

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—112th Cong., 1st Sess.

H. R. 3630

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

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by Mr. REID (for himself and Mr. McCONNELL)

Viz:

1 Strike all after the enacting clause and insert the fol-

2 lowing:

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the

5 “Temporary Payroll Tax Cut Continuation Act of 2011”.

6 (b) TABLE OF CONTENTS.—The table of contents of

7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—TEMPORARY PAYROLL TAX RELIEF

Sec. 101. Extension of payroll tax holiday.

TITLE II—TEMPORARY EXTENSION OF UNEMPLOYMENT
COMPENSATION PROVISIONS

Sec. 201. Temporary extension of unemployment compensation provisions.

Sec. 202. Extended unemployment benefits under the Railroad Unemployment Insurance Act.

TITLE III—TEMPORARY EXTENSION OF HEALTH PROVISIONS

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

TITLE IV—MORTGAGE FEES AND PREMIUMS

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

TITLE V—OTHER PROVISIONS

Subtitle A—Keystone XL Pipeline

Sec. 501. Permit for Keystone XL pipeline.

Subtitle B—Budgetary Provisions

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

1 **TITLE I—TEMPORARY PAYROLL** 2 **TAX RELIEF**

3 **SEC. 101. EXTENSION OF PAYROLL TAX HOLIDAY.**

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

8 “(c) PAYROLL TAX HOLIDAY PERIOD.—The term
 9 ‘payroll tax holiday period’ means—

1 “(1) in the case of the tax described in sub-
2 section (a)(1), calendar years 2011 and 2012, and

3 “(2) in the case of the taxes described in sub-
4 section (a)(2), the period beginning January 1,
5 2011, and ending February 29, 2012.”.

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

9 “(f) SPECIAL RULES FOR 2012.—

10 “(1) LIMITATION ON WAGES AND SELF-EM-
11 PLOYMENT INCOME.—In the case of—

12 “(A) any taxable year beginning in 2012,
13 subsection (a)(1) shall only apply with respect
14 to so much of the taxpayer’s self-employment
15 income (as defined in section 1402(b) of the In-
16 ternal Revenue Code of 1986) as does not ex-
17 ceed the excess (if any) of—

18 “(i) \$18,350, over

19 “(ii) the amount of wages and com-
20 pensation taken into account under sub-
21 paragraph (B), and

22 “(B) any remuneration received during the
23 portion of the payroll tax holiday period occur-
24 ring during 2012, subsection (a)(2) shall only
25 apply to so much of the sum of the taxpayer’s

1 wages (as defined in section 3121(a) of such
2 Code) and compensation (as defined section
3 3231(e) of such Code) as does not exceed
4 \$18,350.

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

9 ““(A) the sum of—

10 ““(i) 59.6 percent of the portion of
11 such taxes attributable to the tax imposed
12 by section 1401(a) of such Code (deter-
13 mined after the application of this section)
14 on so much of self-employment income (as
15 defined in section 1402(b) of such Code)
16 as does not exceed the amount of self-em-
17 ployment income described in paragraph
18 (1)(A), plus

19 ““(ii) one-half of the portion of such
20 taxes attributable to the tax imposed by
21 section 1401(a) of such Code (determined
22 without regard to this section) on self-em-
23 ployment income (as so defined) in excess
24 of such amount, plus’.”

1 (c) TECHNICAL AMENDMENTS.—Paragraph (2) of
2 section 601(b) of such Act (26 U.S.C. 1401 note) is
3 amended—

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

5 (2) by inserting “of such Code” after
6 “1401(a)” in subparagraph (A), and

7 (3) by inserting “of such Code” after
8 “1401(b)” in subparagraph (B).

9 (d) EFFECTIVE DATES.—

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

14 (2) TECHNICAL AMENDMENTS.—The amend-
15 ments made by subsection (c) shall take effect as if
16 included in the enactment of section 601 of the Tax
17 Relief, Unemployment Insurance Reauthorization,
18 and Job Creation Act of 2010.

1 **TITLE II—TEMPORARY EXTEN-**
2 **SION OF UNEMPLOYMENT**
3 **COMPENSATION PROVISIONS**

4 **SEC. 201. TEMPORARY EXTENSION OF UNEMPLOYMENT**
5 **COMPENSATION PROVISIONS.**

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

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

11 (B) in the heading for subsection (b)(2), by
12 striking “JANUARY 3, 2012” and inserting “MARCH 6,
13 2012”; and

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

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

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

22 (B) in subsection (c), by striking “June 11,
23 2012” and inserting “August 15, 2012”.

