IN THE SENATE OF THE UNITED STATES

SEPTEMBER 16, 2010

Mr. BAUCUS introduced the following bill; which was read the first time

SEPTEMBER 20, 2010

Read the second time and placed on the calendar

A BILL

To extend expiring provisions and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE;

(a) SHORT TITLE.—This Act may be cited as the “Job Creation and Tax Cuts Act of 2010”.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in titles I, II, and IV of 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—INFRASTRUCTURE INCENTIVES**

Sec. 101. Extension of Build America Bonds.
Sec. 102. Exempt-facility bonds for sewage and water supply facilities.
Sec. 103. Extension of exemption from alternative minimum tax treatment for certain tax-exempt bonds.
Sec. 104. Extension and additional allocations of recovery zone bond authority.
Sec. 105. Allowance of new markets tax credit against alternative minimum tax.
Sec. 106. Extension of tax-exempt eligibility for loans guaranteed by Federal home loan banks.
Sec. 107. Extension of temporary small issuer rules for allocation of tax-exempt interest expense by financial institutions.

**TITLE II—EXTENSION OF EXPIRING PROVISIONS**

Subtitle A—Energy

Sec. 201. Alternative motor vehicle credit for new qualified hybrid motor vehicles other than passenger automobiles and light trucks.
Sec. 202. Incentives for biodiesel and renewable diesel.
Sec. 203. Credit for electricity produced at certain open-loop biomass facilities.
Sec. 204. Extension and modification of credit for steel industry fuel.
Sec. 205. Credit for producing fuel from coke or coke gas.
Sec. 206. New energy efficient home credit.
Sec. 207. Excise tax credits and outlay payments for alternative fuel and alternative fuel mixtures.
Sec. 208. Special rule for sales or dispositions to implement FERC or State electric restructuring policy for qualified electric utilities.
Sec. 209. Suspension of limitation on percentage depletion for oil and gas from marginal wells.
Sec. 210. Direct payment of energy efficient appliances tax credit.
Sec. 211. Modification of standards for windows, doors, and skylights with respect to the credit for nonbusiness energy property.

Subtitle B—Individual Tax Relief

PART I—MISCELLANEOUS PROVISIONS

Sec. 221. Deduction for certain expenses of elementary and secondary school teachers.
Sec. 222. Additional standard deduction for State and local real property taxes.
Sec. 223. Deduction of State and local sales taxes.
Sec. 224. Contributions of capital gain real property made for conservation purposes.
Sec. 225. Above-the-line deduction for qualified tuition and related expenses.
Sec. 226. Tax-free distributions from individual retirement plans for charitable purposes.
Sec. 227. Look-thru of certain regulated investment company stock in determining gross estate of nonresidents.

PART II—LOW-INCOME HOUSING CREDITS

Sec. 231. Election for direct payment of low-income housing credit for 2010.
Sec. 232. Low-income housing grant election.

Subtitle C—Business Tax Relief

Sec. 241. Research credit.
Sec. 242. Indian employment tax credit.
Sec. 243. New markets tax credit.
Sec. 244. Railroad track maintenance credit.
Sec. 245. Mine rescue team training credit.
Sec. 246. Employer wage credit for employees who are active duty members of the uniformed services.
Sec. 247. 5-year depreciation for farming business machinery and equipment.
Sec. 248. 15-year straight-line cost recovery for qualified leasehold improvements, qualified restaurant buildings and improvements, and qualified retail improvements.
Sec. 249. 7-year recovery period for motorsports entertainment complexes.
Sec. 250. Accelerated depreciation for business property on an Indian reservation.
Sec. 251. Enhanced charitable deduction for contributions of food inventory.
Sec. 252. Enhanced charitable deduction for contributions of book inventories to public schools.
Sec. 253. Enhanced charitable deduction for corporate contributions of computer inventory for educational purposes.
Sec. 254. Election to expense mine safety equipment.
Sec. 255. Special expensing rules for certain film and television productions.
Sec. 256. Expensing of environmental remediation costs.
Sec. 257. Deduction allowable with respect to income attributable to domestic production activities in Puerto Rico.
Sec. 258. Modification of tax treatment of certain payments to controlling exempt organizations.
Sec. 259. Exclusion of gain or loss on sale or exchange of certain brownfield sites from unrelated business income.
Sec. 260. Timber REIT modernization.
Sec. 261. Treatment of certain dividends of regulated investment companies.
Sec. 262. RIC qualified investment entity treatment under FIRPTA.
Sec. 263. Exceptions for active financing income.
Sec. 264. Look-thru treatment of payments between related controlled foreign corporations under foreign personal holding company rules.
Sec. 265. Basis adjustment to stock of S corps making charitable contributions of property.
Sec. 266. Empowerment zone tax incentives.
Sec. 267. Tax incentives for investment in the District of Columbia.
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Sec. 412. Taxation of boot received in reorganizations.

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Sec. 502. Repeal of delay of RUG-IV.
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Sec. 611. Extensions of duty suspensions on cotton shirting fabrics and related provisions.
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Sec. 613. Department of Commerce Study.
Sec. 614. ARRA planning and reporting.
Sec. 615. Surety bonds.

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Sec. 621. Short title.
Sec. 622. Extension of Trade Adjustment Assistance.

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Sec. 631. Improvement of the affordability of the credit.
Sec. 632. Payment for the monthly premiums paid prior to commencement of the advance payments of credit.
Sec. 633. TAA recipients not enrolled in training programs eligible for credit.
Sec. 634. TAA pre-certification period rule for purposes of determining whether there is a 63-day lapse in creditable coverage.
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Sec. 653. Prohibition on noncharging due to employer fault.
Sec. 654. Collection of past-due, legally enforceable State debts.
Sec. 655. Treatment of short-time compensation programs.
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Sec. 658. Deduction of obligations for custodial parents.
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Sec. 701. Short title.
Sec. 702. Definitions.
Sec. 703. Sense of Congress.
Sec. 704. Quarterly report on risks posed by foreign holdings of debt instruments of the United States.
Sec. 705. Annual report on risks posed by the Federal debt of the United States.
Sec. 706. Corrective action to address unacceptable and unsustainable risks to United States national security and economic stability.

TITLE VIII—TRANSPARENCY REQUIREMENTS FOR FOREIGN-HELD DEBT

Sec. 801. Short title.
Sec. 802. Definitions.
Sec. 803. Sense of Congress.
Sec. 804. Annual report on risks posed by foreign holdings of debt instruments of the United States.
Sec. 805. Annual report on risks posed by the Federal debt of the United States.
Sec. 806. Corrective action to address unacceptable risks to United States national security and economic stability.

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Sec. 901. Office of the Homeowner Advocate.
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Sec. 903. Relationship with existing entities.
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Sec. 908. Public availability of information.

TITLE X—BUDGETARY PROVISIONS

Sec. 1001. Determination of budgetary effects.

1  TITLE I—INFRASTRUCTURE INCENTIVES

2  SEC. 101. EXTENSION OF BUILD AMERICA BONDS.

3   (a) IN GENERAL.—Subparagraph (B) of section 5 54AA(d)(1) is amended by striking “January 1, 2011” 6  and inserting “January 1, 2012”.

7   (b) EXTENSION OF PAYMENTS TO ISSUERS.—

8   (1) IN GENERAL.—Section 6431 is amended—

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(A) by striking “January 1, 2011” in subsection (a) and inserting “January 1, 2012”; and

(B) by striking “January 1, 2011” in subsection (f)(1)(B) and inserting “a particular date”.

(2) CONFORMING AMENDMENTS.—Subsection (g) of section 54AA is amended—

(A) by striking “January 1, 2011” and inserting “January 1, 2012”; and

(B) by striking “QUALIFIED BONDS ISSUED BEFORE 2011” in the heading and inserting “CERTAIN QUALIFIED BONDS”.

(e) REDUCTION IN PERCENTAGE OF PAYMENTS TO ISSUERS.—Subsection (b) of section 6431 is amended—

(1) by striking “The Secretary” and inserting the following:

“(1) IN GENERAL.—The Secretary”;

(2) by striking “35 percent” and inserting “the applicable percentage”; and

(3) by adding at the end the following new paragraph:

“(2) APPLICABLE PERCENTAGE.—For purposes of this subsection, the term ‘applicable percentage’
means the percentage determined in accordance with the following table:

<table>
<thead>
<tr>
<th>Calendar Year</th>
<th>Applicable Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009 or 2010</td>
<td>35 percent</td>
</tr>
<tr>
<td>2011</td>
<td>32 percent</td>
</tr>
</tbody>
</table>

(d) **Current Refundings Permitted.**—Subsection (g) of section 54AA is amended by adding at the end the following new paragraph:

“(3) **Treatment of Current Refunding Bonds.**—

“(A) **In general.**—For purposes of this subsection, the term ‘qualified bond’ includes any bond (or series of bonds) issued to refund a qualified bond if—

“(i) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,

“(ii) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

“(iii) the refunded bond is redeemed not later than 90 days after the date of the issuance of the refunding bond.
“(B) Applicable percentage.—In the case of a refunding bond referred to in subparagraph (A), the applicable percentage with respect to such bond under section 6431(b) shall be the lowest percentage specified in paragraph (2) of such section.

“(C) Determination of average maturity.—For purposes of subparagraph (A)(i), average maturity shall be determined in accordance with section 147(b)(2)(A).”.

(e) Clarification Related to Levees and Flood Control Projects.—Subparagraph (A) of section 54AA(g)(2) is amended by inserting “(including capital expenditures for levees and other flood control projects)” after “capital expenditures”.

SEC. 102. EXEMPT-FACILITY BONDS FOR SEWAGE AND WATER SUPPLY FACILITIES.

(a) Bonds for Water and Sewage Facilities Exempt From Volume Cap on Private Activity Bonds.—

(1) In general.—Paragraph (3) of section 146(g) is amended by inserting “(4), (5),” after “(2),”.
(2) CONFORMING AMENDMENT.—Paragraphs (2) and (3)(B) of section 146(k) are both amended by striking “(4), (5), (6),” and inserting “(6).”

(b) TAX-EXEMPT ISSUANCE BY INDIAN TRIBAL GOVERNMENTS.—

(1) IN GENERAL.—Subsection (c) of section 7871 is amended by adding at the end the following new paragraph:

“(4) EXCEPTION FOR BONDS FOR WATER AND SEWAGE FACILITIES.—Paragraph (2) shall not apply to an exempt facility bond 95 percent or more of the net proceeds (as defined in section 150(a)(3)) of which are to be used to provide facilities described in paragraph (4) or (5) of section 142(a).”.

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 7871(c) is amended by striking “paragraph (3)” and inserting “paragraphs (3) and (4)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 103. EXTENSION OF EXEMPTION FROM ALTERNATIVE MINIMUM TAX TREATMENT FOR CERTAIN TAX-EXEMPT BONDS.

(a) IN GENERAL.—Clause (vi) of section 57(a)(5)(C) is amended—
(1) by striking “January 1, 2011” in subclause (I) and inserting “January 1, 2012”; and

(2) by striking “AND 2010” in the heading and inserting “, 2010, AND 2011”.

(b) ADJUSTED CURRENT EARNINGS.—Clause (iv) of section 56(g)(4)(B) is amended—

(1) by striking “January 1, 2011” in subclause (I) and inserting “January 1, 2012”; and

(2) by striking “AND 2010” in the heading and inserting “, 2010, AND 2011”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2010.

SEC. 104. EXTENSION AND ADDITIONAL ALLOCATIONS OF RECOVERY ZONE BOND AUTHORITY.

(a) EXTENSION OF RECOVERY ZONE BOND AUTHORITY.—Section 1400U–2(b)(1) and section 1400U–3(b)(1)(B) are each amended by striking “January 1, 2011” and inserting “January 1, 2012”.

(b) ADDITIONAL ALLOCATIONS OF RECOVERY ZONE BOND AUTHORITY BASED ON UNEMPLOYMENT.—Section 1400U–1 is amended by adding at the end the following new subsection:

“(c) ALLOCATION OF 2010 RECOVERY ZONE BOND LIMITATIONS BASED ON UNEMPLOYMENT.—
“(1) IN GENERAL.—The Secretary shall allocate the 2010 national recovery zone economic development bond limitation and the 2010 national recovery zone facility bond limitation among the States in the proportion that each such State’s 2009 unemployment number bears to the aggregate of the 2009 unemployment numbers for all of the States.

“(2) MINIMUM ALLOCATION.—The Secretary shall adjust the allocations under paragraph (1) for each State to the extent necessary to ensure that no State (prior to any reduction under paragraph (3)) receives less than 0.9 percent of the 2010 national recovery zone economic development bond limitation and 0.9 percent of the 2010 national recovery zone facility bond limitation.

“(3) ALLOCATIONS BY STATES.—

“(A) IN GENERAL.—Each State with respect to which an allocation is made under paragraph (1) shall reallocate such allocation among the counties and large municipalities (as defined in subsection (a)(3)(B)) in such State in the proportion that each such county’s or municipality’s 2009 unemployment number bears to the aggregate of the 2009 unemploy-
ment numbers for all the counties and large municipalities (as so defined) in such State.

“(B) 2010 ALLOCATION REDUCED BY AMOUNT OF PREVIOUS ALLOCATION.—Each State shall reduce (but not below zero)—

“(i) the amount of the 2010 national recovery zone economic development bond limitation allocated to each county or large municipality (as so defined) in such State by the amount of the national recovery zone economic development bond limitation allocated to such county or large municipality under subsection (a)(3)(A) (determined without regard to any waiver thereof), and

“(ii) the amount of the 2010 national recovery zone facility bond limitation allocated to each county or large municipality (as so defined) in such State by the amount of the national recovery zone facility bond limitation allocated to such county or large municipality under subsection (a)(3)(A) (determined without regard to any waiver thereof).
“(C) Waiver of Suballocations.—A county or municipality may waive any portion of an allocation made under this paragraph. A county or municipality shall be treated as having waived any portion of an allocation made under this paragraph which has not been allocated to a bond issued before May 1, 2011. Any allocation waived (or treated as waived) under this subparagraph may be used or reallocated by the State.

“(D) Special Rule for a Municipality in a County.—In the case of any large municipality any portion of which is in a county, such portion shall be treated as part of such municipality and not part of such county.

“(4) 2009 Unemployment Number.—For purposes of this subsection, the term ‘2009 unemployment number’ means, with respect to any State, county or municipality, the number of individuals in such State, county, or municipality who were determined to be unemployed by the Bureau of Labor Statistics for December 2009.

“(5) 2010 National Limitations.—

“(A) Recovery Zone Economic Development Bonds.—The 2010 national recovery
zone economic development bond limitation is $10,000,000,000. Any allocation of such limitation under this subsection shall be treated for purposes of section 1400U–2 in the same manner as an allocation of national recovery zone economic development bond limitation.

“(B) Recovery zone facility bonds.—The 2010 national recovery zone facility bond limitation is $15,000,000,000. Any allocation of such limitation under this subsection shall be treated for purposes of section 1400U–3 in the same manner as an allocation of national recovery zone facility bond limitation.”

(e) Authority of State to Waive Certain 2009 Allocations.—Subparagraph (A) of section 1400U–1(a)(3) is amended by adding at the end the following: “A county or municipality shall be treated as having waived any portion of an allocation made under this subparagraph which has not been allocated to a bond issued before May 1, 2011. Any allocation waived (or treated as waived) under this subparagraph may be used or reallocated by the State.”
SEC. 105. ALLOWANCE OF NEW MARKETS TAX CREDIT AGAINST ALTERNATIVE MINIMUM TAX.

(a) In General.—Subparagraph (B) of section 38(c)(4), as amended by the Patient Protection and Affordable Care Act, is amended by redesignating clauses (v) through (ix) as clauses (vi) through (x), respectively, and by inserting after clause (iv) the following new clause:

“(v) the credit determined under section 45D, but only with respect to credits determined with respect to qualified equity investments (as defined in section 45D(b)) initially made before January 1, 2012,”.

(b) Effective Date.—The amendments made by this section shall apply to credits determined with respect to qualified equity investments (as defined in section 45D(b) of the Internal Revenue Code of 1986) initially made after March 15, 2010.

SEC. 106. EXTENSION OF TAX-EXEMPT ELIGIBILITY FOR LOANS GUARANTEED BY FEDERAL HOME LOAN BANKS.

Clause (iv) of section 149(b)(3)(A) is amended by striking “December 31, 2010” and inserting “December 31, 2011”.

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SEC. 107. EXTENSION OF TEMPORARY SMALL ISSUER RULES FOR ALLOCATION OF TAX-EXEMPT INTEREST EXPENSE BY FINANCIAL INSTITUTIONS.

(a) In General.—Clauses (i), (ii), and (iii) of section 265(b)(3)(G) are each amended by striking “or 2010” and inserting “, 2010, or 2011”.

(b) Conforming Amendment.—Subparagraph (G) of section 265(b)(3) is amended by striking “AND 2010” in the heading and inserting “, 2010, AND 2011”.

