

In the Senate of the United States,

December 17, 2011.

Resolved, That the bill from the House of Representatives (H.R. 3630) entitled “An Act to provide incentives for the creation of jobs, and for other purposes.”, do pass with the following

AMENDMENTS:

Strike all after the enacting clause and insert the following:

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

2 (a) *SHORT TITLE.*—*This Act may be cited as the*
3 *“Temporary Payroll Tax Cut Continuation Act of 2011”.*

4 (b) *TABLE OF CONTENTS.*—*The table of contents of this*
5 *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 the*
5 *Tax Relief, Unemployment Insurance Reauthorization, and*
6 *Job Creation Act of 2010 (26 U.S.C. 1401 note) is amended*
7 *to read as follows:*

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

10 “*(1) in the case of the tax described in subsection*

11 *(a)(1), calendar years 2011 and 2012, and*

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

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

7 “(f) *SPECIAL RULES FOR 2012.*—

8 “(1) *LIMITATION ON WAGES AND SELF-EMPLOY-*
9 *MENT INCOME.*—In the case of—

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

16 “(i) \$18,350, over

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

20 “(B) any remuneration received during the
21 portion of the payroll tax holiday period occur-
22 ring during 2012, subsection (a)(2) shall only
23 apply to so much of the sum of the taxpayer’s
24 wages (as defined in section 3121(a) of such

1 Code) and compensation (as defined section
2 3231(e) of such Code) as does not exceed \$18,350.

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

7 “(A) the sum of—

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

16 “(ii) one-half of the portion of such
17 taxes attributable to the tax imposed by sec-
18 tion 1401(a) of such Code (determined with-
19 out regard to this section) on self-employ-
20 ment income (as so defined) in excess of
21 such amount, plus’.”

22 (c) TECHNICAL AMENDMENTS.—Paragraph (2) of sec-
23 tion 601(b) of such Act (26 U.S.C. 1401 note) is amended—
24 (1) by inserting “of such Code” after “164(f)”,

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

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

5 (d) *EFFECTIVE DATES.*—

6 (1) *IN GENERAL.*—*Except as provided in para-*
7 *graph (2), the amendments made by this section shall*
8 *apply to remuneration received, and taxable years be-*
9 *ginning, after December 31, 2011.*

10 (2) *TECHNICAL AMENDMENTS.*—*The amendments*
11 *made by subsection (c) shall take effect as if included*
12 *in the enactment of section 601 of the Tax Relief, Un-*
13 *employment Insurance Reauthorization, and Job Cre-*
14 *ation Act of 2010.*

15 **TITLE II—TEMPORARY EXTEN-**
16 **SION OF UNEMPLOYMENT**
17 **COMPENSATION PROVISIONS**

18 **SEC. 201. TEMPORARY EXTENSION OF UNEMPLOYMENT**
19 **COMPENSATION PROVISIONS.**

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

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

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

4 (C) in subsection (b)(3), by striking “June 9,
5 2012” and inserting “August 15, 2012”.

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

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

12 (B) in subsection (c), by striking “June 11,
13 2012” and inserting “August 15, 2012”.

14 (3) Section 5 of the Unemployment Compensation Ex-
15 tension Act of 2008 (Public Law 110–449; 26 U.S.C. 3304
16 note) is amended by striking “June 10, 2012” and inserting
17 “August 15, 2012”.

18 (4) Section 203 of the Federal-State Extended Unem-
19 ployment Compensation Act of 1970 (26 U.S.C. 3304 note)
20 is amended—

21 (A) in subsection (d), in the second sentence of
22 the flush matter following paragraph (2), by striking
23 “December 31, 2011” and inserting “February 29,
24 2012”; and

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

3 (b) *FUNDING*.—Section 4004(e)(1) of the Supplemental
4 Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C.
5 3304 note) is amended—

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

8 (2) by inserting after subparagraph (G) the fol-
9 lowing:

10 “(H) the amendments made by section
11 201(a)(1) of the Temporary Payroll Tax Cut
12 Continuation Act of 2011; and”.

13 (c) *EFFECTIVE DATE*.—The amendments made by this
14 section shall take effect as if included in the enactment of
15 the Tax Relief, Unemployment Insurance Reauthorization,
16 and Job Creation Act of 2010 (Public Law 111–312).