24 (3) Section 5 of the Unemployment Compensation
25 Extension Act of 2008 (Public Law 110–449; 26 U.S.C.

1 3304 note) is amended by striking “June 10, 2012” and
2 inserting “August 15, 2012”.

3 (4) Section 203 of the Federal-State Extended Un-
4 employment Compensation Act of 1970 (26 U.S.C. 3304
5 note) is amended—

6 (A) in subsection (d), in the second sentence of
7 the flush matter following paragraph (2), by striking
8 “December 31, 2011” and inserting “February 29,
9 2012”; and

10 (B) in subsection (f)(2), by striking “December
11 31, 2011” and inserting “February 29, 2012”.

12 (b) FUNDING.—Section 4004(e)(1) of the Supple-
13 mental Appropriations Act, 2008 (Public Law 110–252;
14 26 U.S.C. 3304 note) is amended—

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

17 (2) by inserting after subparagraph (G) the fol-
18 lowing:

19 “(H) the amendments made by section
20 201(a)(1) of the Temporary Payroll Tax Cut
21 Continuation Act of 2011; and”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall take effect as if included in the enact-
24 ment of the Tax Relief, Unemployment Insurance Reau-

1 thORIZATION, and Job Creation Act of 2010 (Public Law
2 111–312).

3 **SEC. 202. EXTENDED UNEMPLOYMENT BENEFITS UNDER**
4 **THE RAILROAD UNEMPLOYMENT INSURANCE**
5 **ACT.**

6 (a) EXTENSION.—Section 2(c)(2)(D)(iii) of the Rail-
7 road Unemployment Insurance Act, as added by section
8 2006 of the American Recovery and Reinvestment Act of
9 2009 (Public Law 111–5) and as amended by section 9
10 of the Worker, Homeownership, and Business Assistance
11 Act of 2009 (Public Law 111–92) and section 505 of the
12 Tax Relief, Unemployment Insurance Reauthorization,
13 and Job Creation Act of 2010 (Public Law 111–312), is
14 amended—

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

17 (2) by striking “December 31, 2011” and in-
18 serting “February 29, 2012”.

19 (b) CLARIFICATION ON AUTHORITY TO USE
20 FUNDS.—Funds appropriated under either the first or
21 second sentence of clause (iv) of section 2(c)(2)(D) of the
22 Railroad Unemployment Insurance Act shall be available
23 to cover the cost of additional extended unemployment
24 benefits provided under such section 2(c)(2)(D) by reason
25 of the amendments made by subsection (a) as well as to

1 cover the cost of such benefits provided under such section
2 2(c)(2)(D), as in effect on the day before the date of the
3 enactment of this Act.

4 **TITLE III—TEMPORARY EXTEN-** 5 **SION OF HEALTH PROVISIONS**

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

7 Section 1848(d) of the Social Security Act (42 U.S.C.
8 1395w-4(d)) is amended by adding at the end the fol-
9 lowing new paragraph:

10 “(13) UPDATE FOR FIRST TWO MONTHS OF
11 2012.—

12 “(A) IN GENERAL.—Subject to paragraphs
13 (7)(B), (8)(B), (9)(B), (10)(B), (11)(B), and
14 (12)(B), in lieu of the update to the single con-
15 version factor established in paragraph (1)(C)
16 that would otherwise apply for the period begin-
17 ning on January 1, 2012, and ending on Feb-
18 ruary 29, 2012, the update to the single conver-
19 sion factor shall be zero percent.

20 “(B) NO EFFECT ON COMPUTATION OF
21 CONVERSION FACTOR FOR REMAINING PORTION
22 OF 2012 AND SUBSEQUENT YEARS.—The con-
23 version factor under this subsection shall be
24 computed under paragraph (1)(A) for the pe-
25 riod beginning on March 1, 2012, and ending

1 on December 31, 2012, and for 2013 and sub-
2 sequent years as if subparagraph (A) had never
3 applied.”.