(c) Effective Date.—The amendments made by this section shall apply to obligations issued after December 31, 2010.

TITLE II—EXTENSION OF EXPIRING PROVISIONS
Subtitle A—Energy

SEC. 201. 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. 202. 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. 203. CREDIT FOR ELECTRICITY PRODUCED AT CERTAIN OPEN-LOOP BIOMASS FACILITIES.

(a) In General.—Clause (ii) of section 45(b)(4)(B) is amended—

(1) by striking “5-year period” and inserting “6-year period”; and

(2) by adding at the end the following: “In the case of the last year of the 6-year period described
in the preceding sentence, the credit determined under subsection (a) with respect to electricity produced during such year shall not exceed 80 percent of such credit determined without regard to this sentence.”.

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

SEC. 204. EXTENSION AND MODIFICATION OF CREDIT FOR STEEL INDUSTRY FUEL.

(a) Credit Period.—

(1) In general.—Subclause (II) of section 45(e)(8)(D)(ii) is amended to read as follows:

“(II) Credit period.—In lieu of the 10-year period referred to in clauses (i) and (ii)(II) of subparagraph (A), the credit period shall be the period beginning on the date that the facility first produces steel industry fuel that is sold to an unrelated person after September 30, 2008, and ending 2 years after such date.”.

(2) Conforming Amendment.—Section 45(e)(8)(D) is amended by striking clause (iii) and by redesignating clause (iv) as clause (iii).
(b) Extension of Placed-in-Service Date.—

Subparagraph (A) of section 45(d)(8) is amended—

(1) by striking “(or any modification to a facility)”; and

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

(c) Clarifications.—

(1) Steel Industry Fuel.—Subclause (I) of section 45(c)(7)(C)(i) is amended by inserting “, a blend of coal and petroleum coke, or other coke feedstock” after “on coal”.

(2) Ownership Interest.—Section 45(d)(8) is amended by adding at the end the following new flush sentence:

“With respect to a facility producing steel industry fuel, no person (including a ground lessor, customer, supplier, or technology licensor) shall be treated as having an ownership interest in the facility or as otherwise entitled to the credit allowable under subsection (a) with respect to such facility if such person’s rent, license fee, or other entitlement to net payments from the owner of such facility is measured by a fixed dollar amount or a fixed amount per ton, or otherwise determined without regard to the profit or loss of such facility.”.
(3) PRODUCTION AND SALE.—Subparagraph (D) of section 45(e)(8), as amended by subsection (a)(2), is amended by redesignating clause (iii) as clause (iv) and by inserting after clause (ii) the following new clause:

“(iii) PRODUCTION AND SALE.—The owner of a facility producing steel industry fuel shall be treated as producing and selling steel industry fuel where that owner manufactures such steel industry fuel from coal, a blend of coal and petroleum coke, or other coke feedstock to which it has title. The sale of such steel industry fuel by the owner of the facility to a person who is not the owner of the facility shall not fail to qualify as a sale to an unrelated person solely because such purchaser may also be a ground lessor, supplier, or customer.”.

(d) SPECIFIED CREDIT FOR PURPOSES OF ALTERNATIVE MINIMUM TAX EXCLUSION.—Subclause (II) of section 38(c)(4)(B)(iii) is amended by inserting “(in the case of a refined coal production facility producing steel industry fuel, during the credit period set forth in section 45(e)(8)(D)(ii)(II))” after “service”.
(c) Effective Dates.—

(1) In General.—The amendments made by subsections (a), (b), and (d) shall apply to fuel produced and sold after September 30, 2008.

(2) Clarifications.—The amendments made by subsection (c) shall take effect as if included in the amendments made by the Energy Improvement and Extension Act of 2008.

SEC. 205. 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. 206. 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. 207. EXCISE TAX CREDITS AND OUTLAY PAYMENTS
FOR ALTERNATIVE FUEL AND ALTERNATIVE
FUEL MIXTURES.

(a) ALTERNATIVE FUEL CREDIT.—Paragraph (5) of
section 6426(d) is amended by striking “after December
31, 2009” and all that follows and inserting “after—
“(A) September 30, 2014, in the case of
liquefied hydrogen,
“(B) December 31, 2010, in the case of
fuels described in subparagraph (A), (C), (F),
or (G) of paragraph (2), and
“(C) December 31, 2009, in any other
case.”.

(b) ALTERNATIVE FUEL MIXTURE CREDIT.—Para-
graph (3) of section 6426(e) is amended by striking “after
December 31, 2009” and all that follows and inserting
“after—
“(A) September 30, 2014, in the case of
liquefied hydrogen,
“(B) December 31, 2010, in the case of
fuels described in subparagraph (A), (C), (F),
or (G) of subsection (d)(2), and
“(C) December 31, 2009, in any other
case.”.

(c) PAYMENT AUTHORITY.—
(1) IN GENERAL.—Paragraph (6) of section 6427(e) is amended by striking “and” at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting “, and”, and by adding at the end the following new subparagraph:

“(E) any alternative fuel or alternative fuel mixture (as so defined) involving fuel described in subparagraph (A), (C), (F), or (G) of section 6426(d)(2) sold or used after December 31, 2010.”.

(2) CONFORMING AMENDMENT.—Subparagraph (C) of section 6427(e)(6) is amended by inserting “or (E)” after “subparagraph (D)”.

(d) EXCLUSION OF BLACK LIQUOR FROM CREDIT ELIGIBILITY.—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”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after December 31, 2009.
SEC. 208. SPECIAL RULE FOR SALES OR DISPOSITIONS TO IMPLEMENT FERC OR STATE ELECTRIC RECONSTRUCTING 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) Modification of Definition of Independent Transmission Company.—

(1) In General.—Clause (i) of section 451(i)(4)(B) is amended to read as follows:

“(i) who the Federal Energy Regulatory Commission determines in its authorization of the transaction under section 203 of the Federal Power Act (16 U.S.C. 824b) or by declaratory order—

“(I) is not itself a market participant as determined by the Commission, and also is not controlled by any such market participant, or

“(II) to be independent from market participants or to be an independent transmission company within the meaning of such Commission’s rules applicable to independent transmission providers, and”).
(2) RELATED PERSONS.—Paragraph (4) of section 451(i) is amended by adding at the end the following flush sentence:

“For purposes of subparagraph (B)(i)(I), a person shall be treated as controlled by another person if such persons would be treated as a single employer under section 52.”.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to dispositions after December 31, 2009.

(2) MODIFICATIONS.—The amendments made by subsection (b) shall apply to dispositions after the date of the enactment of this Act.

SEC. 209. 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.
SEC. 210. DIRECT PAYMENT OF ENERGY EFFICIENT APPLIANCES TAX CREDIT.

In the case of any taxable year which includes the last day of calendar year 2009 or calendar year 2010, a taxpayer who elects to waive the credit which would otherwise be determined with respect to the taxpayer under section 45M of the Internal Revenue Code of 1986 for such taxable year shall be treated as making a payment against the tax imposed under subtitle A of such Code for such taxable year in an amount equal to 85 percent of the amount of the credit which would otherwise be so determined. Such payment shall be treated as made on the later of the due date of the return of such tax or the date on which such return is filed. Elections under this section may be made separately for 2009 and 2010, but once made shall be irrevocable. No amount shall be includible in gross income or alternative minimum taxable income by reason of this section.

SEC. 211. MODIFICATION OF STANDARDS FOR WINDOWS, DOORS, AND SKYLIGHTS WITH RESPECT TO THE CREDIT FOR NONBUSINESS ENERGY PROPERTY.

(a) In General.—Paragraph (4) of section 25C(e) is amended by striking “unless” and all that follows and inserting “unless—
“(A) in the case of any component placed in service after the date which is 90 days after the date of the enactment of the Job Creation and Tax Cuts Act of 2010, such component meets the criteria for such components established by the 2010 Energy Star Program Requirements for Residential Windows, Doors, and Skylights, Version 5.0 (or any subsequent version of such requirements which is in effect after January 4, 2010),

“(B) in the case of any component placed in service after the date of the enactment of the Job Creation and Tax Cuts Act of 2010 and on or before the date which is 90 days after such date, such component meets the criteria described in subparagraph (A) or is equal to or below a U factor of 0.30 and SHGC of 0.30, and

“(C) in the case of any component which is a garage door, such component is equal to or below a U factor of 0.30 and SHGC of 0.30.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after the date of the enactment of this Act.
Subtitle B—Individual Tax Relief

PART I—MISCELLANEOUS PROVISIONS

SEC. 221. 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. 222. 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. 223. 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”.

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

SEC. 224. 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. 225. 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.

(c) Temporary Coordination With Hope and Lifetime Learning Credits.—In the case of any tax-
payers for any taxable year beginning in 2010, no deduction shall be allowed under section 222 of the Internal Revenue Code of 1986 if—

(1) the taxpayer’s net Federal income tax reduction which would be attributable to such deduction for such taxable year, is less than

(2) the credit which would be allowed to the taxpayer for such taxable year under section 25A of such Code (determined without regard to sections 25A(e) and 26 of such Code).

SEC. 226. 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. 227. 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”.

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(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. 231. ELECTION FOR DIRECT PAYMENT OF 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 Direct Payment of Credit.**—

“(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), plus any credits returned to the State attributable to section 1400N(e) (including credits made available under such section as applied by reason of sections 702(d)(2) and 704(b) of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008), 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, plus any credits for 2010 attributable to the application of such section 702(d)(2) and 704(b), multiplied by

“(B) 10.

For purposes of subparagraph (A)(ii), in the case of any area to which section 702(d)(2) or 704(b) of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008 applies, section 1400N(e)(1)(A) shall be applied without regard to clause (i)
“(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 “36C,”.

SEC. 232. LOW-INCOME HOUSING GRANT ELECTION.

(a) CLARIFICATION OF ELIGIBILITY OF LOW-INCOME HOUSING CREDITS FOR LOW-INCOME HOUSING GRANT ELECTION.—Paragraph (1) of section 1602(b) of the American Recovery and Reinvestment Tax Act of 2009 is amended—

(1) by inserting “, plus any increase for 2009 or 2010 attributable to section 1400N(e) of such Code (including credits made available under such section as applied by reason of sections 702(d)(2) and 704(b) of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008)” after “1986” in subparagraph (A), and

(2) by inserting “, plus any credits for 2009 attributable to the application of such section 702(d)(2) and 704(b)” after “such section” in subparagraph (B).

(b) APPLICATION OF ADDITIONAL HOUSING CREDIT AMOUNT FOR PURPOSES OF 2009 GRANT ELECTION.—

Subsection (b) of section 1602 of the American Recovery and Reinvestment Tax Act of 2009, as amended by sub-
section (a), is amended by adding at the end the following flush sentence:

“For purposes of paragraph (1)(B), in the case of any area to which section 702(d)(2) or 704(b) of the Tax Exenders and Alternative Minimum Tax Relief Act of 2008 applies, section 1400N(c)(1)(A) of such Code shall be applied without regard to clause (i).”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply as if included in the enactment of section 1602 of the American Recovery and Reinvest-ment Tax Act of 2009.

Subtitle C—Business Tax Relief

SEC. 241. 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. 242. 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. 243. 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. 244. 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. 245. 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) Credit Allowable Against AMT.—Subparagraph (B) of section 38(c)(4), as amended by section 105, is amended—

(1) by redesignating clauses (vii) through (x) as clauses (viii) through (xi), respectively; and

(2) by inserting after clause (vi) the following new clause:

“(vii) the credit determined under section 45N,”.

(c) Effective Date.—

(1) In General.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2009.

(2) Allowance Against AMT.—The amendments made by subsection (b) shall apply to credits determined for taxable years beginning after December 31, 2009, and to carrybacks of such credits.
SEC. 246. 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. 247. 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. 248. 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. 249. 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. 250. 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. 251. 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. 252. 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. 253. 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. 254. 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. 255. 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. 256. 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. 257. 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. 258. 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. 259. 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. 260. 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 “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. 261. TREATMENT OF CERTAIN DIVIDENDS 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. 262. 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 Inter-
nal 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. 263. 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 corpora-
tions 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. 264. LOOK-THRU TREATMENT OF PAYMENTS BE-
TWEEN RELATED CONTROLLED FOREIGN
CORPORATIONS UNDER FOREIGN PERSONAL
HOLDING COMPANY RULES.

(a) In General.—Subparagraph (C) of section
954(e)(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 corpora-
tions 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. 265. BASIS ADJUSTMENT TO STOCK OF S CORPS MAK-
ING CHARITABLE CONTRIBUTIONS OF PROP-
ERTY.

(a) In General.—Paragraph (2) of section 1367(a)
is amended by striking “December 31, 2009” and insert-
ing “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. 266. 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. 267. 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”.

(c) 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. 268. 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”.

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(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 pro-
vided 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 DEDUCA-
TION.—

(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 Decem-
ber 31, 2009.

SEC. 269. 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
SEC. 270. PAYMENT TO AMERICAN SAMOA IN LIEU OF EXTENSION OF ECONOMIC DEVELOPMENT CREDIT.

The Secretary of the Treasury (or his designee) shall pay $18,000,000 to the Government of American Samoa for purposes of economic development. The payment made under the preceding sentence shall be treated for purposes of section 1324 of title 31, United States Code, as a refund of internal revenue collections to which such section applies.

SEC. 271. ELECTION TO TEMPORARILY UTILIZE UNUSED AMT CREDITS DETERMINED BY DOMESTIC INVESTMENT.

(a) IN GENERAL.—Section 53 is amended by adding at the end the following new subsection:

“(g) ELECTION FOR CORPORATIONS WITH NEW DOMESTIC INVESTMENTS.—

“(1) In general.—If a corporation elects to have this subsection apply for its first taxable year beginning after December 31, 2009, the limitation imposed by subsection (c) for such taxable year shall be increased by the AMT credit adjustment amount.

“(2) AMT CREDIT ADJUSTMENT AMOUNT.—For purposes of paragraph (1), the term ‘AMT credit adjustment amount’ means, the lesser of—

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“(A) 50 percent of a corporation’s minimum tax credit for its first taxable year beginning after December 31, 2009, determined under subsection (b), or

“(B) 10 percent of new domestic investments made during such taxable year.

“(3) NEW DOMESTIC INVESTMENTS.—For purposes of this subsection, the term ‘new domestic investments’ means the cost of qualified property (as defined in section 168(k)(2)(A)(i))—

“(A) the original use of which commences with the taxpayer during the taxable year, and

“(B) which is placed in service in the United States by the taxpayer during such taxable year.

“(4) CREDIT REFUNDABLE.—For purposes of subsection (b) of section 6401, the aggregate increase in the credits allowable under this part for any taxable year resulting from the application of this subsection shall be treated as allowed under subpart C (and not under any other subpart). For purposes of section 6425, any amount treated as so allowed shall be treated as a payment of estimated income tax for the taxable year.
“(5) Election.—An election under this subsection shall be made at such time and in such manner as prescribed by the Secretary, and once made, may be revoked only with the consent of the Secretary. Not later than 90 days after the date of the enactment of this subsection, the Secretary shall issue guidance specifying such time and manner.

“(6) Treatment of Certain Partnership Investments.—For purposes of this subsection, a corporation shall take into account its allocable share of any new domestic investments by a partnership for any taxable year if, and only if, more than 90 percent of the capital and profits interests in such partnership are owned by such corporation (directly or indirectly) at all times during such taxable year.

“(7) No Double Benefit.—

“(A) In general.—A corporation making an election under this subsection may not make an election under subparagraph (H) of section 172(b)(1).

“(B) Special rules with respect to taxpayers previously electing applicable net operating losses.—In the case of a corporation which made an election under sub-
paragraph (H) of section 172(b)(1) and elects
the application of this subsection—

“(i) Election of applicable net
operating loss treated as re-
voked.—The election under such subpara-
graph (H) shall (notwithstanding clause
(iii)(II) of such subparagraph) be treated
as having been revoked by the taxpayer.

“(ii) Coordination with provision
for expedited refund.—The amount
otherwise treated as a payment of esti-
mated income tax under the last sentence
of paragraph (4) shall be reduced (but not
below zero) by the aggregate increase in
unpaid tax liability determined under this
chapter by reason of the revocation of the
election under clause (i).

“(iii) Application of statute of
limitations.—With respect to the revoca-
tion of an election under clause (i)—

“(I) the statutory period for the
assessment of any deficiency attribu-
table to such revocation shall not ex-
pire before the end of the 3-year pe-
period beginning on the date of the election to have this subsection apply, and

“(II) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

“(C) EXCEPTION FOR ELIGIBLE SMALL BUSINESSES.—Subparagraphs (A) and (B) shall not apply to an eligible small business as defined in section 172(b)(1)(H)(v)(II).

“(8) REGULATIONS.—The Secretary may issue such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this subsection, including to prevent fraud and abuse under this subsection.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 6211(b)(4)(A) is amended by inserting “53(g),” after “53(e),”.

