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AMENDMENT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 4827 OFFERED BY Mr. Upton

Page 11, after line 22, insert the following new subsection:

(e) FULL-TIME EMPLOYEE LIMITATION BASED ON UNEMPLOYMENT RATE.—Section 4980H of such Code, as so added and amended and as amended by the preceding subsections, is amended by inserting after subsection (d) the following new subsection:

''(e) LIMITATION.—A full-time employee shall not be taken into account for purposes of calculating the amount of any assessable payment imposed under subsection (a) or (b) if such employee performs the majority of services in a State—

''(1) the unemployment rate of which exceeds 7 percent, and

''(2) the Governor of which has certified that the assessable penalties imposed under this section have contributed to such unemployment rate.''.