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

6 (a) IN GENERAL.—Section 106(a) of division B of
7 the Tax Relief and Health Care Act of 2006 (42 U.S.C.
8 1395 note), as amended by section 117 of the Medicare,
9 Medicaid, and SCHIP Extension Act of 2007 (Public Law
10 110–173), section 124 of the Medicare Improvements for
11 Patients and Providers Act of 2008 (Public Law 110–
12 275), sections 3137(a) and 10317 of the Patient Protec-
13 tion and Affordable Care Act (Public Law 111–148), and
14 section 102(a) of the Medicare and Medicaid Extenders
15 Act of 2010 (Public Law 111–309), is amended by strik-
16 ing “September 30, 2011” and inserting “November 30,
17 2011”.

18 (b) SPECIAL RULE FOR OCTOBER AND NOVEMBER
19 2011.—

20 (1) IN GENERAL.—Subject to paragraph (2),
21 for purposes of implementation of the amendment
22 made by subsection (a), including for purposes of
23 the implementation of paragraph (2) of section
24 117(a) of the Medicare, Medicaid, and SCHIP Ex-
25 tension Act of 2007 (Public Law 110–173), for the

1 period beginning on October 1, 2011, and ending on
2 November 30, 2011, the Secretary of Health and
3 Human Services shall use the hospital wage index
4 that was promulgated by the Secretary of Health
5 and Human Services in the Federal Register on Au-
6 gust 18, 2011 (76 Fed. Reg. 51476), and any subse-
7 quent corrections.

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

20 (c) TIMEFRAME FOR PAYMENTS.—The Secretary
21 shall make payments required under subsections (a) and
22 (b) by not later than December 31, 2012.

1 **SEC. 303. EXTENSION OF MEDICARE WORK GEOGRAPHIC**
2 **ADJUSTMENT FLOOR.**

3 Section 1848(e)(1)(E) of the Social Security Act (42
4 U.S.C. 1395w-4(e)(1)(E)) is amended by striking “before
5 January 1, 2012” and inserting “before March 1, 2012”.

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

8 Section 1833(g)(5) of the Social Security Act (42
9 U.S.C. 1395l(g)(5)) is amended by striking “December
10 31, 2011” and inserting “February 29, 2012”.

11 **SEC. 305. EXTENSION OF PAYMENT FOR TECHNICAL COM-**
12 **PONENT OF CERTAIN PHYSICIAN PATHOL-**
13 **OGY SERVICES.**

14 Section 542(c) of the Medicare, Medicaid, and
15 SCHIP Benefits Improvement and Protection Act of 2000
16 (as enacted into law by section 1(a)(6) of Public Law 106-
17 554), as amended by section 732 of the Medicare Prescrip-
18 tion Drug, Improvement, and Modernization Act of 2003
19 (42 U.S.C. 1395w-4 note), section 104 of division B of
20 the Tax Relief and Health Care Act of 2006 (42 U.S.C.
21 1395w-4 note), section 104 of the Medicare, Medicaid,
22 and SCHIP Extension Act of 2007 (Public Law 110-
23 173), section 136 of the Medicare Improvements for Pa-
24 tients and Providers Act of 2008 (Public Law 110-275),
25 section 3104 of the Patient Protection and Affordable
26 Care Act (Public Law 111-148), and section 105 of the

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

4 **SEC. 306. EXTENSION OF AMBULANCE ADD-ONS.**

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

8 (1) in the matter preceding clause (i), by strik-
9 ing “January 1, 2012” and inserting “March 1,
10 2012”; and

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

14 (b) **AIR AMBULANCE.**—Section 146(b)(1) of the
15 Medicare Improvements for Patients and Providers Act of
16 2008 (Public Law 110–275), as amended by sections
17 3105(b) and 10311(b) of Public Law 111–148 and section
18 106(b) of the Medicare and Medicaid Extenders Act of
19 2010 (Public Law 111–309), is amended by striking “De-
20 cember 31, 2011” and inserting “February 29, 2012”.

21 (c) **SUPER RURAL AMBULANCE.**—Section
22 1834(l)(12)(A) of the Social Security Act (42 U.S.C.
23 1395m(l)(12)(A)) is amended by striking “January 1,
24 2012” and inserting “March 1, 2012”.

1 **SEC. 307. EXTENSION OF PHYSICIAN FEE SCHEDULE MEN-**
2 **TAL HEALTH ADD-ON PAYMENT.**

3 Section 138(a)(1) of the Medicare Improvements for
4 Patients and Providers Act of 2008 (Public Law 110–
5 275), as amended by section 3107 of the Patient Protec-
6 tion and Affordable Care Act (Public Law 111–148) and
7 section 107 of the Medicare and Medicaid Extenders Act
8 of 2010 (Public Law 111–309), is amended by striking
9 “December 31, 2011” and inserting “February 29,
10 2012”.