(2) Section 1324(b)(2) of title 31, United States Code, is amended by inserting “53(g),” after “53(e),”.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 272. 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. 273. STUDY OF EXTENDED TAX EXPENDITURES.

(a) Findings.—Congress finds the following:

(1) Currently, the aggregate cost of Federal tax expenditures rivals, or even exceeds, the amount of total Federal discretionary spending.
(2) Given the escalating public debt, a critical examination of this use of taxpayer dollars is essential.

(3) Additionally, tax expenditures can complicate the Internal Revenue Code of 1986 for taxpayers and complicate tax administration for the Internal Revenue Service.

(4) To facilitate a better understanding of tax expenditures in the future, it is constructive for legislation extending these provisions to include a study of such provisions.

(b) REQUIREMENT TO REPORT.—Not later than November 30, 2010, the Chief of Staff of the Joint Committee on Taxation, in consultation with the Comptroller General of the United States, shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on each tax expenditure (as defined in section 3(3) of the Congressional Budget Impoundment Control Act of 1974 (2 U.S.C. 622(3)) extended by this title.

(c) ROLLING SUBMISSION OF REPORTS.—The Chief of Staff of the Joint Committee on Taxation shall initially submit the reports for each such tax expenditure enacted in this subtitle (relating to business tax relief) and subtitle A (relating to energy) in order of the tax expenditure in-
curring the least aggregate cost to the greatest aggregate
cost (determined by reference to the cost estimate of this
Act by the Joint Committee on Taxation). Thereafter,
such reports may be submitted in such order as the Chief
of Staff determines appropriate.

(d) CONTENTS OF REPORT.—Such reports shall con-
tain the following:

(1) An explanation of the tax expenditure and
any relevant economic, social, or other context under
which it was first enacted.

(2) A description of the intended purpose of the
tax expenditure.

(3) An analysis of the overall success of the tax
expenditure in achieving such purpose, and evidence
supporting such analysis.

(4) An analysis of the extent to which further
extending the tax expenditure, or making it perma-
nent, would contribute to achieving such purpose.

(5) A description of the direct and indirect
beneficiaries of the tax expenditure, including identi-
fying any unintended beneficiaries.

(6) An analysis of whether the tax expenditure
is the most cost-effective method for achieving the
purpose for which it was intended, and a description
of any more cost-effective methods through which
such purpose could be accomplished.

(7) A description of any unintended effects of
the tax expenditure that are useful in understanding
the tax expenditure’s overall value.

(8) An analysis of how the tax expenditure
could be modified to better achieve its original pur-
pose.

(9) A brief description of any interactions (ac-
tual or potential) with other tax expenditures or di-
rect spending programs in the same or related budg-
et function worthy of further study.

(10) A description of any unavailable informa-
tion the staff of the Joint Committee on Taxation
may need to complete a more thorough examination
and analysis of the tax expenditure, and what must
be done to make such information available.

(e) MINIMUM ANALYSIS BY DEADLINE.—In the event
the Chief of Staff of the Joint Committee on Taxation
concludes it will not be feasible to complete all reports by
the date specified in subsection (a), at a minimum, the
reports for each tax expenditure enacted in this subtitle
(relating to business tax relief) and subtitle A (relating
to energy) shall be completed by such date.
Subtitle D—Temporary Disaster Relief Provisions

PART I—NATIONAL DISASTER RELIEF

SEC. 281. 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. 282. 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. 283. 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. 284. 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. 285. 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. 291. SPECIAL DEPRECIATION ALLOWANCE FOR NON-RESIDENTIAL 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. 292. 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. 295. 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. 296. 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.

SEC. 297. EXTENSION OF LOW-INCOME HOUSING CREDIT RULES FOR BUILDINGS IN GO ZONES.

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

TITLE III—TECHNICAL CORRECTIONS TO PENSION FUNDING LEGISLATION

SEC. 301. DEFINITION OF ELIGIBLE PLAN YEAR.

(a) Amendment to ERISA.—Clause (v) of section 303(c)(2)(D) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1083(c)(2)(D)), as added by section 201(a)(1) of the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010, is amended by striking “on or after the date of the enactment of this subparagraph” and inserting “on or after March 10, 2010”.

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(b) Amendment to Internal Revenue Code of 1986.—Clause (v) of section 430(e)(2)(D) of the Internal Revenue Code of 1986, as added by section 201(b)(1) of the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010, is amended by striking “on or after the date of the enactment of this subparagraph” and inserting “on or after March 10, 2010”.

(c) Effective Date.—The amendments made by this section shall take effect as if included in the amendments made by the provisions of the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010 to which the amendments relate.

SEC. 302. ELIGIBLE CHARITY PLANS.

(a) Definition of Eligible Charity Plans.—

(1) In General.—Section 104(d) of the Pension Protection Act of 2006, as added by section 202(b) of the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010, is amended to read as follows:

“(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—
“(1) the plan is maintained by one or more employers employing employees who are accruing benefits based on service for the plan year,

“(2) such employees are employed in at least 20 States,

“(3) each such employee (other than a de minimis number of employees) is employed by an employer described in section 501(c)(3) of such Code and the primary exempt purpose of each such employer is to provide services with respect to children, and

“(4) the plan sponsor elects (at such time and in such form and manner as shall be prescribed by the Secretary of the Treasury) to be so treated.

Any election under this subsection may be revoked only with the consent of the Secretary of the Treasury.”.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the amendment made by the provision of the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010 to which the amendment relates (determined after application of the amendment made by subsection (e)), except that a plan sponsor may elect to apply such amendment to plan years beginning on or after January 1, 2011.
(b) REGULATIONS.—The Secretary of the Treasury may prescribe such regulations as may be necessary to carry out the purposes of the amendments made by section 202(b) of the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010 and the amendment made by subsection (a).

(c) APPLICATION OF NEW RULES TO ELIGIBLE CHARITY PLANS.—

(1) IN GENERAL.—Paragraph (2) of section 202(c) of the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010 is amended to read as follows:

“(2) ELIGIBLE CHARITY PLANS.—The amendments made by subsection (b) shall apply to plan years beginning after December 31, 2010, except that a plan sponsor may elect to apply such amendments to plan years beginning after an earlier date.”.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the amendment made by the provision of the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010 to which the amendment relates.
SEC. 303. SUSPENSION OF CERTAIN FUNDING LEVEL LIMITATIONS.

(a) LIMITATIONS ON BENEFIT ACCRUALS.—Section 203 of the Worker, Retiree, and Employer Recovery Act of 2008 (Public Law 110–458; 122 Stat. 5118) is amended—

(1) by striking “the first plan year beginning during the period beginning on October 1, 2008, and ending on September 30, 2009” and inserting “any plan year beginning during the period beginning on October 1, 2008, and ending on December 31, 2011”;

(2) by striking “substituting” and all that follows through “for such plan year” and inserting “substituting for such percentage the plan’s adjusted funding target attainment percentage for the last plan year ending before September 30, 2009,”;

and

(3) by striking “for the preceding plan year is greater” and inserting “for such last plan year is greater”.

(b) SOCIAL SECURITY LEVEL-INCOME OPTIONS.—

(1) ERISA AMENDMENT.—Section 206(g)(3)(E) of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new sentence: “For purposes of
applying clause (i) in the case of payments the an-
nuity starting date for which occurs on or before De-
cember 31, 2011, payments under a social security
leveling option shall be treated as not in excess of
the monthly amount paid under a single life annuity
(plus an amount not in excess of a social security
supplement described in the last sentence of section
204(b)(1)(G)).”.

(2) IRC AMENDMENT.—Section 436(d)(5) of the Internal Revenue Code of 1986 is amended by adding at the end the following new sentence: “For purposes of applying subparagraph (A) in the case of payments the annuity starting date for which oc-
curs on or before December 31, 2011, payments under a social security leveling option shall be treat-
ed as not in excess of the monthly amount paid under a single life annuity (plus an amount not in excess of a social security supplement described in the last sentence of section 411(a)(9)).”.

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to annuity pay-
ments the annuity starting date for which oc-
curs on or after January 1, 2011.
(B) PERMITTED APPLICATION.—A plan shall not be treated as failing to meet the requirements of sections 206(g) of the Employee Retirement Income Security Act of 1974 (as amended by this subsection) and section 436(d) of the Internal Revenue Code of 1986 (as so amended) if the plan sponsor elects to apply the amendments made by this subsection to payments the annuity starting date for which occurs before January 1, 2011.

(c) REPEAL OF RELATED PROVISIONS.—The provisions of, and the amendments made by, section 203 of the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010 are repealed and the Employee Retirement Income Security Act of 1974, the Internal Revenue Code of 1986, and the Worker, Retiree, and Employer Recovery Act of 2008 (Public Law 110–458; 122 Stat. 5118) shall be applied as if such section had never been enacted.

SEC. 304. OPTIONAL USE OF 30-YEAR AMORTIZATION PERIODS.

(a) REPEAL.—The provisions of, and the amendments made by, section 211 of the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010 are repealed and the Employee Retirement In-
come Security Act of 1974 and the Internal Revenue Code of 1986 shall be applied as if such section had never been enacted.

(b) Elective Special Relief Rules.—

(1) Amendment to ERISA.—Section 304(b) of the Employee Retirement Income Security Act of 1974, as in effect after the application of subsection (a), is amended by adding at the end the following new paragraph:

“(8) Elective special relief rules.—Notwithstanding any other provision of this subsection—

“(A) Amortization of net investment losses.—

“(i) In general.—The plan sponsor of a multiemployer plan with respect to which the solvency test under subparagraph (B) is met may elect to treat the portion of any experience loss or gain for a plan year that is attributable to the allocable portion of the net investment losses incurred in either or both of the first two plan years ending on or after June 30, 2008, as an experience loss separate from other experience losses or gains to be am-
ortized in equal annual installments (until fully amortized) over the period—

“(I) beginning with the plan year for which the allocable portion is determined, and

“(II) ending with the last plan year in the 30-plan year period beginning with the plan year following the plan year in which such net investment loss was incurred.

“(ii) COORDINATION WITH EXTENSIONS.—If an election is made under clause (i) 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 plan year for which the election under this subparagraph is made, such extension shall not result in such amortization period exceeding 30 years.

“(iii) DEFINITIONS AND RULES.—For purposes of this subparagraph—

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“(I) **Net investment losses.**—The net investment loss incurred by a plan in a plan year is equal to the excess of the expected value of the assets as of the end of the plan year over the market value of the assets as of the end of the plan year, including any difference attributable to a criminally fraudulent investment arrangement.

“(II) **Expected value.**—For purposes of subclause (I), the expected value of the assets as of the end of a plan year is the excess of the market value of the assets at the beginning of the plan year plus contributions made during the plan year over disbursements made during the plan year, except that such amounts shall be adjusted with interest at the valuation rate to the end of the plan year.

“(III) **Criminally fraudulent investment arrangements.**—The determination as to whether an ar-
rangement 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.

“(IV) AMOUNT ATTRIBUTABLE TO ALLOCABLE PORTION OF NET INVESTMENT LOSS.—The amount attributable to the allocable portion of the net investment loss for a plan year shall be an amount equal to the allocable portion of net investment loss for the plan year under subclauses (V) and (VI), increased with interest at the valuation rate determined from the plan year after the plan year in which the net investment loss was incurred.

“(V) ALLOCABLE PORTION OF NET INVESTMENT LOSSES.—Except as provided in subclause (VI), the net investment loss incurred in a plan year shall be allocated among the 5
plan years following the plan year in which the investment loss is incurred in accordance with the following table:

<table>
<thead>
<tr>
<th>Plan year after the plan year in which the net investment loss was incurred</th>
<th>Allocable portion of net investment loss</th>
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<tbody>
<tr>
<td>1st .....................................................................................</td>
<td>½</td>
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<tr>
<td>2nd ....................................................................................</td>
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<td>3rd .....................................................................................</td>
<td>1/6</td>
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<td>4th .....................................................................................</td>
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<tr>
<td>5th .....................................................................................</td>
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</tr>
</tbody>
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“(VI) Special rule for plans that adopt longer smoother period.—If a plan sponsor elects an extended smoothing period for its asset valuation method under subsection (c)(2)(B), then the allocable portion of net investment loss for the first two plan years following the plan year the investment loss is incurred is the same as determined under subclause (V), but the remaining ½ of the net investment loss is allocated ratably over the period beginning with the third plan year following the plan year the net investment loss is incurred and ending with the last plan year in the extended smoothing period.

“(VII) Special rule for overstatement of loss.—If, for a plan
year, there is an experience loss for
the plan and the amount described in
subclause (IV) exceeds the total
amount of the experience loss for the
plan year, then the excess shall be
treated as an experience gain.

“(VIII) SPECIAL RULE IN YEARS
FOR WHICH OVERALL EXPERIENCE IS
GAIN.—If, for a plan year, there is an
experience gain for the plan, then, in
addition to amortization of net invest-
ment losses under clause (i), the
amount described in subclause (IV)
shall be treated as an experience gain
in addition to any other experience
gain.

“(B) SOLVENCY TEST.—

“(i) IN GENERAL.—An election may
be made under this paragraph if the elec-
tion includes certification by the plan actu-
ary in connection with the election that the
plan is projected to have a funded percent-
age at the end of the first 15 plan years
that is not less than 100 percent of the
funded percentage for the plan year of the
election.

“(ii) FUNDING PERCENTAGE.—For
purposes of clause (i), the term ‘funded
percentage’ has the meaning provided in
section 305(i)(2), except that the value of
the plan’s assets referred to in section
305(i)(2)(A) shall be the market value of
such assets.

“(iii) ACTUARIAL ASSUMPTIONS.—In
making any certification under this sub-
paragraph, the plan actuary shall use the
same actuarial estimates, assumptions, and
methods as those applicable for the most
recent certification under section 305, ex-
cept that the plan actuary may take into
account benefit reductions and increases in
contribution rates, under either funding
improvement plans adopted under section
305(e) or under section 432(c) of the In-
ternal Revenue Code of 1986 or rehabilita-
tion plans adopted under section 305(e) or
under section 432(e) of such Code, that
the plan actuary reasonably anticipates will
occur without regard to any change in status of the plan resulting from the election.

“(C) ADDITIONAL RESTRICTION ON BENEFIT INCREASES.—If an election is made under subparagraph (A), then, in addition to any other applicable restrictions on benefit increases, a plan amendment which is adopted on or after March 10, 2010, and which increases benefits may not go into effect during the period beginning on such date and ending with the second plan year beginning after such date 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 election to have this paragraph apply to the plan, and

“(II) the plan’s funded percentage and projected credit balances for the first 3 plan years ending on or after such date 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 Revenue Code of 1986 or to comply with other applicable law.

“(D) TIME, FORM, AND MANNER OF ELECTION.—An election under this paragraph shall be made not later than June 30, 2011, and shall be made in such form and manner as the Secretary of the Treasury may prescribe.

“(E) REPORTING.—A plan sponsor of a plan to which this paragraph applies shall—

“(i) give notice of such election to participants and beneficiaries of the plan, and

“(ii) inform the Pension Benefit Guaranty Corporation of such election in such form and manner as the Pension Benefit Guaranty Corporation may prescribe.”.

(2) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Section 431(b) of the Internal Revenue Code of 1986, as in effect after the application of...
subsection (a), is amended by adding at the end the following new paragraph:

“(8) Elective special relief rules.—Notwithstanding any other provision of this subsection—

“(A) Amortization of net investment losses.—

“(i) In general.—The plan sponsor of a multiemployer plan with respect to which the solvency test under subparagraph (B) is met may elect to treat the portion of any experience loss or gain for a plan year that is attributable to the allocable portion of the net investment losses incurred in either or both of the first two plan years ending on or after June 30, 2008, as an experience loss separate from other experience losses and gains to be amortized in equal annual installments (until fully amortized) over the period—

“(I) beginning with the plan year for which the allocable portion is determined, and

“(II) ending with the last plan year in the 30-plan year period begin-
ning with the plan year following the plan year in which such net investment loss was incurred.

“(ii) COORDINATION WITH EXTENSIONS.—If an election is made under clause (i) 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 plan year for which the election under this subparagraph is made, such extension shall not result in such amortization period exceeding 30 years.

“(iii) DEFINITIONS AND RULES.—For purposes of this subparagraph—

“(I) NET INVESTMENT LOSSES.—The net investment loss incurred by a plan in a plan year is equal to the excess of the expected value of the assets as of the end of the plan year over the market value of the assets as of the end of the plan year.
year, including any difference attributable to a criminally fraudulent investment arrangement.

“(II) Expected value.—For purposes of subclause (I), the expected value of the assets as of the end of a plan year is the excess of the market value of the assets at the beginning of the plan year plus contributions made during the plan year over disbursements made during the plan year, except that such amounts shall be adjusted with interest at the valuation rate to the end of the plan year.

“(III) 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.

“(IV) Amount attributable to allocable portion of net in-
VESTMENT LOSS.—The amount attributable to the allocable portion of the net investment loss for a plan year shall be an amount equal to the allocable portion of net investment loss for the plan year under subclauses (V) and (VI), increased with interest at the valuation rate determined from the plan year after the plan year in which the net investment loss was incurred.