17 **SEC. 202. EXTENDED UNEMPLOYMENT BENEFITS UNDER**
18 **THE RAILROAD UNEMPLOYMENT INSURANCE**
19 **ACT.**

20 (a) *EXTENSION*.—Section 2(c)(2)(D)(iii) of the Rail-
21 road Unemployment Insurance Act, as added by section
22 2006 of the American Recovery and Reinvestment Act of
23 2009 (Public Law 111–5) and as amended by section 9 of
24 the Worker, Homeownership, and Business Assistance Act
25 of 2009 (Public Law 111–92) and section 505 of the Tax

1 *Relief, Unemployment Insurance Reauthorization, and Job*
 2 *Creation Act of 2010 (Public Law 111–312), is amended—*

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

5 (2) *by striking “December 31, 2011” and insert-*
 6 *ing “February 29, 2012”.*

7 (b) *CLARIFICATION ON AUTHORITY TO USE FUNDS.—*
 8 *Funds appropriated under either the first or second sen-*
 9 *tence of clause (iv) of section 2(c)(2)(D) of the Railroad Un-*
 10 *employment Insurance Act shall be available to cover the*
 11 *cost of additional extended unemployment benefits provided*
 12 *under such section 2(c)(2)(D) by reason of the amendments*
 13 *made by subsection (a) as well as to cover the cost of such*
 14 *benefits provided under such section 2(c)(2)(D), as in effect*
 15 *on the day before the date of the enactment of this Act.*

16 ***TITLE III—TEMPORARY EXTEN-***
 17 ***SION OF HEALTH PROVISIONS***

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

19 *Section 1848(d) of the Social Security Act (42 U.S.C.*
 20 *1395w–4(d)) is amended by adding at the end the following*
 21 *new paragraph:*

22 “(13) *UPDATE FOR FIRST TWO MONTHS OF*
 23 *2012.—*

24 “(A) *IN GENERAL.—Subject to paragraphs*
 25 *(7)(B), (8)(B), (9)(B), (10)(B), (11)(B), and*

1 (12)(B), in lieu of the update to the single con-
2 version factor established in paragraph (1)(C)
3 that would otherwise apply for the period begin-
4 ning on January 1, 2012, and ending on Feb-
5 ruary 29, 2012, the update to the single conver-
6 sion factor shall be zero percent.

7 “(B) NO EFFECT ON COMPUTATION OF CON-
8 VERSION FACTOR FOR REMAINING PORTION OF
9 2012 AND SUBSEQUENT YEARS.—The conversion
10 factor under this subsection shall be computed
11 under paragraph (1)(A) for the period beginning
12 on March 1, 2012, and ending on December 31,
13 2012, and for 2013 and subsequent years as if
14 subparagraph (A) had never applied.”

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

17 (a) IN GENERAL.—Section 106(a) of division B of the
18 *Tax Relief and Health Care Act of 2006* (42 U.S.C. 1395
19 *note*), as amended by section 117 of the *Medicare, Medicaid,*
20 *and SCHIP Extension Act of 2007* (Public Law 110–173),
21 *section 124 of the Medicare Improvements for Patients and*
22 *Providers Act of 2008* (Public Law 110–275), *sections*
23 *3137(a) and 10317 of the Patient Protection and Affordable*
24 *Care Act* (Public Law 111–148), and *section 102(a) of the*
25 *Medicare and Medicaid Extenders Act of 2010* (Public Law

1 111–309), is amended by striking “September 30, 2011”
2 and inserting “November 30, 2011”.

3 (b) *SPECIAL RULE FOR OCTOBER AND NOVEMBER*
4 *2011.*—

5 (1) *IN GENERAL.*—Subject to paragraph (2), for
6 purposes of implementation of the amendment made
7 by subsection (a), including for purposes of the imple-
8 mentation of paragraph (2) of section 117(a) of the
9 Medicare, Medicaid, and SCHIP Extension Act of
10 2007 (Public Law 110–173), for the period beginning
11 on October 1, 2011, and ending on November 30,
12 2011, the Secretary of Health and Human Services
13 shall use the hospital wage index that was promul-
14 gated by the Secretary of Health and Human Services
15 in the Federal Register on August 18, 2011 (76 Fed.
16 Reg. 51476), and any subsequent corrections.