11 **SEC. 308. EXTENSION OF OUTPATIENT HOLD HARMLESS**
12 **PROVISION.**

13 Section 1833(t)(7)(D)(i) of the Social Security Act
14 (42 U.S.C. 1395l(t)(7)(D)(i)), as amended by section
15 3121(a) of the Patient Protection and Affordable Care Act
16 (Public Law 111–148) and section 108 of the Medicare
17 and Medicaid Extenders Act of 2010 (Public Law 111–
18 309), is amended—

19 (1) in subclause (II)—

20 (A) in the first sentence, by striking “Jan-
21 uary 1, 2012” and inserting “March 1, 2012”;
22 and

23 (B) in the second sentence, by striking “or
24 2011” and inserting “2011, or the first two
25 months of 2012”; and

26 (2) in subclause (III)—

1 (A) in the first sentence, by striking
2 “2009, and” and all that follows through “for
3 which” and inserting “2009, and before March
4 1, 2012, for which”; and

5 (B) in the second sentence, by striking
6 “2010, and” and all that follows through “the
7 preceding” and inserting “2010, and before
8 March 1, 2012, the preceding”.

9 **SEC. 309. EXTENDING MINIMUM PAYMENT FOR BONE MASS**
10 **MEASUREMENT.**

11 Section 1848 of the Social Security Act (42 U.S.C.
12 1395w-4) is amended—

13 (1) in subsection (b)—

14 (A) in paragraph (4)(B), by striking “and
15 2011” and inserting “, 2011, and the first 2
16 months of 2012”; and

17 (B) in paragraph (6)—

18 (i) in the matter preceding subpara-
19 graph (A), by striking “and 2011” and in-
20 serting “, 2011, and the first 2 months of
21 2012”; and

22 (ii) in subparagraph (C), by striking
23 “and 2011” and inserting “, 2011, and the
24 first 2 months of 2012”; and

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

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

6 (a) EXTENSION.—Section 1902(a)(10)(E)(iv) of the
7 Social Security Act (42 U.S.C. 1396a(a)(10)(E)(iv)) is
8 amended by striking “December 2011” and inserting
9 “February 2012”.

10 (b) EXTENDING TOTAL AMOUNT AVAILABLE FOR
11 ALLOCATION.—Section 1933(g) of such Act (42 U.S.C.
12 1396u–3(g)) is amended—

13 (1) in paragraph (2)—

14 (A) by striking “and” at the end of sub-
15 paragraph (O);

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

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

20 “(Q) for the period that begins on January
21 1, 2012, and ends on February 29, 2012, the
22 total allocation amount is \$150,000,000.”.

1 **SEC. 311. EXTENSION OF TRANSITIONAL MEDICAL ASSIST-**
2 **ANCE (TMA).**

3 Sections 1902(e)(1)(B) and 1925(f) of the Social Se-
4 curity Act (42 U.S.C. 1396a(e)(1)(B), 1396r-6(f)) are
5 each amended by striking “December 31, 2011” and in-
6 serting “February 29, 2012”.

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

9 Activities authorized by part A of title IV and section
10 1108(b) of the Social Security Act (other than under sub-
11 sections (a)(3) and (b) of section 403 of such Act) shall
12 continue through February 29, 2012, in the manner au-
13 thorized for fiscal year 2011, and out of any money in
14 the Treasury of the United States not otherwise appro-
15 priated, there are hereby appropriated such sums as may
16 be necessary for such purpose. Grants and payments may
17 be made pursuant to this authority through the applicable
18 portion of the second quarter of fiscal year 2012 at the
19 pro rata portion of the level provided for such activities
20 through the second quarter of fiscal year 2011.

21 **TITLE IV—MORTGAGE FEES AND**
22 **PREMIUMS**

23 **SEC. 401. GUARANTEE FEES.**

24 Subpart A of part 2 of subtitle A of title XIII of the
25 Housing and Community Development Act of 1992 is

1 amended by adding after section 1326 (12 U.S.C. 4546)
2 the following new section:

3 **“SEC. 1327. ENTERPRISE GUARANTEE FEES.**

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

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

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

10 “(B) includes—

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

15 “(ii) the management and guarantee
16 fee charged by the Federal Home Loan
17 Mortgage Corporation with respect to par-
18 ticipation certificates.