“(V) ALLOCABLE PORTION OF NET INVESTMENT LOSSES.—Except as provided in subclause (VI), the net investment loss incurred in a plan year shall be allocated among the 5 plan years following the plan year in which the investment loss is incurred in accordance with the following table:

<table>
<thead>
<tr>
<th>Plan year after the plan year in which the net investment loss was incurred</th>
<th>Allocable portion of net investment loss</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st</td>
<td>1/2</td>
</tr>
<tr>
<td>2nd</td>
<td>0</td>
</tr>
<tr>
<td>3rd</td>
<td>1/6</td>
</tr>
<tr>
<td>4th</td>
<td>1/6</td>
</tr>
<tr>
<td>5th</td>
<td>1/6</td>
</tr>
</tbody>
</table>

“(VI) SPECIAL RULE FOR PLANS THAT ADOPT LONGER SMOOTHER PERIOD.—If a plan sponsor elects an ex-
tended smoothing period for its asset
valuation method under subsection
(c)(2)(B), then the allocable portion of
net investment loss for the first two
plan years following the plan year the
investment loss is incurred is the
same as determined under subclause
(V), but the remaining \( \frac{1}{2} \) of the net
investment loss is allocated ratably
over the period beginning with the
third plan year following the plan year
the net investment loss is incurred
and ending with the last plan year in
the extended smoothing period.

“(VII) SPECIAL RULE FOR OVER-
STATEMENT OF LOSS.—If, for a plan
year, there is an experience loss for
the plan and the amount described in
subclause (IV) exceeds the total
amount of the experience loss for the
plan year, then the excess shall be
treated as an experience gain.

“(VIII) SPECIAL RULE IN YEARS
FOR WHICH OVERALL EXPERIENCE IS
GAIN.—If, for a plan year, there is an
experience gain for the plan, then, in addition to amortization of net investment losses under clause (i), the amount described in subclause (IV) shall be treated as an experience gain in addition to any other experience gain.

“(B) SOLVENCY TEST.—

“(i) IN GENERAL.—An election may be made under this paragraph if the election includes certification by the plan actuary in connection with the election that the plan is projected to have a funded percentage at the end of the first 15 plan years that is not less than 100 percent of the funded percentage for the plan year of the election.

“(ii) FUNDED PERCENTAGE.—For purposes of clause (i), the term ‘funded percentage’ has the meaning provided in section 432(i)(2), except that the value of the plan’s assets referred to in section 432(i)(2)(A) shall be the market value of such assets.
“(iii) ACTUARIAL ASSUMPTIONS.—In making any certification under this sub-
paragraph, the plan actuary shall use the same actuarial estimates, assumptions, and
methods as those applicable for the most recent certification under section 432, ex-
cept that the plan actuary may take into account benefit reductions and increases in
contribution rates, under either funding improvement plans adopted under section
432(c) or under section 305(c) of the Em-
ployee Retirement Income Security Act of 1974 or rehabilitation plans adopted under
section 432(e) or under section 305(e) of such Act, that the plan actuary reasonably
anticipates will occur without regard to any change in status of the plan resulting
from the election.

“(C) ADDITIONAL RESTRICTION ON BEN-
EFIT INCREASES.—If an election is made under
subparagraph (A), then, in addition to any other applicable restrictions on benefit in-
creases, a plan amendment which is adopted on or after March 10, 2010, and which increases
benefits may not go into effect during the pe-
period beginning on such date and ending with the second plan year beginning after such date 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 election to have this paragraph apply to the plan, and

“(II) the plan’s funded percentage and projected credit balances for the first 3 plan years ending on or after such date 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 or to comply with other applicable law.

“(D) TIME, FORM, AND MANNER OF ELECTION.—An election under this paragraph shall be made not later than June 30, 2011, and shall be made in such form and manner as the Secretary may prescribe.
“(E) REPORTING.—A plan sponsor of a plan to which this paragraph applies shall—

“(i) give notice of such election to participants and beneficiaries of the plan, and

“(ii) inform the Pension Benefit Guaranty Corporation of such election in such form and manner as the Pension Benefit Guaranty Corporation may prescribe.”.

(c) ASSET SMOOTHING FOR MULTIEMPLOYER PLANS.—

(1) AMENDMENT TO ERISA.—Section 304(c)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1084(c)(2)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (C); and

(B) by inserting after subparagraph (A) the following new subparagraph:

“(B) EXTENDED ASSET SMOOTHING PERIOD FOR CERTAIN INVESTMENT LOSSES.—The Secretary of the Treasury shall not treat the asset valuation method of a multiemployer plan as unreasonable solely because such method spreads the difference between expected and ac-
tual returns for either or both of the first 2 plan years ending on or after June 30, 2008, over a period of not more than 10 years. Any change in valuation method to so spread such difference shall be treated as approved, but only if, in the case that the plan sponsor has made an election under subsection (b)(8), any resulting change in asset value is treated for purposes of amortization as a net experience loss or gain.”.

(2) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Section 431(c)(2) of the Internal Revenue Code of 1986 is amended—

(A) by redesignating subparagraph (B) as subparagraph (C); and

(B) by inserting after subparagraph (A) the following new subparagraph:

“(B) EXTENDED ASSET SMOOTHING PERIOD FOR CERTAIN INVESTMENT LOSSES.—The Secretary shall not treat the asset valuation method of a multiemployer plan as unreasonable solely because such method spreads the difference between expected and actual returns for either or both of the first 2 plan years ending on or after June 30, 2008, over a period of not
more than 10 years. Any change in valuation
method to so spread such difference shall be
treated as approved, but only if, in the case
that the plan sponsor has made an election
under subsection (b)(8), any resulting change in
asset value is treated for purposes of amortiza-
tion as a net experience loss or gain.”.

(d) Effective Date and Special Rules.—

(1) Effective Date.—The amendments made
by this section shall take effect as of the first day
of the first plan year beginning after June 30, 2008,
except that any election a plan sponsor makes pur-
suant to this section or the amendments made there-
by that affects the plan’s funding standard account
for any plan year beginning before October 1, 2009,
shall be disregarded for purposes of applying the
provisions of section 305 of the Employee Retire-
ment Income Security Act of 1974 and section 432
of the Internal Revenue Code of 1986 to that plan
year.

(2) Deemed Approval for Certain Funding
Method Changes.—In the case of a multiemployer
plan with respect to which an election has been
made under section 304(b)(8) of the Employee Re-
tirement Income Security Act of 1974 (as amended
by this section) or section 431(b)(8) of the Internal Revenue Code of 1986 (as so amended)—

(A) any change in the plan’s funding method for a plan year beginning on or after July 1, 2008, and on or before December 31, 2010, from a method that does not establish a base for experience gains and losses to one that does establish such a base shall be treated as approved by the Secretary of the Treasury; and

(B) any resulting funding method change base shall be treated for purposes of amortization as a net experience loss or gain.

SEC. 305. TRANSITION RULE FOR CERTIFICATIONS OF PLAN STATUS.

(a) IN GENERAL.—A plan actuary shall not be treated as failing to meet the requirements of section 305(b)(3)(A) of the Employee Retirement Income Security Act of 1974 and section 432(b)(3)(A) of the Internal Revenue Code of 1986 in connection with a certification required under such sections the deadline for which is after the date of the enactment of this Act if the plan actuary makes such certification at any time earlier than 75 days after the date of the enactment of this Act.

(b) REVISION OF PRIOR CERTIFICATION.—

(1) IN GENERAL.—If—

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(A) a plan sponsor makes an election under section 304(b)(8) of the Employee Retirement Income Security Act of 1974 and section 431(b)(8) of the Internal Revenue Code of 1986, or under section 304(c)(2)(B) of such Act and section 431(c)(2)(B) such Code, with respect to a plan for a plan year beginning on or after October 1, 2009; and

(B) the plan actuary’s certification of the plan status for such plan year (hereinafter in this subsection referred to as “original certification”) did not take into account any election so made,
then the plan sponsor may direct the plan actuary to make a new certification with respect to the plan for the plan year which takes into account such election (hereinafter in this subsection referred to as “new certification”) if the plan’s status under section 305 of such Act and section 432 of such Code would change as a result of such election. Any such new certification shall be treated as the most recent certification referred to in section 304(b)(3)(B)(iii) of such Act and section 431(b)(8)(B)(iii) of such Code.
(2) Due date for new certification.—Any such new certification shall be made pursuant to section 305(b)(3) of such Act and section 432(b)(3) of such Code; except that any such new certification shall be made not later than 75 days after the date of the enactment of this Act.

(3) Notice.—

(A) In general.—Except as provided in subparagraph (B), any such new certification shall be treated as the original certification for purposes of section 305(b)(3)(D) of such Act and section 432(b)(3)(D) of such Code.

(B) Notice already provided.—In any case in which notice has been provided under such sections with respect to the original certification, not later than 30 days after the new certification is made, the plan sponsor shall provide notice of any change in status under rules similar to the rules such sections.

(4) Effect of change in status.—If a plan ceases to be in critical status pursuant to the new certification, then the plan shall, not later than 30 days after the due date described in paragraph (2), cease any restriction of benefit payments, and imposition of contribution surcharges, under section 305...
of such Act and section 432 of such Code by reason
of the original certification.

TITLE IV—REVENUE OFFSETS
Subtitle A—Personal Service Income Earned in Pass-thru Entities

SEC. 401. PARTNERSHIP INTERESTS TRANSFERRED IN CONNECTION WITH PERFORMANCE OF SERVICES.

(a) Modification to Election To Include Partnership Interest in Gross Income in Year of Transfer.—Subsection (c) of section 83 is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

“(4) Partnership interests.—Except as provided by the Secretary, in the case of any transfer of an interest in a partnership in connection with the provision of services to (or for the benefit of) such partnership—

“(A) the fair market value of such interest shall be treated for purposes of this section as being equal to the amount of the distribution which the partner would receive if the partnership sold (at the time of the transfer) all of its assets at fair market value and distributed the
proceeds of such sale (reduced by the liabilities
of the partnership) to its partners in liquidation
of the partnership, and

“(B) the person receiving such interest
shall be treated as having made the election
under subsection (b)(1) unless such person
makes an election under this paragraph to have
such subsection not apply.”.

(b) CONFORMING AMENDMENT.—Paragraph (2) of
section 83(b) is amended by inserting “or subsection
(c)(4)(B)” after “paragraph (1)”.

(c) EFFECTIVE DATE.—The amendments made by
this section shall apply to interests in partnerships trans-
ferred after the date of the enactment of this Act.

SEC. 402. INCOME OF PARTNERS FOR PERFORMING IN-
VESTMENT MANAGEMENT SERVICES TREAT-
ED AS ORDINARY INCOME RECEIVED FOR
PERFORMANCE OF SERVICES.

(a) IN GENERAL.—Part I of subchapter K of chapter
1 is amended by adding at the end the following new sec-
tion:
SEC. 710. SPECIAL RULES FOR PARTNERS PROVIDING INVESTMENT MANAGEMENT SERVICES TO PARTNERSHIP.

(a) Treatment of Distributive Share of Partnership Items.—For purposes of this title, in the case of an investment services partnership interest—

“(1) In general.—Notwithstanding section 702(b)—

“(A) any net income with respect to such interest for any partnership taxable year shall be treated as ordinary income, and

“(B) any net loss with respect to such interest for such year, to the extent not disallowed under paragraph (2) for such year, shall be treated as an ordinary loss.

All items of income, gain, deduction, and loss which are taken into account in computing net income or net loss shall be treated as ordinary income or ordinary loss (as the case may be).

“(2) Treatment of losses.—

“(A) Limitation.—Any net loss with respect to such interest shall be allowed for any partnership taxable year only to the extent that such loss does not exceed the excess (if any) of—
“(i) the aggregate net income with respect to such interest for all prior partnership taxable years, over

“(ii) the aggregate net loss with respect to such interest not disallowed under this subparagraph for all prior partnership taxable years.

“(B) CARRYFORWARD.—Any net loss for any partnership taxable year which is not allowed by reason of subparagraph (A) shall be treated as an item of loss with respect to such partnership interest for the succeeding partnership taxable year.

“(C) BASIS ADJUSTMENT.—No adjustment to the basis of a partnership interest shall be made on account of any net loss which is not allowed by reason of subparagraph (A).

“(D) PRIOR PARTNERSHIP YEARS.—Any reference in this paragraph to prior partnership taxable years shall only include prior partnership taxable years to which this section applies.

“(3) NET INCOME AND LOSS.—For purposes of this section—

“(A) NET INCOME.—The term ‘net income’ means, with respect to any investment
services partnership interest for any partnership taxable year, the excess (if any) of—

“(i) all items of income and gain taken into account by the holder of such interest under section 702 with respect to such interest for such year, over

“(ii) all items of deduction and loss so taken into account.

“(B) Net Loss.—The term ‘net loss’ means, with respect to such interest for such year, the excess (if any) of the amount described in subparagraph (A)(ii) over the amount described in subparagraph (A)(i).

“(4) Special Rule for Dividends.—Any dividend taken into account in determining net income or net loss for purposes of paragraph (1) shall not be treated as qualified dividend income for purposes of section 1(h).

“(b) Dispositions of Partnership Interests.—

“(1) Gain.—Any gain on the disposition of an investment services partnership interest shall be—

“(A) treated as ordinary income, and

“(B) recognized notwithstanding any other provision of this subtitle.
“(2) Loss.—Any loss on the disposition of an investment services partnership interest shall be treated as an ordinary loss to the extent of the excess (if any) of—

“(A) the aggregate net income with respect to such interest for all partnership taxable years to which this section applies, over

“(B) the aggregate net loss with respect to such interest allowed under subsection (a)(2) for all partnership taxable years to which this section applies.

“(3) Election with respect to certain exchanges.—Paragraph (1)(B) shall not apply to the contribution of an investment services partnership interest to a partnership in exchange for an interest in such partnership if—

“(A) the taxpayer makes an irrevocable election to treat the partnership interest received in the exchange as an investment services partnership interest, and

“(B) the taxpayer agrees to comply with such reporting and recordkeeping requirements as the Secretary may prescribe.

“(4) Disposition of portion of interest.—In the case of any disposition of an investment serv-
ices partnership interest, the amount of net loss which otherwise would have (but for subsection (a)(2)(C)) applied to reduce the basis of such interest shall be disregarded for purposes of this section for all succeeding partnership taxable years.

“(5) DISTRIBUTIONS OF PARTNERSHIP PROPERTY.—In the case of any distribution of property by a partnership with respect to any investment services partnership interest held by a partner—

“(A) the excess (if any) of—

“(i) the fair market value of such property at the time of such distribution, over

“(ii) the adjusted basis of such property in the hands of the partnership,

shall be taken into account as an increase in such partner’s distributive share of the taxable income of the partnership (except to the extent such excess is otherwise taken into account in determining the taxable income of the partnership),

“(B) such property shall be treated for purposes of subpart B of part II as money distributed to such partner in an amount equal to such fair market value, and
“(C) the basis of such property in the hands of such partner shall be such fair market value.

Subsection (b) of section 734 shall be applied without regard to the preceding sentence. In the case of a taxpayer which satisfies requirements similar to the requirements of subparagraphs (A) and (B) of paragraph (3), this paragraph and paragraph (1)(B) shall not apply to the distribution of a partnership interest if such distribution is in connection with a contribution (or deemed contribution) of any property of the partnership to which section 721 applies pursuant to a transaction described in paragraph (1)(B) or (2) of section 708(b).

“(6) APPLICATION OF SECTION 751.—

“(A) IN GENERAL.—In applying section 751, an investment services partnership interest shall be treated as an inventory item.

“(B) EXCEPTION FOR CERTAIN DISPOSITIONS OF INTERESTS IN A PUBLICLY TRADED PARTNERSHIP.—Except as provided by the Secretary, this paragraph shall not apply in the case of any (direct or indirect) disposition of an interest in a publicly traded partnership (as defined in section 7704) which is not an invest-
ment services partnership interest in the hands
of the person disposing of such interest (or the
hands of the person holding such interest indi-
rectly).

“(c) INVESTMENT SERVICES PARTNERSHIP INTER-
EST.—For purposes of this section—

“(1) IN GENERAL.—The term ‘investment serv-
ices partnership interest’ means any interest in a
partnership which is held (directly or indirectly) by
any person if it was reasonably expected (at the time
that such person acquired such interest) that such
person (or any person related to such person) would
provide (directly or, to the extent provided by the
Secretary, indirectly) a substantial quantity of any
of the following services with respect to assets held
(directly or indirectly) by the partnership:

“(A) Advising as to the advisability of in-
vesting in, purchasing, or selling any specified
asset.

“(B) Managing, acquiring, or disposing of
any specified asset.

“(C) Arranging financing with respect to
acquiring specified assets.