17 (2) *EXCEPTION.*—In determining the wage index
18 applicable to hospitals that qualify for wage index re-
19 classification, the Secretary shall, for the period be-
20 ginning on October 1, 2011, and ending on November
21 30, 2011, include the average hourly wage data of
22 hospitals whose reclassification was extended pursu-
23 ant to the amendment made by subsection (a) only if
24 including such data results in a higher applicable re-
25 classified wage index. Any revision to hospital wage

1 *indexes made as a result of this paragraph shall not*
2 *be effected in a budget neutral manner.*

3 (c) *TIMEFRAME FOR PAYMENTS.—The Secretary shall*
4 *make payments required under subsections (a) and (b) by*
5 *not later than December 31, 2012.*

6 **SEC. 303. EXTENSION OF MEDICARE WORK GEOGRAPHIC**
7 **ADJUSTMENT FLOOR.**

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

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

13 *Section 1833(g)(5) of the Social Security Act (42*
14 *U.S.C. 1395l(g)(5)) is amended by striking “December 31,*
15 *2011” and inserting “February 29, 2012”.*

16 **SEC. 305. EXTENSION OF PAYMENT FOR TECHNICAL COM-**
17 **PONENT OF CERTAIN PHYSICIAN PATHOLOGY**
18 **SERVICES.**

19 *Section 542(c) of the Medicare, Medicaid, and SCHIP*
20 *Benefits Improvement and Protection Act of 2000 (as en-*
21 *acted into law by section 1(a)(6) of Public Law 106–554),*
22 *as amended by section 732 of the Medicare Prescription*
23 *Drug, Improvement, and Modernization Act of 2003 (42*
24 *U.S.C. 1395w–4 note), section 104 of division B of the Tax*
25 *Relief and Health Care Act of 2006 (42 U.S.C. 1395w–4*

1 *note), section 104 of the Medicare, Medicaid, and SCHIP*
2 *Extension Act of 2007 (Public Law 110–173), section 136*
3 *of the Medicare Improvements for Patients and Providers*
4 *Act of 2008 (Public Law 110–275), section 3104 of the Pa-*
5 *tient Protection and Affordable Care Act (Public Law 111–*
6 *148), and section 105 of the Medicare and Medicaid Ex-*
7 *tenders Act of 2010 (Public Law 111–309), is amended by*
8 *striking “and 2011” and inserting “2011, and the first two*
9 *months of 2012”.*

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

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

14 *(1) in the matter preceding clause (i), by strik-*
15 *ing “January 1, 2012” and inserting “March 1,*
16 *2012”; and*

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

20 *(b) AIR AMBULANCE.—Section 146(b)(1) of the Medi-*
21 *care Improvements for Patients and Providers Act of 2008*
22 *(Public Law 110–275), as amended by sections 3105(b) and*
23 *10311(b) of Public Law 111–148 and section 106(b) of the*
24 *Medicare and Medicaid Extenders Act of 2010 (Public Law*

1 111–309), is amended by striking “December 31, 2011” and
 2 inserting “February 29, 2012”.

3 (c) *SUPER RURAL AMBULANCE*.—Section
 4 1834(l)(12)(A) of the Social Security Act (42 U.S.C.
 5 1395m(l)(12)(A)) is amended by striking “January 1,
 6 2012” and inserting “March 1, 2012”.

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

9 Section 138(a)(1) of the Medicare Improvements for
 10 Patients and Providers Act of 2008 (Public Law 110–275),
 11 as amended by section 3107 of the Patient Protection and
 12 Affordable Care Act (Public Law 111–148) and section 107
 13 of the Medicare and Medicaid Extenders Act of 2010 (Public
 14 Law 111–309), is amended by striking “December 31,
 15 2011” and inserting “February 29, 2012”.

16 **SEC. 308. EXTENSION OF OUTPATIENT HOLD HARMLESS**
 17 **PROVISION.**

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

24 (1) in subclause (II)—

1 (A) *in the first sentence, by striking “Janu-*
 2 *ary 1, 2012” and inserting “March 1, 2012”;*
 3 *and*

4 (B) *in the second sentence, by striking “or*
 5 *2011” and inserting “2011, or the first two*
 6 *months of 2012”;* *and*

7 (2) *in subclause (III)—*

8 (A) *in the first sentence, by striking “2009,*
 9 *and” and all that follows through “for which”*
 10 *and inserting “2009, and before March 1, 2012,*
 11 *for which”;* *and*

12 (B) *in the second sentence, by striking*
 13 *“2010, and” and all that follows through “the*
 14 *preceding” and inserting “2010, and before*
 15 *March 1, 2012, the preceding”.*