19 “(2) AVERAGE FEES.—The term ‘average fees’
20 means the average contractual fee rate of single-
21 family guaranty arrangements by an enterprise en-
22 tered into during 2011, plus the recognition of any
23 up-front cash payments over an estimated average
24 life, expressed in terms of basis points. Such defini-
25 tion shall be interpreted in a manner consistent with

1 the annual report on guarantee fees by the Federal
2 Housing Finance Agency.

3 “(b) INCREASE.—

4 “(1) IN GENERAL.—

5 “(A) PHASED INCREASE REQUIRED.—Sub-
6 ject to subsection (c), the Director shall require
7 each enterprise to charge a guarantee fee in
8 connection with any guarantee of the timely
9 payment of principal and interest on securities,
10 notes, and other obligations based on or backed
11 by mortgages on residential real properties de-
12 signed principally for occupancy of from 1 to 4
13 families, consummated after the date of enact-
14 ment of this section.

15 “(B) AMOUNT.—The amount of the in-
16 crease required under this section shall be de-
17 termined by the Director to appropriately re-
18 flect the risk of loss, as well the cost of capital
19 allocated to similar assets held by other fully
20 private regulated financial institutions, but such
21 amount shall be not less than an average in-
22 crease of **【10】** basis points for each origination
23 year or book year above the average fees im-
24 posed in 2011 for such guarantees. The Direc-
25 tor shall prohibit an enterprise from offsetting

1 the cost of the fee to mortgage originators, bor-
2 rowers, and investors by decreasing other
3 charges, fees, or premiums, or in any other
4 manner.

5 “(2) AUTHORITY TO LIMIT OFFER OF GUAR-
6 ANTEE.—The Director shall prohibit an enterprise
7 from consummating any offer for a guarantee to a
8 lender for mortgage-backed securities, if—

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

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

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

23 “(c) PHASE-IN.—

24 “(1) IN GENERAL.—The Director may provide
25 for compliance with subsection (b) by allowing each

1 enterprise to increase the guarantee fee charged by
2 the enterprise gradually over the 2-year period be-
3 ginning on the date of enactment of this section, in
4 a manner sufficient to comply with this section. In
5 determining a schedule for such increases, the Direc-
6 tor shall—

7 “(A) provide for uniform pricing among
8 lenders;

9 “(B) provide for adjustments in pricing
10 based on risk levels; and

11 “(C) take into consideration conditions in
12 financial markets.

13 “(2) RULE OF CONSTRUCTION.—Nothing in
14 this subsection shall be interpreted to undermine the
15 minimum increase required by subsection (b).

16 “(d) INFORMATION COLLECTION AND ANNUAL
17 ANALYSIS.—The Director shall require each enterprise to
18 provide to the Director, as part of its annual report sub-
19 mitted to Congress—

20 “(1) a description of—

21 “(A) changes made to up-front fees and
22 annual fees as part of the guarantee fees nego-
23 tiated with lenders;

1 “(B) changes to the riskiness of the new
2 borrowers compared to previous origination
3 years or book years; and

4 “(C) any adjustments required to improve
5 for future origination years or book years, in
6 order to be in complete compliance with sub-
7 section (b); and

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

11 “(e) ENFORCEMENT.—

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

18 “(2) NONCOMPLIANCE PENALTY.—An enter-
19 prise that has been found to be out of compliance
20 with subsection (b) for any 2 consecutive years shall
21 be precluded from providing any guarantee for a pe-
22 riod, determined by rule of the Director, but in no
23 case less than 1 year.

24 “(3) RULE OF CONSTRUCTION.—Nothing in
25 this subsection shall be interpreted as preventing the

1 Director from initiating and implementing an en-
2 forcement action against an enterprise, at a time the
3 Director deems necessary, under other existing en-
4 forcement authority.

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

7 **SEC. 402. FHA GUARANTEE FEES.**

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

11 “(C)(i) In addition to the premiums under sub-
12 paragraphs (A) and (B), the Secretary shall estab-
13 lish and collect annual premium payments for any
14 mortgage for which the Secretary collects an annual
15 premium payment under subparagraph (B), in an
16 amount described in clause (ii).

17 “(ii)(I) Subject to subclause (II), with respect
18 to a mortgage, the amount described in this clause
19 is **[10]** basis points of the remaining insured prin-
20 cipal balance (excluding the portion of the remaining
21 balance attributable to the premium collected under
22 subparagraph (A) and without taking into account
23 delinquent payments or prepayments).