“(D) Any activity in support of any service
described in subparagraphs (A) through (C).
“(2) Specified asset.—The term ‘specified asset’ means securities (as defined in section 475(c)(2) without regard to the last sentence thereof), real estate held for rental or investment, interests in partnerships, commodities (as defined in section 475(c)(2)), or options or derivative contracts with respect to any of the foregoing.

“(3) Exception for family farms.—The term ‘specified asset’ shall not include any farm used for farming purposes if such farm is held by a partnership all of the interests in which are held (directly or indirectly) by members of the same family. Terms used in the preceding sentence which are also used in section 2032A shall have the same meaning as when used in such section.

“(4) Exception for partnerships with pro rata allocations based on capital.—Except as provided by the Secretary, the term ‘investment services partnership interest’ shall not include any interest in a partnership if all distributions and all allocations of the partnership, and of any other partnership in which the partnership directly or indirectly holds an interest, are made pro rata on the basis of the capital contributions of each partner.
which constitute qualified capital interests under subsection (d).

“(5) RELATED PERSONS.—A person shall be treated as related to another person if the relationship between such persons is described in section 267 or 707(b).

“(d) EXCEPTION FOR CERTAIN CAPITAL INTERESTS.—

“(1) IN GENERAL.—In the case of any portion of an investment services partnership interest which is a qualified capital interest, all items of income, gain, loss, and deduction which are allocated to such qualified capital interest shall not be taken into account under subsection (a) if—

“(A) allocations of items are made by the partnership to such qualified capital interest in the same manner as such allocations are made to other qualified capital interests held by partners who do not provide any services described in subsection (c)(1) and who are not related to the partner holding the qualified capital interest, and

“(B) the allocations made to such other interests are significant compared to the allocations made to such qualified capital interest.
“(2) Authority to provide exceptions to allocation requirements.—To the extent provided by the Secretary in regulations or other guidance—

“(A) Allocations to portion of qualified capital interest.—Paragraph (1) may be applied separately with respect to a portion of a qualified capital interest.

“(B) No or insignificant allocations to nonservice providers.—In any case in which the requirements of paragraph (1)(B) are not satisfied, items of income, gain, loss, and deduction shall not be taken into account under subsection (a) to the extent that such items are properly allocable under such regulations or other guidance to qualified capital interests.

“(C) Allocations to service providers’ qualified capital interests which are less than other allocations.—Allocations shall not be treated as failing to meet the requirement of paragraph (1)(A) merely because the allocations to the qualified capital interest represent a lower return than the allocations made to the other qualified capital interests referred to in such paragraph.
“(3) Special rule for changes in services.—In the case of an interest in a partnership which is not an investment services partnership interest and which, by reason of a change in the services with respect to assets held (directly or indirectly) by the partnership, would (without regard to the reasonable expectation exception of subsection (c)(1)) have become such an interest—

“(A) notwithstanding subsection (c)(1), such interest shall be treated as an investment services partnership interest as of the time of such change, and

“(B) for purposes of this subsection, the qualified capital interest of the holder of such partnership interest immediately after such change shall not be less than the fair market value of such interest (determined immediately before such change).

“(4) Special rule for tiered partnerships.—Except as otherwise provided by the Secretary, in the case of tiered partnerships, all items which are allocated in a manner which meets the requirements of paragraph (1) to qualified capital interests in a lower-tier partnership shall retain such character to the extent allocated on the basis of
qualified capital interests in any upper-tier partnership.

“(5) Exception for no-self-charged carry and management fee provisions.—Except as otherwise provided by the Secretary, an interest shall not fail to be treated as satisfying the requirement of paragraph (1)(A) merely because the allocations made by the partnership to such interest do not reflect the cost of services described in subsection (c)(1) which are provided (directly or indirectly) to the partnership by the holder of such interest (or a related person).

“(6) Special rule for dispositions.—In the case of any investment services partnership interest any portion of which is a qualified capital interest, subsection (b) shall not apply to so much of any gain or loss as bears the same proportion to the entire amount of such gain or loss as—

“(A) the distributive share of gain or loss that would have been allocated to the qualified capital interest (consistent with the requirements of paragraph (1)) if the partnership had sold all of its assets at fair market value immediately before the disposition, bears to
“(B) the distributive share of gain or loss that would have been so allocated to the investment services partnership interest of which such qualified capital interest is a part.

“(7) QUALIFIED CAPITAL INTEREST.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘qualified capital interest’ means so much of a partner’s interest in the capital of the partnership as is attributable to—

“(i) the fair market value of any money or other property contributed to the partnership in exchange for such interest (determined without regard to section 752(a)),

“(ii) any amounts which have been included in gross income under section 83 with respect to the transfer of such interest, and

“(iii) the excess (if any) of—

“(I) any items of income and gain taken into account under section 702 with respect to such interest, over

“(II) any items of deduction and loss so taken into account.
“(B) Adjustment to qualified capital interest.—

“(i) Distributions and losses.— The qualified capital interest shall be reduced by distributions from the partnership with respect to such interest and by the excess (if any) of the amount described in subparagraph (A)(iii)(II) over the amount described in subparagraph (A)(iii)(I).

“(ii) Special rule for contributions of property.—In the case of any contribution of property described in subparagraph (A)(i) with respect to which the fair market value of such property is not equal to the adjusted basis of such property immediately before such contribution, proper adjustments shall be made to the qualified capital interest to take into account such difference consistent with such regulations or other guidance as the Secretary may provide.

“(8) Treatment of certain loans.—

“(A) Proceeds of partnership loans not treated as qualified capital inter-
EST OF SERVICE PROVIDING PARTNERS.—For purposes of this subsection, an investment services partnership interest shall not be treated as a qualified capital interest to the extent that such interest is acquired in connection with the proceeds of any loan or other advance made or guaranteed, directly or indirectly, by any other partner or the partnership (or any person related to any such other partner or the partnership). The preceding sentence shall not apply to the extent the loan or other advance is repaid before the date of the enactment of this section unless such repayment is made with the proceeds of a loan or other advance described in the preceding sentence.

“(B) REDUCTION IN ALLOCATIONS TO QUALIFIED CAPITAL INTERESTS FOR LOANS FROM NONSERVICE-PROVIDING PARTNERS TO THE PARTNERSHIP.—For purposes of this subsection, any loan or other advance to the partnership made or guaranteed, directly or indirectly, by a partner not providing services described in subsection (c)(1) to the partnership (or any person related to such partner) shall be taken into account in determining the qualified
capital interests of the partners in the partnership.

“(e) Other Income and Gain in Connection with Investment Management Services.—

“(1) In General.—If—

“(A) a person performs (directly or indirectly) investment management services for any entity,

“(B) such person holds (directly or indirectly) a disqualified interest with respect to such entity, and

“(C) the value of such interest (or payments thereunder) is substantially related to the amount of income or gain (whether or not realized) from the assets with respect to which the investment management services are performed,

any income or gain with respect to such interest shall be treated as ordinary income. Rules similar to the rules of subsections (a)(4) and (d) shall apply for purposes of this subsection.

“(2) Definitions.—For purposes of this subsection—

“(A) Disqualified Interest.—
“(i) IN GENERAL.—The term ‘disqualified interest’ means, with respect to any entity—

“(I) any interest in such entity other than indebtedness,

“(II) convertible or contingent debt of such entity,

“(III) any option or other right to acquire property described in subclause (I) or (II), and

“(IV) any derivative instrument entered into (directly or indirectly) with such entity or any investor in such entity.

“(ii) EXCEPTIONS.—Such term shall not include—

“(I) a partnership interest,

“(II) except as provided by the Secretary, any interest in a taxable corporation, and

“(III) except as provided by the Secretary, stock in an S corporation.

“(B) TAXABLE CORPORATION.—The term ‘taxable corporation’ means—

“(i) a domestic C corporation, or
“(ii) a foreign corporation substantially all of the income of which is—

“(I) effectively connected with the conduct of a trade or business in the United States, or

“(II) subject to a comprehensive foreign income tax (as defined in section 457A(d)(2)).

“(C) INVESTMENT MANAGEMENT SERVICES.—The term ‘investment management services’ means a substantial quantity of any of the services described in subsection (c)(1).

“(f) REGULATIONS.—The Secretary shall prescribe such regulations or other guidance as is necessary or appropriate to carry out the purposes of this section, including regulations or other guidance to—

“(1) provide modifications to the application of this section (including treating related persons as not related to one another) to the extent such modification is consistent with the purposes of this section,

“(2) prevent the avoidance of the purposes of this section, and

“(3) coordinate this section with the other provisions of this title.
“(g) SPECIAL RULES FOR INDIVIDUALS.—In the case of an individual—

“(1) IN GENERAL.—Subsection (a)(1) shall apply only to the applicable percentage of the net income or net loss referred to in such subsection.

“(2) DISPOSITIONS, ETC.—The amount which (but for this paragraph) would be treated as ordinary income by reason of subsection (b) or (e) shall be the applicable percentage of such amount.

“(3) PRO RATA ALLOCATION TO ITEMS.—For purposes of applying subsections (a) and (e), the aggregate amount treated as ordinary income for any such taxable year shall be allocated ratably among the items of income, gain, loss, and deduction taken into account in determining such amount.

“(4) SPECIAL RULE FOR RECOGNITION OF GAIN.—Gain which (but for this section) would not be recognized shall be recognized by reason of subsection (b) only to the extent that such gain is treated as ordinary income after application of paragraph (2).

“(5) COORDINATION WITH LIMITATION ON LOSSES.—For purposes of applying paragraph (2) of subsection (a) with respect to any net loss for any taxable year—
“(A) such paragraph shall only apply with respect to the applicable percentage of such net loss for such taxable year,

“(B) in the case of a prior partnership taxable year referred to in clause (i) or (ii) of subparagraph (A) of such paragraph, only the applicable percentage (as in effect for such prior taxable year) of net income or net loss for such prior partnership taxable year shall be taken into account, and

“(C) any net loss carried forward to the succeeding partnership taxable year under subparagraph (B) of such paragraph shall—

“(i) be taken into account in such succeeding year without reduction under this subsection, and

“(ii) in lieu of being taken into account as an item of loss in such succeeding year, shall be taken into account—

“(I) as an increase in net loss or as a reduction in net income (including below zero), as the case may be, and
“(II) after any reduction in the amount of such net loss or net income under this subsection.

A rule similar to the rule of the preceding sentence shall apply for purposes of subsection (b)(2)(A).

“(6) Coordination with treatment of dividends.—Subsection (a)(4) shall only apply to the applicable percentage of dividends described therein.

“(7) Applicable percentage.—For purposes of this subsection—

“(A) In general.—Except as provided in subparagraphs (B) and (C), the term ‘applicable percentage’ means 75 percent.

“(B) Exception for disposition of assets held by investment services partnerships at least 5 years.—The applicable percentage shall be 50 percent with respect to any net income or net loss under subsection (a)(1) which is properly allocable to gain or loss from the disposition (or a distribution under subsection (b)(5)) of any asset (other than an investment services partnership interest) which has been held by the investment services partnership for at least 5 years.
“(C) Exception for disposition of investment services partnership interests held at least 5 years.—

“(i) In general.—The applicable percentage shall be 50 percent with respect to—

“(I) net income or net loss under subsection (a)(1) which is properly allocable to gain or loss from the disposition (or a distribution under subsection (b)(5)) of an investment services partnership interest which has been held at least 5 years, and

“(II) gain or loss under subsection (b) on the disposition of an investment services partnership interest which has been held for at least 5 years, but only to the extent such gain or loss is attributable to assets held by the investment services partnership for at least 5 years.

“(ii) Application in the case of tiered partnerships, etc.—For purposes of determining whether the assets of
the investment services partnership have been held for at least 5 years under clause (i), an investment services partnership shall be treated as owning its proportionate share of the property of any other partnership in which it has held an investment services partnership interest for at least 5 years.

“(iii) REGULATIONS.—The Secretary may by regulation or other guidance extend the application of clause (ii) to entities other than investment services partnerships if necessary to prevent the avoidance of the purposes of this subparagraph.

“(D) TREATMENT OF GOODWILL AND OTHER SECTION 197 INTANGIBLES.—For purposes of this paragraph, in the case of any section 197 intangible of an entity through which services described in subparagraphs (A) through (D) of subsection (c)(1) are directly or indirectly provided—

“(i) the holding period of such intangible shall not be less than the holding period of the investment services partnership interest in the partnership, and
“(ii) the value of such intangible shall be determined in a manner consistent with
the regulations described in subparagraph (E).

“(E) VALUATION METHODS.—The Secretary shall prescribe regulations or guidance
which provide—

“(i) the acceptable valuation methods for purposes of this subparagraph, except
that such methods shall not include any valuation method which is inconsistent
with the method used by the taxpayer for other purposes (including reporting asset
valuations to partners or potential partners in the partnership or any related part-

ship) if such inconsistent valuation method would result in the treatment of a greater
amount of gain as attributable to a section 197 intangible than would result under the
valuation method used by the taxpayer for such other purposes,

“(ii) circumstances under which valu-
ations are sufficiently independent to pro-
vide an accurate determination of fair mar-
ket value, and
“(iii) any information required to be furnished to the Secretary by the parties to the disposition with respect to such valuation.

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

“(i) INVESTMENT SERVICES PARTNERSHIP.—The term ‘investment services partnership’ means, with respect to any investment services partnership interest, the entity in which such interest is held.

“(ii) SECTION 197 INTANGIBLE.—The term ‘section 197 intangible’ has the meaning given such term in section 197(d).

“(iii) APPLICATION TO DISQUALIFIED INTERESTS.—Rules similar to the rules of this paragraph shall apply with respect to income or gain with respect to a disqualified interest under subsection (e).

“(h) CROSS REFERENCE.—For 40 percent penalty on certain underpayments due to the avoidance of this section, see section 6662.”.

(b) TREATMENT FOR PURPOSES OF SECTION 7704.—Subsection (d) of section 7704 is amended by adding at the end the following new paragraph:
“(6) INCOME FROM INVESTMENT SERVICES

PARTNERSHIP INTERESTS NOT QUALIFIED.—

“(A) IN GENERAL.—Items of income and

gain shall not be treated as qualifying income

if such items are treated as ordinary income by

reason of the application of section 710 (relat-

ing to special rules for partners providing in-

vestment management services to partnership).

The preceding sentence shall not apply to any

item described in paragraph (1)(E) (or so much

of paragraph (1)(F) as relates to paragraph

(1)(E)).

“(B) SPECIAL RULES FOR CERTAIN PART-

NERSHIPS.—

“(i) CERTAIN PARTNERSHIPS OWNED

BY REAL ESTATE INVESTMENT TRUSTS.—

Subparagraph (A) shall not apply in the

case of a partnership which meets each of

the following requirements:

“(I) Such partnership is treated

as publicly traded under this section

solely by reason of interests in such

partnership being convertible into in-

terests in a real estate investment

trust which is publicly traded.
“(II) 50 percent or more of the capital and profits interests of such partnership are owned, directly or indirectly, at all times during the taxable year by such real estate investment trust (determined with the application of section 267(c)).

“(III) Such partnership meets the requirements of paragraphs (2), (3), and (4) of section 856(c).

“(ii) Certain partnerships owning other publicly traded partnerships.—Subparagraph (A) shall not apply in the case of a partnership which meets each of the following requirements:

“(I) Substantially all of the assets of such partnership consist of interests in one or more publicly traded partnerships (determined without regard to subsection (b)(2)).

“(II) Substantially all of the income of such partnership is ordinary income or section 1231 gain (as defined in section 1231(a)(3)).
“(C) Transitional rule.—Subparagraph (A) shall not apply to any taxable year of the partnership beginning before the date which is 10 years after the date of the enactment of this paragraph.”.

(e) Imposition of Penalty on Underpayments.—

(1) In general.—Subsection (b) of section 6662 is amended by inserting after paragraph (7) the following new paragraph:

“(8) The application of subsection (e) of section 710, the regulations or other guidance prescribed under section 710(f) to prevent the avoidance of the purposes of section 710, or the regulations or other guidance prescribed under section 710(g)(7)(E).”.

(2) Amount of penalty.—

(A) In general.—Section 6662 is amended by adding at the end the following new subsection:

“(k) Increase in penalty in case of property transferred for investment management services.—In the case of any portion of an underpayment to which this section applies by reason of subsection (b)(8), subsection (a) shall be applied with respect to such portion by substituting ‘40 percent’ for ‘20 percent’.”.
(B) CONFORMING AMENDMENT.—Subparagraph (B) of section 6662A(c)(2) is amended by striking “or (i)” and inserting “, (i), or (k)”.

(3) SPECIAL RULES FOR APPLICATION OF REASONABLE CAUSE EXCEPTION.—Subsection (c) of section 6664 is amended—

(A) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively;

(B) by striking “paragraph (3)” in paragraph (5)(A), as so redesignated, and inserting “paragraph (4)”;

and

(C) by inserting after paragraph (2) the following new paragraph:

“(3) SPECIAL RULE FOR UNDERPAYMENTS ATTRIBUTABLE TO INVESTMENT MANAGEMENT SERVICES.—

“(A) IN GENERAL.—Paragraph (1) shall not apply to any portion of an underpayment to which section 6662 applies by reason of subsection (b)(8) unless—

“(i) the relevant facts affecting the tax treatment of the item are adequately disclosed,

“(ii) there is or was substantial authority for such treatment, and
“(iii) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

“(B) Rules relating to reasonable belief.—Rules similar to the rules of subsection (d)(3) shall apply for purposes of subparagraph (A)(iii).”.