16 **SEC. 309. EXTENDING MINIMUM PAYMENT FOR BONE MASS**
 17 **MEASUREMENT.**

18 *Section 1848 of the Social Security Act (42 U.S.C.*
 19 *1395w-4) is amended—*

20 (1) *in subsection (b)—*

21 (A) *in paragraph (4)(B), by striking “and*
 22 *2011” and inserting “, 2011, and the first 2*
 23 *months of 2012”;* *and*

24 (B) *in paragraph (6)—*

1 (i) *in the matter preceding subpara-*
 2 *graph (A), by striking “and 2011” and in-*
 3 *serting “, 2011, and the first 2 months of*
 4 *2012”;* and

5 (ii) *in subparagraph (C), by striking*
 6 *“and 2011” and inserting “, 2011, and the*
 7 *first 2 months of 2012”;* and

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

11 **SEC. 310. EXTENSION OF THE QUALIFYING INDIVIDUAL (QI)**

12 **PROGRAM.**

13 (a) *EXTENSION.*—Section 1902(a)(10)(E)(iv) of the
 14 *Social Security Act (42 U.S.C. 1396a(a)(10)(E)(iv)) is*
 15 *amended by striking “December 2011” and inserting “Feb-*
 16 *ruary 2012”.*

17 (b) *EXTENDING TOTAL AMOUNT AVAILABLE FOR AL-*
 18 *LOCATION.*—Section 1933(g) of such Act (42 U.S.C. 1396u–
 19 *3(g)) is amended—*

20 (1) *in paragraph (2)—*

21 (A) *by striking “and” at the end of sub-*
 22 *paragraph (O);*

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

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

3 “(Q) for the period that begins on January
4 1, 2012, and ends on February 29, 2012, the
5 total allocation amount is \$150,000,000.”.

6 **SEC. 311. EXTENSION OF TRANSITIONAL MEDICAL ASSIST-**
7 **ANCE (TMA).**

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

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

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

1 **TITLE IV—MORTGAGE FEES AND**
2 **PREMIUMS**

3 **SEC. 401. GUARANTEE FEES.**

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

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

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

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

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

15 *“(B) includes—*

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

19 *“(ii) the management and guarantee*
20 *fee charged by the Federal Home Loan*
21 *Mortgage Corporation with respect to par-*
22 *ticipation certificates.*

23 *“(2) AVERAGE FEES.—The term ‘average fees’*
24 *means the average contractual fee rate of single-fam-*
25 *ily guaranty arrangements by an enterprise entered*

1 *into during 2011, plus the recognition of any up-front*
2 *cash payments over an estimated average life, ex-*
3 *pressed in terms of basis points. Such definition shall*
4 *be interpreted in a manner consistent with the an-*
5 *annual report on guarantee fees by the Federal Housing*
6 *Finance Agency.*

7 “(b) *INCREASE.—*

8 “(1) *IN GENERAL.—*

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

19 “(B) *AMOUNT.—The amount of the increase*
20 *required under this section shall be determined*
21 *by the Director to appropriately reflect the risk*
22 *of loss, as well the cost of capital allocated to*
23 *similar assets held by other fully private regu-*
24 *lated financial institutions, but such amount*
25 *shall be not less than an average increase of 10*

1 *basis points for each origination year or book*
2 *year above the average fees imposed in 2011 for*
3 *such guarantees. The Director shall prohibit an*
4 *enterprise from offsetting the cost of the fee to*
5 *mortgage originators, borrowers, and investors*
6 *by decreasing other charges, fees, or premiums,*
7 *or in any other manner.*

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

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

14 “(B) *the risk of loss is allowed to increase,*
15 *through lowering of the underwriting standards*
16 *or other means, for the primary purpose of meet-*
17 *ing the requirements of this section.*

18 “(3) *DEPOSIT IN TREASURY.—Amounts received*
19 *from fee increases imposed under this section shall be*
20 *deposited directly into the United States Treasury,*
21 *and shall be available only to the extent provided in*
22 *subsequent appropriations Acts. The fees charged pur-*
23 *suant to this section shall not be considered a reim-*
24 *bursement to the Federal Government for the costs or*
25 *subsidy provided to an enterprise.*

1 “(c) *PHASE-IN.*—

2 “(1) *IN GENERAL.*—*The Director may provide*
3 *for compliance with subsection (b) by allowing each*
4 *enterprise to increase the guarantee fee charged by the*
5 *enterprise gradually over the 2-year period beginning*
6 *on the date of enactment of this section, in a manner*
7 *sufficient to comply with this section. In determining*
8 *a schedule for such increases, the Director shall—*