24 “(II) During the 2-year period beginning on the
25 date of enactment of this subparagraph, the Sec-

1 retary shall increase the number of basis points of
2 the annual premium payment collected under this
3 subparagraph incrementally, as determined appro-
4 priate by the Secretary, until the number of basis
5 points of the annual premium payment collected
6 under this subparagraph is equal to the number de-
7 scribed in subclause (I).”.

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

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

19 (1) explains the basis for the determination;

20 and

21 (2) identifies the date on which the Secretary

22 plans to make the determination.

1 **TITLE V—OTHER PROVISIONS**
2 **Subtitle A—Keystone XL Pipeline**

3 **SEC. 501. PERMIT FOR KEYSTONE XL PIPELINE.**

4 (a) IN GENERAL.—Except as provided in subsection
5 (b), not later than 60 days after the date of enactment
6 of this Act, the President, acting through the Secretary
7 of State, shall grant a permit under Executive Order
8 13337 (3 U.S.C. 301 note; relating to issuance of permits
9 with respect to certain energy-related facilities and land
10 transportation crossings on the international boundaries
11 of the United States) for the Keystone XL pipeline project
12 application filed on September 19, 2008 (including amend-
13 ments).

14 (b) EXCEPTION.—

15 (1) IN GENERAL.—The President shall not be
16 required to grant the permit under subsection (a) if
17 the President determines that the Keystone XL
18 pipeline would not serve the national interest.

19 (2) REPORT.—If the President determines that
20 the Keystone XL pipeline is not in the national in-
21 terest under paragraph (1), the President shall, not
22 later than 15 days after the date of the determina-
23 tion, submit to the Committee on Foreign Relations
24 of the Senate, the Committee on Foreign Affairs of
25 the House of Representatives, the majority leader of

1 the Senate, the minority leader of the Senate, the
2 Speaker of the House of Representatives, and the
3 minority leader of the House of Representatives a
4 report that provides a justification for determina-
5 tion, including consideration of economic, employ-
6 ment, energy security, foreign policy, trade, and en-
7 vironmental factors.

8 (3) EFFECT OF NO FINDING OR ACTION.—If a
9 determination is not made under paragraph (1) and
10 no action is taken by the President under subsection
11 (a) not later than 60 days after the date of enact-
12 ment of this Act, the permit for the Keystone XL
13 pipeline described in subsection (a) that meets the
14 requirements of subsections (c) and (d) shall be in
15 effect by operation of law.

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

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

23 (2) The permittee shall obtain all requisite per-
24 mits from Canadian authorities and relevant Fed-
25 eral, State, and local governmental agencies.

1 (3) The permittee shall take all appropriate
2 measures to prevent or mitigate any adverse envi-
3 ronmental impact or disruption of historic properties
4 in connection with the construction, operation, and
5 maintenance of the United States facilities.

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

9 (A) the final environmental impact state-
10 ment issued by the Secretary of State on Au-
11 gust 26, 2011, satisfies all requirements of the
12 National Environmental Policy Act of 1969 (42
13 U.S.C. 4321 et seq.) and section 106 of the Na-
14 tional Historic Preservation Act (16 U.S.C.
15 470f);

16 (B) any modification required by the Sec-
17 retary of State to the Plan described in para-
18 graph (5)(A) shall not require supplementation
19 of the final environmental impact statement de-
20 scribed in that paragraph; and

21 (C) no further Federal environmental re-
22 view shall be required.

23 (5) The construction, operation, and mainte-
24 nance of the facilities shall be in all material re-

1 spectr similar to that described in the application
2 described in subsection (a) and in accordance with—

3 (A) the construction, mitigation, and rec-
4 lamation measures agreed to by the permittee
5 in the Construction Mitigation and Reclamation
6 Plan found in appendix B of the final environ-
7 mental impact statement issued by the Sec-
8 retary of State on August 26, 2011, subject to
9 the modification described in subsection (d);

10 (B) the special conditions agreed to be-
11 tween the permittee and the Administrator of
12 the Pipeline Hazardous Materials Safety Ad-
13 ministration of the Department of Transpor-
14 tation found in appendix U of the final environ-
15 mental impact statement described in subpara-
16 graph (A);

17 (C) if the modified route submitted by the
18 Governor of Nebraska under subsection
19 (d)(3)(B) crosses the Sand Hills region, the
20 measures agreed to by the permittee for the
21 Sand Hills region found in appendix H of the
22 final environmental impact statement described
23 in subparagraph (A); and

1 (D) the stipulations identified in appendix
2 S of the final environmental impact statement
3 described in subparagraph (A).