(d) Income and Loss From Investment Services Partnership Interests Taken Into Account in Determining Net Earnings From Self-Employment.—

(1) Internal Revenue Code.—Section 1402(a) is amended by striking “and” at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting “; and”, and by inserting after paragraph (17) the following new paragraph:

“(18) notwithstanding the preceding provisions of this subsection, in the case of any individual engaged in the trade or business of providing services described in section 710(c)(1) with respect to any entity, any amount treated as ordinary income or ordinary loss of such individual under section 710 with respect to such entity shall be taken into account in determining the net earnings from self-employment of such individual.”.
(2) Social Security Act.—Section 211(a) of the Social Security Act is amended by striking “and” at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting “; and”, and by inserting after paragraph (16) the following new paragraph:

“(17) Notwithstanding the preceding provisions of this subsection, in the case of any individual engaged in the trade or business of providing services described in section 710(c)(1) of the Internal Revenue Code of 1986 with respect to any entity, any amount treated as ordinary income or ordinary loss of such individual under section 710 of such Code with respect to such entity shall be taken into account in determining the net earnings from self-employment of such individual.”.

(e) Conforming Amendments.—

(1) Subsection (d) of section 731 is amended by inserting “section 710(b)(4) (relating to distributions of partnership property),” after “to the extent otherwise provided by”.

(2) Section 741 is amended by inserting “or section 710 (relating to special rules for partners providing investment management services to partnership)” before the period at the end.
(3) The table of sections for part I of sub-
chapter K of chapter 1 is amended by adding at the 
end the following new item:

“Sec. 710. Special rules for partners providing investment management services to partnership.”.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise pro-
vided in this subsection, the amendments made by 
this section shall apply to taxable years ending after 
December 31, 2010.

(2) PARTNERSHIP TAXABLE YEARS WHICH IN-
CLUDE EFFECTIVE DATE.—In applying section 
710(a) of the Internal Revenue Code of 1986 (as 
added by this section) in the case of any partnership 
taxable year which includes December 31, 2010, the 
amount of the net income referred to in such section 
shall be treated as being the lesser of the net income 
for the entire partnership taxable year or the net in-
come determined by only taking into account items 
attributable to the portion of the partnership taxable 
year which is after such date.

(3) DISPOSITIONS OF PARTNERSHIP INTER-
ESTS.—Section 710(b) of the Internal Revenue Code 
of 1986 (as added by this section) shall apply to dis-
positions and distributions after December 31, 2010.
(4) Other income and gain in connection with investment management services.—Section 710(e) of such Code (as added by this section) shall take effect on December 31, 2010.

Subtitle B—Corporate Provisions

Subtitle B—Corporate Provisions

SEC. 411. TREATMENT OF SECURITIES OF A CONTROLLED CORPORATION EXCHANGED FOR ASSETS IN CERTAIN REORGANIZATIONS.

(a) In General.—Section 361 (relating to non-recognition of gain or loss to corporations; treatment of distributions) is amended by adding at the end the following new subsection:

“(d) Special Rules for Transactions Involving Section 355 Distributions.—In the case of a reorganization described in section 368(a)(1)(D) with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355—

“(1) this section shall be applied by substituting ‘stock other than nonqualified preferred stock (as defined in section 351(g)(2))’ for ‘stock or securities’ in subsections (a) and (b)(1), and

“(2) the first sentence of subsection (b)(3) shall apply only to the extent that the sum of the money and the fair market value of the other property...
transferred to such creditors does not exceed the adjusted bases of such assets transferred (reduced by the amount of the liabilities assumed (within the meaning of section 357(c))).”.

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 361(b) is amended by striking the last sentence.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to exchanges after December 31, 2010.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any exchange pursuant to a transaction which is—

(A) made pursuant to a written agreement which was binding on December 31, 2010, and at all times thereafter;

(B) described in a ruling request submitted to the Internal Revenue Service on or before July 29, 2010; or

(C) described on or before December 31, 2010, in a public announcement or in a filing with the Securities and Exchange Commission.
SEC. 412. TAXATION OF BOOT RECEIVED IN REORGANIZATIONS.

(a) In General.—Paragraph (2) of section 356(a) is amended—

(1) by striking “If an exchange” and inserting “Except as otherwise provided by the Secretary— “(A) In General.—If an exchange”;

(2) by striking “then there shall be” and all that follows through “February 28, 1913” and inserting “then the amount of other property or money shall be treated as a dividend to the extent of the earnings and profits of the corporation”; and

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

“(B) Certain Reorganizations.—In the case of a reorganization described in section 368(a)(1)(D) to which section 354(b)(1) applies or any other reorganization specified by the Secretary, in applying subparagraph (A)—

“(i) the earnings and profits of each corporation which is a party to the reorganization shall be taken into account, and

“(ii) the amount which is a dividend (and source thereof) shall be determined under rules similar to the rules of paragraphs (2) and (5) of section 304(b).”.”
(b) Earnings and Profits.—Paragraph (7) of section 312(n) is amended by adding at the end the following: “A similar rule shall apply to an exchange to which section 356(a)(1) applies.”.

(c) Conforming Amendment.—Paragraph (1) of section 356(a) is amended by striking “then the gain” and inserting “then (except as provided in paragraph (2)) the gain”.

(d) Effective Date.—

(1) In General.—Except as provided in paragraph (2), the amendments made by this section shall apply to exchanges after December 31, 2010.

(2) Transition Rules.—

(A) In General.—The amendments made by this section shall not apply to any exchange between unrelated persons pursuant to a transaction which is—

(i) made pursuant to a written agreement which was binding on December 31, 2010, and at all times thereafter;

(ii) described in a ruling request submitted to the Internal Revenue Service on or before July 29, 2010; or

(iii) described in a public announcement or filing with the Securities and Ex-
change Commission on or before December 31, 2010.

(B) Special rule.—The amendments made by this section shall not apply to an exchange described in subparagraph (C) if the exchange is completed before the date which is 1 year after the acquisition described in subparagraph (C) occurred.

(C) Applicable exchanges.—An exchange is described in this subparagraph if subparagraph (A) does not apply to such exchange and it—

(i)(I) is in connection with an acquisition between unrelated persons which occurred before July 29, 2010; and

(II) was evidenced by written documentation in existence before such acquisition occurred; or

(ii)(I) is in connection with an acquisition between unrelated persons with respect to which there was a written agreement, ruling request, public announcement, or filing which meets the requirements of clauses (i), (ii), or (iii) of subparagraph (A); and
(II) was evidenced by written documentation in existence before July 29, 2010.

(3) RELATED PERSONS.—For purposes of this subsection, a person shall be treated as related to another person if the relationship between such persons is described in section 267 or 707(b) of the Internal Revenue Code of 1986.

Subtitle C—Other Provisions

SEC. 421. MODIFICATIONS WITH RESPECT TO OIL SPILL LIABILITY TRUST FUND.

(a) EXTENSION OF APPLICATION OF OIL SPILL LIABILITY TRUST FUND FINANCING RATE.—Paragraph (2) of section 4611(f) is amended by striking “December 31, 2017” and inserting “December 31, 2020”.

(b) INCREASE IN OIL SPILL LIABILITY TRUST FUND FINANCING RATE.—Subparagraph (B) of section 4611(c)(2) is amended to read as follows:

“(B) the Oil Spill Liability Trust Fund financing rate is 78 cents a barrel.”.

(c) INCREASE IN PER INCIDENT LIMITATIONS ON EXPENDITURES.—Subparagraph (A) of section 9509(c)(2) is amended—

(1) by striking “$1,000,000,000” in clause (i) and inserting “$5,000,000,000”;


(2) by striking “$500,000,000” in clause (ii) and inserting “$2,500,000,000”; and

(3) by striking “$1,000,000,000 PER INCIDENT, ETC” in the heading and inserting “PER INCIDENT LIMITATIONS”.

(d) **Effective Date.**—

(1) **Extension of Financing Rate.**—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) **Increase in Financing Rate.**—The amendment made by subsection (b) shall apply to crude oil received and petroleum products entered during calendar quarters beginning more than 60 days after the date of the enactment of this Act.

**SEC. 422. DENIAL OF DEDUCTION FOR PUNITIVE DAMAGES.**

(a) **Disallowance of Deduction for Punitive Damages.**—

(1) **In General.**—Section 162(g) (relating to treble damage payments under the antitrust laws) is amended—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(B) by striking “If” and inserting:

“(1) **Treble Damages.**—If”,
(C) by adding at the end the following new paragraph:

“(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).”.

(2) CONFORMING AMENDMENT.—The heading for section 162(g) is amended by inserting “Or Punitive Damages” after “Laws”.

(b) INCLUSION IN INCOME OF PUNITIVE DAMAGES PAID BY INSURER OR OTHERWISE.—

(1) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end the following new section:

“SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSURANCE OR OTHERWISE.

“Gross income shall include any amount paid to or on behalf of a taxpayer as insurance or otherwise by reason of the taxpayer’s liability (or agreement) to pay punitive damages.”.
(2) REPORTING REQUIREMENTS.—Section 6041 (relating to information at source) is amended by adding at the end the following new subsection:

“(k) SECTION TO APPLY TO PUNITIVE DAMAGES COMPENSATION.—This section shall apply to payments by a person to or on behalf of another person as insurance or otherwise by reason of the other person’s liability (or agreement) to pay punitive damages.”.

(3) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end the following new item:

“Sec. 91. Punitive damages compensated by insurance or otherwise.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to damages paid or incurred after December 31, 2011.

TITLE V—HEALTH AND OTHER ASSISTANCE

SEC. 501. EXTENSION OF SECTION 508 RECLASSIFICATIONS.

(a) IN GENERAL.—Section 106(a) 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), section 124 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275), and sections 3137(a) and 10317 of Public Law 111–
148, is amended by striking “September 30, 2010” and inserting “September 30, 2011”.

(b) CONFORMING AMENDMENT.—Section 117(a)(3) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), is amended by inserting “in fiscal years 2008 and 2009” after “For purposes of implementation of this subsection”.

SEC. 502. REPEAL OF DELAY OF RUG-IV.

Effective as if included in the enactment of Public Law 111–148, section 10325 of such Act is repealed.

SEC. 503. LIMITATION ON REASONABLE COSTS PAYMENTS FOR CERTAIN CLINICAL DIAGNOSTIC LABORATORY TESTS FURNISHED TO HOSPITAL PATIENTS IN CERTAIN RURAL AREAS.

Section 3122 of Public Law 111–148 is repealed and the provision of law amended by such section is restored as if such section had not been enacted.

SEC. 504. FUNDING FOR CLAIMS REPROCESSING.

For purposes of carrying out the provisions of, and amendments made by, this Act that relate to title XVIII of the Social Security Act, and other provisions of such title that involve reprocessing of claims, 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, $175,000,000. Amounts appropriated under the preceding sentence shall remain available until expended.

SEC. 505. MEDICAID AND CHIP TECHNICAL CORRECTIONS.

(a) Repeal of Exclusion of Certain Individuals and Entities From Medicaid.—Section 6502 of Public Law 111–148 is repealed and the provisions of law amended by such section are restored as if such section had never been enacted. Nothing in the previous sentence shall affect the execution or placement of the insertion made by section 6503 of such Act.

(b) Income Level for Certain Children Under Medicaid.—Effective as if included in the enactment of Public Law 111–148, section 2001(a)(5)(B) of such Act is amended by striking all that follows “is amended” and inserting the following: “by inserting after ‘100 percent’ the following: ‘(or, beginning January 1, 2014, 133 percent)’.”

(c) Calculation and Publication of Payment Error Rate Measurement for Certain Years.—Section 601(b) of the Children’s Health Insurance Program Reauthorization Act of 2009 (Public Law 111–3) is amended by adding at the end the following: “The Secretary is not required under this subsection to calculate
or publish a national or a State-specific error rate for fiscal year 2009 or fiscal year 2010.”.

(d) Corrections to Exceptions to Exclusion of Children of Certain Employees.—Section 2110(b)(6) of the Social Security Act (42 U.S.C. 1397jj(b)(6)) is amended—

(1) in subparagraph (B)—

(A) by striking “PER PERSON” in the heading; and

(B) by striking “each employee” and inserting “employees”; and

(2) in subparagraph (C), by striking “, on a case-by-case basis,”.

(e) Electronic Health Records.—Effective as if included in the enactment of section 4201(a)(2) of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5), section 1903(t) of the Social Security Act (42 U.S.C. 1396b(t)) is amended—

(1) in paragraph (3)(E), by striking “reduced by any payment that is made to such Medicaid provider from any other source (other than under this subsection or by a State or local government)” and inserting “reduced by the average payment the Secretary estimates will be made to such Medicaid providers (determined on a percentage or other basis...
for such classes or types of providers as the Secretary may specify) from other sources (other than under this subsection, or by the Federal government or a State or local government’’; and

(2) in paragraph (6)(B), by inserting before the period the following: “and shall be determined to have met such responsibility to the extent that the payment to the Medicaid provider is not in excess of 85 percent of the net average allowable cost”.

(f) **Native American Technical Correction.**—

Effective as if included in the enactment of the Patient Protection and Affordable Care Act (Public Law 111–148), section 1101(d)(2) of such Act (42 U.S.C. 18001(d)(2)) is amended by inserting after “of this Act” the following: “but applied without regard to subparagraph (F) of such section”.

(g) **Corrections of Designations.**—

(1) Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended—

(A) in subsection (a)(10), in the matter following subparagraph (G), by striking “and” before “(XVI) the medical” and by striking “(XVI) if” and inserting “(XVII) if”; and

(B) in subsection (ii)(2), by striking “(XV)” and inserting “(XVI)”.

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(2) Section 2107(e)(1) of the Social Security Act (42 U.S.C. 1397gg(e)(1)) is amended by redesignating the subparagraph (N) of that section added by 2101(e) of Public Law 111–148 as subparagraph (O).

SEC. 506. ADDITION OF INPATIENT DRUG DISCOUNT PROGRAM TO 340B DRUG DISCOUNT PROGRAM.

(a) Addition of Inpatient Drug Discount.—

Title III of the Public Health Service Act is amended by inserting after section 340B (42 U.S.C. 256b) the following:

“SEC. 340B–1. DISCOUNT INPATIENT DRUGS FOR INDIVIDUALS WITHOUT PRESCRIPTION DRUG COVERAGE.

“(a) Requirements for Agreements With the Secretary.—

“(1) In general.—

“(A) Agreement.—The Secretary shall enter into an agreement with each manufacturer of covered inpatient drugs under which the amount required to be paid (taking into account any rebate or discount, as provided by the Secretary) to the manufacturer for covered inpatient drugs (other than drugs described in paragraph (3)) purchased by a covered entity

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on or after January 1, 2011, does not exceed
an amount equal to the average manufacturer
price for the drug under title XIX of the Social
Security Act in the preceding calendar quarter,
reduced by the rebate percentage described in
paragraph (2). For a covered inpatient drug
that also is a covered outpatient drug under
section 340B, the amount required to be paid
under the preceding sentence shall be equal to
the amount required to be paid under section
340B(a)(1) for such drug. The agreement with
a manufacturer under this subparagraph may,
at the discretion of the Secretary, be included
in the agreement with the same manufacturer
under section 340B.

“(B) CEILING PRICE.—Each such agree-
ment shall require that the manufacturer fur-
nish the Secretary with reports, on a quarterly
basis, of the price for each covered inpatient
drug subject to the agreement that, according
to the manufacturer, represents the maximum
price that covered entities may permissibly be
required to pay for the drug (referred to in this
section as the ‘ceiling price’), and shall require
that the manufacturer offer each covered entity
covered inpatient drugs for purchase at or below the applicable ceiling price if such drug is made available to any other purchaser at any price.

“(C) ALLOCATION METHOD.—Each such agreement shall require that, if the supply of a covered inpatient drug is insufficient to meet demand, then the manufacturer may use an allocation method that is reported in writing to, and approved by, the Secretary and does not discriminate on the basis of the price paid by covered entities or on any other basis related to the participation of an entity in the program under this section.

“(2) Rebate percentage defined.—

“(A) In general.—For a covered inpatient drug purchased in a calendar quarter, the ‘rebate percentage’ is the amount (expressed as a percentage) equal to—

“(i) the average total rebate required under section 1927(c) of the Social Security Act (or the average total rebate that would be required if the drug were a covered outpatient drug under such section) with respect to the drug (for a unit of the
dosage form and strength involved) during the preceding calendar quarter; divided by

“(ii) the average manufacturer price for such a unit of the drug during such quarter.