9 “(A) *provide for uniform pricing among*
10 *lenders;*

11 “(B) *provide for adjustments in pricing*
12 *based on risk levels; and*

13 “(C) *take into consideration conditions in*
14 *financial markets.*

15 “(2) *RULE OF CONSTRUCTION.*—*Nothing in this*
16 *subsection shall be interpreted to undermine the min-*
17 *imum increase required by subsection (b).*

18 “(d) *INFORMATION COLLECTION AND ANNUAL ANAL-*
19 *YSIS.*—*The Director shall require each enterprise to provide*
20 *to the Director, as part of its annual report submitted to*
21 *Congress—*

22 “(1) *a description of—*

23 “(A) *changes made to up-front fees and an-*
24 *nual fees as part of the guarantee fees negotiated*
25 *with lenders;*

1 “(B) changes to the riskiness of the new bor-
2 rowers compared to previous origination years
3 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 re-
10 quirements 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 its
16 guarantee fee in order to be in compliance with sub-
17 section (b).

18 “(2) NONCOMPLIANCE PENALTY.—An enterprise
19 that has been found to be out of compliance with sub-
20 section (b) for any 2 consecutive years shall be pre-
21 cluded from providing any guarantee for a period, de-
22 termined by rule of the Director, but in no case less
23 than 1 year.

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

1 *rector from initiating and implementing an enforce-*
2 *ment action against an enterprise, at a time the Di-*
3 *rector deems necessary, under other existing enforce-*
4 *ment authority.*

5 “(f) *EXPIRATION.*—*The provisions of this section shall*
6 *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 establish*
13 *and collect annual premium payments for any mort-*
14 *gage for which the Secretary collects an annual pre-*
15 *mium payment under subparagraph (B), in an*
16 *amount described in clause (ii).*

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

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

1 *shall increase the number of basis points of the an-*
2 *nuual premium payment collected under this subpara-*
3 *graph incrementally, as determined appropriate by*
4 *the Secretary, until the number of basis points of the*
5 *annual premium payment collected under this sub-*
6 *paragraph is equal to the number described in sub-*
7 *clause (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 Urban*
14 *Development makes a determination under subsection*
15 *(b)(2), the Secretary shall submit to the Committee on*
16 *Banking, Housing, and Urban Affairs of the Senate and*
17 *the Committee on Financial Services of the House of Rep-*
18 *resentatives a report that—*

19 (1) *explains the basis for the determination; and*
20 (2) *identifies the date on which the Secretary*
21 *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 of*
6 *this Act, the President, acting through the Secretary of*
7 *State, shall grant a permit under Executive Order 13337*
8 *(3 U.S.C. 301 note; relating to issuance of permits with*
9 *respect to certain energy-related facilities and land trans-*
10 *portation crossings on the international boundaries of the*
11 *United States) for the Keystone XL pipeline project appli-*
12 *cation filed on September 19, 2008 (including amend-*
13 *ments).*

14 (b) *EXCEPTION.*—

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

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

1 *Senate, the minority leader of the Senate, the Speaker*
2 *of the House of Representatives, and the minority*
3 *leader of the House of Representatives a report that*
4 *provides a justification for determination, including*
5 *consideration of economic, employment, energy secu-*
6 *rity, foreign policy, trade, and environmental factors.*

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

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

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

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

1 (3) *The permittee shall take all appropriate*
2 *measures to prevent or mitigate any adverse environ-*
3 *mental impact or disruption of historic properties in*
4 *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 August*
11 *26, 2011, satisfies all requirements of the Na-*
12 *tional 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 respects*

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

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

10 (B) the special conditions agreed to between
11 the permittee and the Administrator of the Pipe-
12 line Hazardous Materials Safety Administration
13 of the Department of Transportation found in
14 appendix U of the final environmental impact
15 statement described in subparagraph (A);

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

23 (D) the stipulations identified in appendix
24 S of the final environmental impact statement
25 described in subparagraph (A).

