The McCrery Amendment makes five clarifications / modifications to the Chairman's Amendment in the Nature of a Substitute.

1. Clarifies that property that is leased, licensed, or rented by the taxpayer for use by a related person is generally not eligible for the manufacturing rate cut. However, the amendment clarifies that companies will not lose the benefit of the rate cut based on how they distribute their property. In particular, the rate cut is available to companies that lease, license or rent property to a related party if that property is further distributed to unrelated parties.

2. Clarifies the applicability of the rate cut for construction, architectural, and engineering services. The Chairman's substitute can be read to provide a lower tax rate for architectural and engineering work which is either done abroad or domestically. This amendment clarifies the provision to ensure the reduced rate applies only with respect to architectural and engineering work done in the U.S. for a construction project in the U.S. The amendment also clarifies that the rate cut for construction services applies only to construction services performed in the U.S.

3. Clarifies that the lower rate on manufacturing applies to timber production. Timber companies can elect to have timber sales taxed as capital gains (or losses) under Section 631(a) of the code. While the current corporate rate is identical to the corporate capital gains rate, companies make this election so as to be able to offset capital losses and gains incurred on their timber stock. To ensure timber companies receive the intended benefit of the rate cut in the Chairman's bill, this amendment allows timber companies to revoke elections under 631(a).

4. Clarifies the definition of a film eligible for reduced taxes on foreign income. The Chairman's mark phases-in a partial exclusion, reaching 10% in 2013 and thereafter, on income derived from the licensing of a qualified film outside the United States. In addition to other requirements in the Chairman's mark, this amendment ensures films are not eligible for the partial exclusion unless at least 50% of the wages paid to actors, producers, directors, and others involved were for services performed in the United States.

5. Facilitates the ability of U.S. mutual funds to attract foreign investors. Under current law, when income earned by a mutual fund is distributed, the interest and short-term capital gains income are converted into dividend income. When this dividend income is received by an offshore investor, it is subject to a 30% withholding tax (absent a treaty reduction), providing a strong disincentive for international investors in U.S. mutual funds (as opposed to direct investments in assets generating interest and short-term capital gains). To avoid this, some mutual fund companies have set up "clone" or "mirror" funds of their US-based funds outside our borders. The amendment corrects this anomaly by allowing interest and short-term capital gains income to retain their original character when distributed to a shareholder outside the US, rather than being converted to dividend income subject to a 30% withholding.