“(B) OVER THE COUNTER DRUGS.—

“(i) IN GENERAL.—For purposes of subparagraph (A), in the case of over the counter drugs, the ‘rebate percentage’ shall be determined as if the rebate required under section 1927(e) of the Social Security Act is based on the applicable percentage provided under section 1927(e)(3) of such Act.

“(ii) DEFINITION.—The term ‘over the counter drug’ means a drug that may be sold without a prescription and which is prescribed by a physician (or other persons authorized to prescribe such drug under State law).

“(3) DRUGS PROVIDED UNDER STATE MEDICAID PLANS.—Drugs described in this paragraph are drugs purchased by the entity for which payment is made by the State under the State plan for med-
ical assistance under title XIX of the Social Security Act.

“(4) Requirements for covered entities.—

“(A) Prohibiting duplicate discounts or rebates.—

“(i) In general.—A covered entity shall not request payment under title XIX of the Social Security Act for medical assistance described in section 1905(a)(12) of such Act with respect to a covered inpatient drug that is subject to an agreement under this section if the drug is subject to the payment of a rebate to the State under section 1927 of such Act.

“(ii) Establishment of mechanism.—The Secretary shall establish a mechanism to ensure that covered entities comply with clause (i). If the Secretary does not establish a mechanism under the previous sentence within 12 months of the enactment of this section, the requirements of section 1927(a)(5)(C) of the Social Security Act shall apply.
“(iii) Prohibiting disclosure to group purchasing organizations.—In the event that a covered entity is a member of a group purchasing organization, such entity shall not disclose the price or any other information pertaining to any purchases under this section directly or indirectly to such group purchasing organization. Information pertaining to the price or to any purchases under this section does not include information about the safety and effectiveness characteristics of a covered inpatient drug.

“(B) Prohibiting resale, dispensing, or administration of drugs except to certain patients.—With respect to any covered inpatient drug that is subject to an agreement under this subsection, a covered entity shall not dispense, administer, resell, or otherwise transfer the covered inpatient drug to a person unless—

“(i) such person is a patient who is an inpatient of the entity; and

“(ii) such person does not have health plan coverage (as defined in subsection
(c)(3)) that provides prescription drug coverage in the inpatient setting with respect to such covered inpatient drug.

For purposes of clause (ii), a person shall be treated as having health plan coverage (as defined in subsection (c)(3)) with respect to a covered inpatient drug if benefits are not payable under such coverage with respect to such drug for reasons such as the application of a deductible or cost sharing or the use of utilization management.

“(C) AUDITING.—A covered entity shall permit the Secretary and the manufacturer of a covered inpatient drug that is subject to an agreement under this subsection with the entity (acting in accordance with procedures established by the Secretary relating to the number, duration, and scope of audits) to audit at the Secretary’s or the manufacturer’s expense the records of the entity that directly pertain to the entity’s compliance with the requirements described in subparagraph (A) or (B) with respect to drugs of the manufacturer. The use or disclosure of information for performance of such an audit shall be treated as a use or disclosure
required by law for purposes of section 164.512(a) of title 45, Code of Federal Regulations.

“(D) ADDITIONAL SANCTION FOR NON-COMPLIANCE.—If the Secretary finds, after notice and hearing, that a covered entity is in violation of a requirement described in subparagraph (A) or (B), the covered entity shall be liable to the manufacturer of the covered inpatient drug that is the subject of the violation in an amount equal to the reduction in the price of the drug (as described in subparagraph (A)) provided under the agreement between the Secretary and the manufacturer under this subsection.

“(E) MAINTENANCE OF RECORDS.—

“(i) IN GENERAL.—A covered entity shall establish and maintain an effective recordkeeping system to comply with this section and shall certify to the Secretary that such entity is in compliance with subparagraphs (A) and (B). The Secretary shall require that hospitals that purchase covered inpatient drugs for inpatient dispensing or administration under this sub-
section appropriately segregate inventory
of such covered inpatient drugs, either
physically or electronically, from drugs for
outpatient use, as well as from drugs for
inpatient dispensing or administration to
individuals who have (for purposes of sub-
paragraph (B)) health plan coverage de-
scribed in clause (ii) of such subparagraph.

“(ii) Certification of No Third-
Party Payer.—A covered entity shall
maintain records that contain certification
by the covered entity that no third party
payment was received for any covered in-
patient drug that is subject to an agree-
ment under this subsection and that was
dispensed to an inpatient.

“(5) Treatment of Distinct Units of Hos-
pitals.—In the case of a covered entity that is a
distinct part of a hospital, the distinct part of the
hospital shall not be considered a covered entity
under this subsection unless the hospital is otherwise
a covered entity under this subsection.

“(6) Notice to Manufacturers.—The Sec-
retary shall notify manufacturers of covered inpa-
tient drugs and single State agencies under section
1902(a)(5) of the Social Security Act of the identities of covered entities under this subsection, and of entities that no longer meet the requirements of paragraph (4), by means of timely updates of the Internet website supported by the Department of Health and Human Services relating to this section.

“(7) NO PROHIBITION ON LARGER DISCOUNT.—Nothing in this subsection shall prohibit a manufacturer from charging a price for a drug that is lower than the maximum price that may be charged under paragraph (1).

“(b) COVERED ENTITY DEFINED.—In this section, the term ‘covered entity’ means an entity that meets the requirements described in subsection (a)(4) that has applied for and enrolled in the program described under this section and is one of the following:

“(1) A subsection (d) hospital (as defined in section 1886(d)(1)(B) of the Social Security Act) that—

“(A) is owned or operated by a unit of State or local government, is a public or private non-profit corporation which is formally granted governmental powers by a unit of State or local government, or is a private nonprofit hospital which has a contract with a State or local gov-
ernment to provide health care services to low
income individuals who are not entitled to bene-
fits under title XVIII of the Social Security Act
or eligible for assistance under the State plan
for medical assistance under title XIX of such
Act; and

“(B) for the most recent cost reporting pe-
riod that ended before the calendar quarter in-
volved, had a disproportionate share adjustment
percentage (as determined using the method-
ology under section 1886(d)(5)(F) of the Social
Security Act as in effect on the date of enact-
ment of this section) greater than 20.20 percent
or was described in section 1886(d)(5)(F)(i)(II)
of such Act (as so in effect on the date of en-
actment of this section).

“(2) A children’s hospital excluded from the
Medicare prospective payment system pursuant to
section 1886(d)(1)(B)(iii) of the Social Security Act
that would meet the requirements of paragraph (1),
including the disproportionate share adjustment per-
centage requirement under subparagraph (B) of
such paragraph, if the hospital were a subsection (d)
hospital as defined by section 1886(d)(1)(B) of the
Social Security Act.
“(3) A free-standing cancer hospital excluded from the Medicare prospective payment system pursuant to section 1886(d)(1)(B)(v) of the Social Security Act that would meet the requirements of paragraph (1), including the disproportionate share adjustment percentage requirement under subparagraph (B) of such paragraph, if the hospital were a subsection (d) hospital as defined by section 1886(d)(1)(B) of the Social Security Act.

“(4) An entity that is a critical access hospital (as determined under section 1820(c)(2) of the Social Security Act), and that meets the requirements of paragraph (1)(A).

“(5) An entity that is a rural referral center, as defined by section 1886(d)(5)(C)(i) of the Social Security Act, or a sole community hospital, as defined by section 1886(d)(5)(C)(iii) of such Act, and that both meets the requirements of paragraph (1)(A) and has a disproportionate share adjustment percentage equal to or greater than 8 percent.

“(c) OTHER DEFINITIONS.—In this section:

“(1) AVERAGE MANUFACTURER PRICE.—

“(A) IN GENERAL.—The term ‘average manufacturer price’—
“(i) has the meaning given such term in section 1927(k) of the Social Security Act, except that such term shall be applied under this section with respect to covered inpatient drugs in the same manner (as applicable) as such term is applied under such section 1927(k) with respect to covered outpatient drugs (as defined in such section); and

“(ii) with respect to a covered inpatient drug for which there is no average manufacturer price (as defined in clause (i)), shall be the amount determined under regulations promulgated by the Secretary under subparagraph (B).

“(B) RULEMAKING.—The Secretary shall by regulation, in consultation with the Administrator of the Centers for Medicare & Medicaid Services, establish a method for determining the average manufacturer price for covered inpatient drugs for which there is no average manufacturer price (as defined in subparagraph (A)(i)). Regulations promulgated with respect to covered inpatient drugs under the preceding sentence shall provide for the application of
methods for determining the average manufacturer price that are the same as the methods used to determine such price in calculating rebates required for such drugs under an agreement between a manufacturer and a State that satisfies the requirements of section 1927(b) of the Social Security Act, as applicable.

“(2) COVERED INPATIENT DRUG.—

“(A) IN GENERAL.—The term ‘covered inpatient drug’ means a drug—

“(i) that is described in section 1927(k)(2) of the Social Security Act;

“(ii) that notwithstanding paragraph (3)(A) of section 1927(k) of such Act, is prescribed or ordered in connection with an inpatient service provided by a covered entity that is enrolled in the drug discount program under this section and is provided prior to discharge; and

“(iii) is not purchased by the covered entity through or under contract with a group purchasing organization.

“(B) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to affect the program under section 340B.
“(3) HEALTH PLAN COVERAGE.—The term ‘health plan coverage’ means—

“(A) health insurance coverage (as defined in section 2791, and including coverage under a State health benefits risk pool);

“(B) coverage under a group health plan (as defined in such section, and including coverage under a church plan, a governmental plan, or a collectively bargained plan);

“(C) coverage under a Federal health care program (as defined by section 1128B(f) of the Social Security Act); or

“(D) such other health benefits coverage as the Secretary recognizes for purposes of this section.

“(4) MANUFACTURER.—The term ‘manufacturer’ has the meaning given such term in section 1927(k) of the Social Security Act.

“(d) PROGRAM INTEGRITY.—

“(1) MANUFACTURER COMPLIANCE.—

“(A) IN GENERAL.—From amounts appropriated under subsection (f), the Secretary shall provide for improvements in compliance by manufacturers with the requirements of this section in order to prevent overcharges and
other violations of the discounted pricing re-
quirements specified in this section.

“(B) IMPROVEMENTS.—The improvements
described in subparagraph (A) shall include the
following:

“(i) The establishment of a process to
enable the Secretary to verify the accuracy
of ceiling prices calculated by manufactur-
ers under subsection (a)(1) and charged to
covered entities, which shall include the
following:

“(I) Developing and publishing
through an appropriate policy or regu-
latory issuance, precisely defined
standards and methodology for the
calculation of ceiling prices under
such subsection.

“(II) Comparing regularly the
ceiling prices calculated by the Sec-
retary with the quarterly pricing data
that is reported by manufacturers to
the Secretary.

“(III) Conducting periodic moni-
toring of sales transactions by covered
entities.
“(IV) Inquiring into any discrepancies between ceiling prices and manufacturer pricing data that may be identified and taking, or requiring manufacturers to take, corrective action in response to such discrepancies, including the issuance of refunds pursuant to the procedures set forth in clause (ii).

“(ii) The establishment of procedures for manufacturers to issue refunds to covered entities in the event that there is an overcharge by the manufacturers, including the following:

“(I) Providing the Secretary with an explanation of why and how the overcharge occurred, how the refunds will be calculated, and to whom the refunds will be issued.

“(II) Oversight by the Secretary to ensure that the refunds are issued accurately and within a reasonable period of time.

“(iii) The provision of access through the Internet website supported by the De-
part of Health and Human Services to the applicable ceiling prices for covered inpatient drugs as calculated and verified by the Secretary in accordance with this section, in a manner (such as through the use of password protection) that limits such access to covered entities and adequately assures security and protection of privileged pricing data from unauthorized re-disclosure.

“(iv) The development of a mechanism by which—

“(I) rebates, discounts, or other price concessions provided by manufacturers to other purchasers subsequent to the sale of covered inpatient drugs to covered entities are reported to the Secretary; and

“(II) appropriate credits and refunds are issued to covered entities if such discounts, rebates, or other price concessions have the effect of lowering the applicable ceiling price for the relevant quarter for the drugs involved.
“(v) Selective auditing of manufacturers and wholesalers to ensure the integrity of the drug discount program under this section.

“(vi) The establishment of a requirement that manufacturers and wholesalers use the identification system developed by the Secretary for purposes of facilitating the ordering, purchasing, and delivery of covered inpatient drugs under this section, including the processing of chargebacks for such drugs.

“(vii) The imposition of sanctions in the form of civil monetary penalties, which—

“(I) shall be assessed according to standards and procedures established in regulations to be promulgated by the Secretary not later than January 1, 2011;

“(II) shall not exceed $10,000 per single dosage form of a covered inpatient drug purchased by a covered entity where a manufacturer knowingly charges such covered entity a
price for such drug that exceeds the
celling price under subsection (a)(1);
and

“(III) shall not exceed $100,000
for each instance where a manufac-
turer withholds or provides materially
false information to the Secretary or
to covered entities under this section
or knowingly violates any provision of
this section (other than subsection
(a)(1)).

“(2) COVERED ENTITY COMPLIANCE.—

“(A) IN GENERAL.—From amounts appro-
priated under subsection (f), the Secretary shall
provide for improvements in compliance by cov-
ered entities with the requirements of this sec-
tion in order to prevent diversion and violations
of the duplicate discount provision and other re-
quirements specified under subsection (a)(4).

“(B) IMPROVEMENTS.—The improvements
described in subparagraph (A) shall include the
following:

“(i) The development of procedures to
enable and require covered entities to up-
date at least annually the information on
the Internet website supported by the Department of Health and Human Services relating to this section.

“(ii) The development of procedures for the Secretary to verify the accuracy of information regarding covered entities that is listed on the website described in clause (i).

“(iii) The development of more detailed guidance describing methodologies and options available to covered entities for billing covered inpatient drugs to State Medicaid agencies in a manner that avoids duplicate discounts pursuant to subsection (a)(4)(A).

“(iv) The establishment of a single, universal, and standardized identification system by which each covered entity site and each covered entity’s purchasing status under sections 340B and this section can be identified by manufacturers, distributors, covered entities, and the Secretary for purposes of facilitating the ordering, purchasing, and delivery of covered inpatient drugs under this section, includ-
ing the processing of chargebacks for such
drugs.

“(v) The imposition of sanctions in
the form of civil monetary penalties,
which—

“(I) shall be assessed according
to standards and procedures estab-
lished in regulations promulgated by
the Secretary; and

“(II) shall not exceed $10,000
for each instance where a covered en-
tity knowingly violates subsection
(a)(4)(B) or knowingly violates any
other provision of this section.

“(vi) The termination of a covered en-
tity’s participation in the program under
this section, for a period of time to be de-
determined by the Secretary, in cases in
which the Secretary determines, in accord-
ance with standards and procedures estab-
lished by regulation, that—

“(I) the violation by a covered
entity of a requirement of this section
was repeated and knowing; and
“(II) imposition of a monetary penalty would be insufficient to reasonably ensure compliance with the requirements of this section.

“(vii) The referral of matters, as appropriate, to the Food and Drug Administration, the Office of the Inspector General of the Department of Health and Human Services, or other Federal or State agencies.

“(3) ADMINISTRATIVE DISPUTE RESOLUTION PROCESS.—From amounts appropriated under subsection (f), the Secretary may establish and implement an administrative process for the resolution of the following:

“(A) Claims by covered entities that manufacturers have violated the terms of their agreement with the Secretary under subsection (a)(1).

“(B) Claims by manufacturers that covered entities have violated subsection (a)(4)(A) or (a)(4)(B).

“(e) AUDIT AND SANCTIONS.—

“(1) AUDIT.—From amounts appropriated under subsection (f), the Inspector General of the
Department of Health and Human Services (referred to in this subsection as the ‘Inspector General’) shall audit covered entities under this section to verify compliance with criteria for eligibility and participation under this section, including the antidiversion prohibitions under subsection (a)(4)(B), and take enforcement action or provide information to the Secretary who shall take action to ensure program compliance, as appropriate. A covered entity shall provide to the Inspector General, upon request, records relevant to such audits.

“(2) REPORT.—For each audit conducted under paragraph (1), the Inspector General shall prepare and publish in a timely manner a report which shall include findings and recommendations regarding—

“(A) the appropriateness of covered entity eligibility determinations and, as applicable, certifications;

“(B) the effectiveness of antidiversion prohibitions; and

“(C) the effectiveness of restrictions on inpatient dispensing and administration.

“(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section
such sums as may be necessary for fiscal year 2011 and each succeeding fiscal year.”.

(b) RULEMAKING.—Not later than January 1, 2011, the Secretary shall promulgate regulations implementing section 340B–1 of the Public Health Service Act (as added by subsection (a)).