1 (6) *Other requirements that are standard indus-*
2 *try practice or commonly included in Federal permits*
3 *that are similar to a permit issued under subsection*
4 *(a).*

5 (d) *MODIFICATION.—The permit issued under sub-*
6 *section (a) shall require—*

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

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

14 (3) *the President—*

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

20 (B) *to approve the route within the State of*
21 *Nebraska that has been submitted to the Sec-*
22 *retary of State by the Governor of Nebraska.*

23 (e) *EFFECT OF NO APPROVAL.—If the President does*
24 *not approve the route within the State of Nebraska sub-*
25 *mitted by the Governor of Nebraska under subsection*

1 *(d)(3)(B) not later than 10 days after the date of submis-*
 2 *sion, the route submitted by the Governor of Nebraska under*
 3 *subsection (d)(3)(B) shall be considered approved, pursuant*
 4 *to the terms of the permit described in subsection (a) that*
 5 *meets the requirements of subsection (c) and this subsection,*
 6 *by operation of law.*

7 *(f) PRIVATE PROPERTY SAVINGS CLAUSE.—Nothing*
 8 *in this section alters the Federal, State, or local processes*
 9 *or conditions in effect on the date of enactment of this Act*
 10 *that are necessary to secure access from private property*
 11 *owners to construct the Keystone XL pipeline.*

12 ***Subtitle B—Budgetary Provisions***

13 ***SEC. 511. SENATE POINT OF ORDER AGAINST AN EMER-*** 14 ***GENCY DESIGNATION.***

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

17 *(1) redesignating subsection (e) as subsection (f);*

18 *and*

19 *(2) inserting after subsection (d) the following:*

20 *“(e) SENATE POINT OF ORDER AGAINST AN EMER-*
 21 *GENCY DESIGNATION.—*

22 *“(1) IN GENERAL.—When the Senate is consid-*
 23 *ering a bill, resolution, amendment, motion, amend-*
 24 *ment between the Houses, or conference report, if a*
 25 *point of order is made by a Senator against an emer-*

1 *gency designation in that measure, that provision*
2 *making such a designation shall be stricken from the*
3 *measure and may not be offered as an amendment*
4 *from the floor.*

5 “(2) *SUPERMAJORITY WAIVER AND APPEALS.*—

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

10 “(B) *APPEALS.*—*Appeals in the Senate*
11 *from the decisions of the Chair relating to any*
12 *provision of this subsection shall be limited to 1*
13 *hour, to be equally divided between, and con-*
14 *trolled by, the appellant and the manager of the*
15 *bill or joint resolution, as the case may be. An*
16 *affirmative vote of three-fifths of the Members of*
17 *the Senate, duly chosen and sworn, shall be re-*
18 *quired to sustain an appeal of the ruling of the*
19 *Chair on a point of order raised under this sub-*
20 *section.*

21 “(3) *DEFINITION OF AN EMERGENCY DESIGNA-*
22 *TION.*—*For purposes of paragraph (1), a provision*
23 *shall be considered an emergency designation if it des-*
24 *ignates any item pursuant to section 251(b)(2)(A)(i)*

1 *of the Balanced Budget and Emergency Deficit Con-*
2 *trol Act of 1985.*

3 “(4) *FORM OF THE POINT OF ORDER.*—*A point*
4 *of order under paragraph (1) may be raised by a*
5 *Senator as provided in section 313(e) of the Congres-*
6 *sional Budget Act of 1974.*

7 “(5) *CONFERENCE REPORTS.*—*When the Senate*
8 *is considering a conference report on, or an amend-*
9 *ment between the Houses in relation to, a bill, upon*
10 *a point of order being made by any Senator pursuant*
11 *to this section, and such point of order being sus-*
12 *tained, such material contained in such conference re-*
13 *port shall be deemed stricken, and the Senate shall*
14 *proceed to consider the question of whether the Senate*
15 *shall recede from its amendment and concur with a*
16 *further amendment, or concur in the House amend-*
17 *ment with a further amendment, as the case may be,*
18 *which further amendment shall consist of only that*
19 *portion of the conference report or House amendment,*
20 *as the case may be, not so stricken. Any such motion*
21 *in the Senate shall be debatable. In any case in which*
22 *such point of order is sustained against a conference*
23 *report (or Senate amendment derived from such con-*
24 *ference report by operation of this subsection), no fur-*
25 *ther amendment shall be in order.”*

1 **SEC. 512. PAYGO SCORECARD ESTIMATES.**

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

Amend the title so as to read: “An Act A bill to extend the payroll tax holiday, unemployment compensation, Medicare physician payment, provide for the consideration of the Keystone XL pipeline, and for other purposes”.

Attest:

Secretary.

112TH CONGRESS
1ST SESSION

H.R. 3630

AMENDMENTS