4 (6) Other requirements that are standard in-
5 dustry practice or commonly included in Federal
6 permits that are similar to a permit issued under
7 subsection (a).

8 (d) MODIFICATION.—The permit issued under sub-
9 section (a) shall require—

10 (1) the reconsideration of routing of the Key-
11 stone XL pipeline within the State of Nebraska;

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

17 (3) the President—

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

23 (B) to approve the route within the State
24 of Nebraska that has been submitted to the

1 Secretary of State by the Governor of Ne-
2 braska.

3 (e) EFFECT OF NO APPROVAL.—If the President
4 does not approve the route within the State of Nebraska
5 submitted by the Governor of Nebraska under subsection
6 (d)(3)(B) not later than 10 days after the date of submis-
7 sion, the route submitted by the Governor of Nebraska
8 under subsection (d)(3)(B) shall be considered approved,
9 pursuant to the terms of the permit described in sub-
10 section (a) that meets the requirements of subsection (c)
11 and this subsection, by operation of law.

12 (f) PRIVATE PROPERTY SAVINGS CLAUSE.—Nothing
13 in this section alters the Federal, State, or local processes
14 or conditions in effect on the date of enactment of this
15 Act that are necessary to secure access from private prop-
16 erty owners to construct the Keystone XL pipeline.

17 **Subtitle B—Budgetary Provisions**

18 **SEC. 511. SENATE POINT OF ORDER AGAINST AN EMER-**

19 **GENCY DESIGNATION.**

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

22 (1) redesignating subsection (e) as subsection

23 (f); and

24 (2) inserting after subsection (d) the following:

1 “(e) SENATE POINT OF ORDER AGAINST AN EMER-
2 GENCY DESIGNATION.—

3 “(1) IN GENERAL.—When the Senate is consid-
4 ering a bill, resolution, amendment, motion, amend-
5 ment between the Houses, or conference report, if a
6 point of order is made by a Senator against an
7 emergency designation in that measure, that provi-
8 sion making such a designation shall be stricken
9 from the measure and may not be offered as an
10 amendment from the floor.

11 “(2) SUPERMAJORITY WAIVER AND APPEALS.—

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

16 “(B) APPEALS.—Appeals in the Senate
17 from the decisions of the Chair relating to any
18 provision of this subsection shall be limited to
19 1 hour, to be equally divided between, and con-
20 trolled by, the appellant and the manager of the
21 bill or joint resolution, as the case may be. An
22 affirmative vote of three-fifths of the Members
23 of the Senate, duly chosen and sworn, shall be
24 required to sustain an appeal of the ruling of

1 the Chair on a point of order raised under this
2 subsection.

3 “(3) DEFINITION OF AN EMERGENCY DESIGNA-
4 TION.—For purposes of paragraph (1), a provision
5 shall be considered an emergency designation if it
6 designates any item pursuant to section
7 251(b)(2)(A)(i) of the Balanced Budget and Emer-
8 gency Deficit Control Act of 1985.

9 “(4) FORM OF THE POINT OF ORDER.—A point
10 of order under paragraph (1) may be raised by a
11 Senator as provided in section 313(e) of the Con-
12 gressional Budget Act of 1974.

13 “(5) CONFERENCE REPORTS.—When the Sen-
14 ate is considering a conference report on, or an
15 amendment between the Houses in relation to, a bill,
16 upon a point of order being made by any Senator
17 pursuant to this section, and such point of order
18 being sustained, such material contained in such
19 conference report shall be deemed stricken, and the
20 Senate shall proceed to consider the question of
21 whether the Senate shall recede from its amendment
22 and concur with a further amendment, or concur in
23 the House amendment with a further amendment,
24 as the case may be, which further amendment shall
25 consist of only that portion of the conference report

1 or House amendment, as the case may be, not so
2 stricken. Any such motion in the Senate shall be de-
3 batable. In any case in which such point of order is
4 sustained against a conference report (or Senate
5 amendment derived from such conference report by
6 operation of this subsection), no further amendment
7 shall be in order.”.

8 **SEC. 512. PAYGO SCORECARD ESTIMATES.**

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