENSES.—The Administrator may provide financing to a borrower that receives financing that includes a refinancing of qualified debt under

clause (ii), in addition to the refinancing under clause (ii), to be used solely for the payment of business expenses.

“(II) APPLICATION FOR FINANCING.—An application for financing under subclause (I) shall include—

“(aa) a specific description of the expenses for which the additional financing is requested; and

“(bb) an itemization of the amount of each expense.

“(III) CONDITION ON ADDITIONAL FINANCING.—A borrower may not use any part of the financing under this clause for non-business purposes.

“(iv) LOANS BASED ON JOBS.—

“(I) JOB CREATION AND RETENTION GOALS.—

“(aa) IN GENERAL.—The Administrator may provide financing under this subparagraph for a borrower that meets the job creation goals under subsection (d) or (e) of section 501.

“(bb) ALTERNATE JOB RETENTION GOAL.—The Administrator may provide financing under this subparagraph to a borrower that does not meet the goals described in item (aa) in an amount that is not more than the product obtained by multiplying the number of employees of the borrower by \$65,000.

“(II) NUMBER OF EMPLOYEES.—For purposes of subclause (I), the number of employees of a borrower is equal to the sum of—

“(aa) the number of full-time employees of the borrower on the date on which the borrower applies for a loan under this subparagraph; and

“(bb) the product obtained by multiplying—

“(AA) the number of part-time employees of the borrower on the date on which the borrower applies for a loan under this subparagraph; by

“(BB) the quotient obtained by dividing the average number of hours each part time employee of the borrower works each week by 40.

“(v) NONDELEGATION.—Notwithstanding section 508(e), the Administrator may not permit a premier certified lender to approve or disapprove an application for assistance under this subparagraph.

“(vi) TOTAL AMOUNT OF LOANS.—The Administrator may provide not more than a total of \$4,000,000,000 of financing under this subparagraph for each fiscal year.”

(b) PROSPECTIVE REPEAL.—Effective 2 years after the date of enactment of this Act, section 502(7) of the Small Business Investment Act of 1958 (15 U.S.C. 696(7)) is amended by striking subparagraph (C).

(c) TECHNICAL CORRECTION.—Section 502(2)(A)(i) of the Small Business Investment Act of 1958 (15 U.S.C. 696(2)(A)(i)) is amended by striking “subparagraph (B) or (C)” and inserting “clause (ii), (iii), (iv), or (v)”.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that the hearing scheduled before the Committee on Energy and Natural Resources, previously announced for February 9th, has been rescheduled and will now be held on Tuesday, March 16, 2010, at 10 a.m., in room SD-366 of the Dirksen Senate Office Building.

The purpose of this oversight hearing is to receive testimony on the Bureau of Reclamation's implementation of the SECURE Water Act, (Title 9501 of P.L. 111-11) and the Bureau of Rec-

lamation's Water Conservation Initiative which includes the Challenge Grant Program, the Basin Study Program and the Title XVI Program.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510-6150, or by email to Gina_Weinstock@energy.senate.gov.

For further information, please contact Tanya Trujillo at (202) 224-5479 or Gina Weinstock at (202) 224-5684.

SUBCOMMITTEE ON NATIONAL PARKS

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on National Parks.

The hearing will be held on Wednesday, March 17, 2010, at 2:30 p.m., in room SD-366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on the following bills:

S. 553, to revise the authorized route of the North Country National Scenic Trail in northeastern Minnesota to include existing hiking trails along Lake Superior's north shore and in Superior National Forest and Chippewa National Forest, and for other purposes;

S. 1017, to reauthorize the Cane River National Heritage Area Commission and expand the boundaries of the Cane River National Heritage Area in the State of Louisiana;

S. 1018, to authorize the Secretary of the Interior to enter into an agreement with Northwestern State University in Natchitoches, Louisiana, to construct a curatorial center for the use of Cane River Creole National Historical Park, the National Center for Preservation Technology and Training, and the University, and for other purposes;

S. 1537, to authorize the Secretary of the Interior, acting through the Director of the National Park Service, to designate the Dr. Norman E. Borlaug Birthplace and Childhood Home in Cresco, Iowa, as a National Historic Site and as a unit of the National Park System, and for other purposes;

S. 1629, to authorize the Secretary of the Interior to conduct a special resource study of the archeological site and surrounding land of the New Philadelphia town site in the state of Illinois, and for other purposes;

S. 2892, to establish the Alabama Black Belt National Heritage Area, and for other purposes;

S. 2933, to authorize the Secretary of the Interior to conduct a special resource study to determine the suitability and feasibility of designating the Colonel Charles Young Home in Xenia, Ohio, as a unit of the National Park System, and for other purposes;

S. 2951, to authorize funding to protect and conserve lands contiguous with the Blue Ridge Parkway to serve the public, and for other purposes; and

H.R. 3804, to make technical corrections to various Acts affecting the National Park Service, to extend, amend, or establish certain National Park Service authorities, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those

wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510-6150, or by email to allison_seyferth@energy.senate.gov.

For further information, please contact David Brooks at (202) 224-9863 or Allison Seyferth at (202) 224-4905.

ORDERS FOR TUESDAY, MARCH 2, 2010

Mr. BAUCUS. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. Tuesday, March 2; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate proceed to a period of morning business for 1 hour, with the time equally divided and controlled between the two leaders or their designees, with Republicans controlling the first half and the majority controlling the final half; that following morning business, the Senate proceed to executive session to consider the nomination of Barbara Keenan, as provided for under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BAUCUS. Madam President, under a previous order, the time following morning business until 12:15 p.m. will be equally divided and controlled between Senators LEAHY and SESSIONS or their designees. At 12:15 p.m., the Senate will proceed to a roll-call vote on the motion to invoke cloture on the nomination of Barbara Keenan to be a U.S. circuit judge for the Fourth Circuit.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. BAUCUS. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 6:37 p.m., adjourned until Tuesday, March 2, 2010, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate:

OVERSEAS PRIVATE INVESTMENT CORPORATION

KATHERINE M. GEHL, OF WISCONSIN, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2010, VICE COLLISTER JOHNSON, JR., TERM EXPIRED.

MICHAEL JAMES WARREN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2011, VICE DIANE M. RUEBLING, TERM EXPIRED.

DEPARTMENT OF DEFENSE

MICHAEL J. MCCORD, OF VIRGINIA, TO BE PRINCIPAL DEPUTY UNDER SECRETARY OF DEFENSE (COMPTROLLER). (NEW POSITION)