(c) CONFORMING AMENDMENT TO SECTION 340B.—
Paragraph (1) of section 340B(a) of the Public Health Service Act (42 U.S.C. 256b(a)) is amended by adding at the end the following: “Such agreement shall further require that, if the supply of a covered outpatient drug is insufficient to meet demand, then the manufacturer may use an allocation method that is reported in writing to, and approved by, the Secretary and does not discriminate on the basis of the price paid by covered entities or on any other basis related to the participation of an entity in the program under this section. The agreement with a manufacturer under this paragraph may, at the discretion of the Secretary, be included in the agreement with the same manufacturer under section 340B–1.”.

(d) CONFORMING AMENDMENTS TO MEDICAID.—
Section 1927 of the Social Security Act (42 U.S.C. 1396r–8) is amended—

(1) in subsection (a)—
(A) in paragraph (1), in the first sentence, by striking “and paragraph (6)” and inserting “, paragraph (6), and paragraph (8)”;

(B) by adding at the end the following new paragraph:

“(8) LIMITATION ON PRICES OF DRUGS PURCHASED BY 340B–1-COVERED ENTITIES.—

“(A) Agreement with Secretary.—A manufacturer meets the requirements of this paragraph if the manufacturer has entered into an agreement with the Secretary that meets the requirements of section 340B–1 of the Public Health Service Act with respect to covered in-patient drugs (as defined in such section) purchased by a 340B–1-covered entity on or after January 1, 2011.

“(B) 340B–1-COVERED ENTITY DEFINED.—In this subsection, the term ‘340B–1-covered entity’ means an entity described in section 340B–1(b) of the Public Health Service Act.”; and

(2) in subsection (c)(1)(C)(i)(I)—

(A) by striking “or” before “a covered entity”; and
(B) by inserting before the semicolon the following: “, or a covered entity for a covered inpatient drug (as such terms are defined in section 340B–1 of the Public Health Service Act”).

(e) Clarification of Effective Date.—The amendments made by paragraphs (1) through (3) of section 2302 of Public Law 111–152 shall be effective as if included in the enactment of Public Law 111–148.

SEC. 507. CONTINUED INCLUSION OF ORPHAN DRUGS IN DEFINITION OF COVERED OUTPATIENT DRUGS WITH RESPECT TO CHILDREN’S HOSPITALS UNDER THE 340B DRUG DISCOUNT PROGRAM.

(a) Definition of Covered Outpatient Drug.—

(1) Amendment.—Subsection (e) of section 340B of the Public Health Service Act (42 U.S.C. 256b) is amended by striking “covered entities described in subparagraph (M)” and inserting “covered entities described in subparagraph (M) (other than a children’s hospital described in subparagraph (M))”.

(2) Effective Date.—The amendment made by paragraph (1) shall take effect as if included in the enactment of section 2302 of the Health Care
and Education Reconciliation Act of 2010 (Public Law 111–152).

(b) TECHNICAL AMENDMENT.—Subparagraph (B) of section 1927(a)(5) of the Social Security Act (42 U.S.C. 1396r–8(a)(5)) is amended by striking “and a children’s hospital” and all that follows through the end of the sub-paragraph and inserting a period.

SEC. 508. CONFORMING AMENDMENT RELATED TO WAIVER OF COINSURANCE FOR PREVENTIVE SERVICES.


SEC. 509. CLARIFICATION OF EFFECTIVE DATE OF PART B SPECIAL ENROLLMENT PERIOD FOR DISABLED TRICARE BENEFICIARIES.

Effective as if included in the enactment of Public Law 111–148, section 3110(a)(2) of such Act is amended to read as follows:

“(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to elections made after the date of the enactment of this Act.”.
SEC. 510. ADJUSTMENT TO MEDICARE PAYMENT LOCALITIES.

(a) IN GENERAL.—Section 1848(e) of the Social Security Act (42 U.S.C. 1395w–4(e)) is amended by adding at the end the following new paragraph:

“(6) TRANSITION TO USE OF MSAS AS FEE SCHEDULE AREAS IN CALIFORNIA.—

“(A) IN GENERAL.—

“(i) REVISION.—Subject to clause (ii) and notwithstanding the previous provisions of this subsection, for services furnished on or after January 1, 2012, the Secretary shall revise the fee schedule areas used for payment under this section applicable to the State of California using the Metropolitan Statistical Area (MSA) iterative Geographic Adjustment Factor methodology as follows:

“(I) The Secretary shall configure the physician fee schedule areas using the Metropolitan Statistical Areas (each in this paragraph referred to as an ‘MSA’), as defined by the Director of the Office of Management and Budget as of the date of the en-
actment of this paragraph, as the basis for the fee schedule areas.

“(II) For purposes of this clause, the Secretary shall treat all areas not included in an MSA as a single rest-of-State MSA and any reference in this paragraph to an MSA shall be deemed to include a reference to such rest-of-State MSA.

“(III) The Secretary shall list all MSAs within the State by Geographic Adjustment Factor described in paragraph (2) (in this paragraph referred to as a ‘GAF’) in descending order.

“(IV) In the first iteration, the Secretary shall compare the GAF of the highest cost MSA in the State to the weighted-average GAF of all the remaining MSAs in the State. If the ratio of the GAF of the highest cost MSA to the weighted-average of the GAF of remaining lower cost MSAs is 1.05 or greater, the highest cost MSA shall be a separate fee schedule area.
“(V) In the next iteration, the Secretary shall compare the GAF of the MSA with the second-highest GAF to the weighted-average GAF of the all the remaining MSAs (excluding MSAs that become separate fee schedule areas). If the ratio of the second-highest MSA’s GAF to the weighted-average of the remaining lower cost MSAs is 1.05 or greater, the second-highest MSA shall be a separate fee schedule area.

“(VI) The iterative process shall continue until the ratio of the GAF of the MSA with highest remaining GAF to the weighted-average of the remaining MSAs with lower GAFs is less than 1.05, and the remaining group of MSAs with lower GAFs shall be treated as a single rest-of-State fee schedule area.

“(VII) For purposes of the iterative process described in this clause, if two MSAs have identical GAFs, they shall be combined.
“(ii) TRANSITION.—For services furnished on or after January 1, 2012, and before January 1, 2017, in the State of California, after calculating the work, practice expense, and malpractice geographic indices that would otherwise be determined under clauses (i), (ii), and (iii) of paragraph (1)(A) for a fee schedule area determined under clause (i), if the index for a county within a fee schedule area is less than the index that would otherwise be in effect for such county, the Secretary shall instead apply the index that would otherwise be in effect for such county.

“(B) SUBSEQUENT REVISIONS.—After the transition described in subparagraph (A)(ii), not less than every 3 years the Secretary shall review and update the fee schedule areas using the methodology described in subparagraph (A)(i) and any updated MSAs as defined by the Director of the Office of Management and Budget. The Secretary shall review and make any changes pursuant to such reviews concurrent with the application of the periodic review
of the adjustment factors required under paragraph (1)(C) for California.

“(C) REFERENCES TO FEE SCHEDULE AREAS.—Effective for services furnished on or after January 1, 2012, for the State of California, any reference in this section to a fee schedule area shall be deemed a reference to a fee schedule area established in accordance with this paragraph.”.

(b) CONFORMING AMENDMENT TO DEFINITION OF FEE SCHEDULE AREA.—Section 1848(j)(2) of the Social Security Act (42 U.S.C. 1395w(j)(2)) is amended by striking “The term” and inserting “Except as provided in subsection (e)(6)(C), the term”.

SEC. 511. CLARIFICATION FOR AFFILIATED HOSPITALS FOR DISTRIBUTION OF ADDITIONAL RESIDENCY POSITIONS.

Effective as if included in the enactment of section 5503(a) of Public Law 111–148, section 1886(h)(8) of the Social Security Act (42 U.S.C. 1395ww(h)(8)), as added by such section 5503(a), is amended by adding at the end the following new subparagraph:

“(I) AFFILIATION.—The provisions of this paragraph shall be applied to hospitals which are members of the same affiliated group (as
defined by the Secretary under paragraph (4)(H)(ii)) and the reference resident level for each such hospital shall be the reference resident level with respect to the cost reporting period that results in the smallest difference between the reference resident level and the otherwise applicable resident limit.”.

TITLE VI—OTHER PROVISIONS
Subtitle A—General Provisions

SEC. 601. ALLOCATION OF GEOTHERMAL RECEIPTS.

Notwithstanding any other provision of law, for fiscal year 2010 only, all funds received from sales, bonuses, royalties, and rentals under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) shall be deposited in the Treasury, of which—

(1) 50 percent shall be used by the Secretary of the Treasury to make payments to States within the boundaries of which the leased land and geothermal resources are located;

(2) 25 percent shall be used by the Secretary of the Treasury to make payments to the counties within the boundaries of which the leased land or geothermal resources are located; and

(3) 25 percent shall be deposited in miscellaneous receipts.
SEC. 602. EMPLOYMENT FOR YOUTH.

There is appropriated, out of any funds in the Treasury not otherwise appropriated, for an additional amount for “Department of Labor—Employment and Training Administration—Training and Employment Services” for activities under the Workforce Investment Act of 1998 (‘‘WIA’’), $1,000,000,000 shall be available for obligation on the date of enactment of this Act for grants to States for youth activities, including summer employment for youth: Provided, That no portion of such funds shall be reserved to carry out section 127(b)(1)(A) of the WIA: Provided further, That for purposes of section 127(b)(1)(C)(iv) of the WIA, funds available for youth activities shall be allotted as if the total amount available for youth activities in the fiscal year does not exceed $1,000,000,000: Provided further, That with respect to the youth activities provided with such funds, section 101(13)(A) of the WIA shall be applied by substituting “age 24” for “age 21”: Provided further, That the work readiness performance indicator described in section 136(b)(2)(A)(ii)(I) of the WIA shall be the only measure of performance used to assess the effectiveness of summer employment for youth provided with such funds: Provided further, That an amount that is not more than 1 percent of such amount may be used for the administration, management, and oversight of the programs, activities, and
grants carried out with such funds, including the evaluation of the use of such funds: Provided further, That funds available under the preceding proviso, together with funds described in section 801(a) of division A of the American Recovery and reinvestment Act of 2009 (Public Law 111–5), and funds provided in such Act under the heading “Department of Labor–Departmental Management–Salaries and Expenses”, shall remain available for obligation through September 30, 2011.

SEC. 603. HOUSING TRUST FUND.

(a) FUNDING.—There is hereby appropriated for the Housing Trust Fund established pursuant to section 1338 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4568), $1,065,000,000, for use under such section: Provided, That of the total amount provided under this heading, $65,000,000 shall be available to the Secretary of Housing and Urban Development only for incremental project-based voucher assistance to be allocated to States to be used solely in conjunction with grant funds awarded under such section 1338, pursuant to the formula established under section 1338 and taking into account different per unit subsidy needs among states, as determined by the Secretary.
(b) AMENDMENTS.—Section 1338 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4568) is amended—

(1) in subsection (c)—

(A) in paragraph (4)(A) by inserting after the period at the end the following: “Notwithstanding any other provision of law, for the fiscal year following enactment of this sentence and thereafter, the Secretary may make such notice available only on the Internet at the appropriate government website or websites or through other electronic media, as determined by the Secretary.”;

(B) in paragraph (5)(C), by striking “(8)” and inserting “(9)”;

and

(C) in paragraph (7)(A)—

(i) by striking “section 1335(a)(2)(B)” and inserting “section 1335(a)(1)(B)”;

(ii) by inserting “the units funded under” after “75 percent of”; and

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

“(k) ENVIRONMENTAL REVIEW.—For the purpose of environmental compliance review, funds awarded under
this section shall be subject to section 288 of the HOME
Investment Partnerships Act (12 U.S.C. 12838) and shall
be treated as funds under the program established by such
Act.”.

SEC. 604. THE INDIVIDUAL INDIAN MONEY ACCOUNT LITI-
GATION SETTLEMENT ACT OF 2010.

(a) SHORT TITLE.—This section may be cited as the
“Individual Indian Money Account Litigation Settlement
Act of 2010”.

(b) DEFINITIONS.—In this section:

(1) AMENDED COMPLAINT.—The term
“Amended Complaint” means the Amended Com-
plaint attached to the Settlement.

(2) LAND CONSOLIDATION PROGRAM.—The
term “Land Consolidation Program” means a pro-
gram conducted in accordance with the Settlement
and the Indian Land Consolidation Act (25 U.S.C.
2201 et seq.) under which the Secretary may pur-
chase fractional interests in trust or restricted land.

(3) LITIGATION.—The term “Litigation” means
the case entitled Elouise Cobell et al. v. Ken Salazar
et al., United States District Court, District of Co-
lumbia, Civil Action No. 96–1285 (JR).

(4) PLAINTIFF.—The term “Plaintiff” means a
member of any class certified in the Litigation.
(5) **Secretary.**—The term “Secretary” means the Secretary of the Interior.

(6) **Settlement.**—The term “Settlement” means the Class Action Settlement Agreement dated December 7, 2009, in the Litigation, as modified by the parties to the Litigation.

(7) **Trust Administration Class.**—The term “Trust Administration Class” means the Trust Administration Class as defined in the Settlement.

(c) **Purpose.**—The purpose of this section is to authorize the Settlement.

(d) **Authorization.**—The Settlement is authorized, ratified, and confirmed.

(e) **Jurisdictional Provisions.**—

   (1) **In General.**—Notwithstanding the limitation of jurisdiction of district courts contained in section 1346(a)(2) of title 28, United States Code, the United States District Court for the District of Columbia shall have jurisdiction over the claims asserted in the Amended Complaint for purposes of the Settlement.

   (2) **Certification of Trust Administration Class.**—

      (A) **In General.**—Notwithstanding the requirements of the Federal Rules of Civil Pro-
procedure, the court overseeing the Litigation may
certify the Trust Administration Class.

(B) TREATMENT.—On certification under
subparagraph (A), the Trust Administration
Class shall be treated as a class under Federal
Rule of Civil Procedure 23(b)(3) for purposes
of the Settlement.

(f) TRUST LAND CONSOLIDATION.—

(1) TRUST LAND CONSOLIDATION FUND.—

(A) ESTABLISHMENT.—On final approval
(as defined in the Settlement) of the Settle-
ment, there shall be established in the Treasury
of the United States a fund, to be known as the
“Trust Land Consolidation Fund”.

(B) AVAILABILITY OF AMOUNTS.—
Amounts in the Trust Land Consolidation
Fund shall be made available to the Secretary
during the 10-year period beginning on the date
of final approval of the Settlement—

(i) to conduct the Land Consolidation
Program; and

(ii) for other costs specified in the
Settlement.

(C) DEPOSITS.—
(i) IN GENERAL.—On final approval (as defined in the Settlement) of the Settlement, the Secretary of the Treasury shall deposit in the Trust Land Consolidation Fund $2,000,000,000 of the amounts appropriated by section 1304 of title 31, United States Code.

(ii) CONDITIONS MET.—The conditions described in section 1304 of title 31, United States Code, shall be considered to be met for purposes of clause (i).

(D) TRANSFERS.—In a manner designed to encourage participation in the Land Consolidation Program, the Secretary may transfer, at the discretion of the Secretary, not more than $60,000,000 of amounts in the Trust Land Consolidation Fund to the Indian Education Scholarship Holding Fund established under paragraph 2.

(2) INDIAN EDUCATION SCHOLARSHIP HOLDING FUND.—

(A) ESTABLISHMENT.—On the final approval (as defined in the Settlement) of the Settlement, there shall be established in the Treasury of the United States a fund, to be known
as the “Indian Education Scholarship Holding Fund”.

(B) AVAILABILITY.—Notwithstanding any other provision of law governing competition, public notification, or Federal procurement or assistance, amounts in the Indian Education Scholarship Holding Fund shall be made available, without further appropriation, to the Secretary to contribute to an Indian Education Scholarship Fund, as described in the Settlement, to provide scholarships for Native Americans.

(3) ACQUISITION OF TRUST OR RESTRICTED LAND.—The Secretary may acquire, at the discretion of the Secretary and in accordance with the Land Consolidation Program, any fractional interest in trust or restricted land.

(4) TREATMENT OF UNLOCATABLE PLAINTIFFS.—A Plaintiff the whereabouts of whom are unknown and who, after reasonable efforts by the Secretary, cannot be located during the 5 year period beginning on the date of final approval (as defined in the Settlement) of the Settlement shall be considered to have accepted an offer made pursuant to the Land Consolidation Program.
(g) Taxation and Other Benefits.—

(1) Internal revenue code.—For purposes of the Internal Revenue Code of 1986, amounts received by an individual Indian as a lump sum or a periodic payment pursuant to the Settlement—

(A) shall not be included in gross income; and

(B) shall not be taken into consideration for purposes of applying any provision of the Internal Revenue Code of 1986 that takes into account excludable income in computing adjusted gross income or modified adjusted gross income, including section 86 of that Code (relating to Social Security and tier 1 railroad retirement benefits).

(2) Other benefits.—Notwithstanding any other provision of law, for purposes of determining initial eligibility, ongoing eligibility, or level of benefits under any Federal or federally assisted program, amounts received by an individual Indian as a lump sum or a periodic payment pursuant to the Settlement shall not be treated for any household member, during the 1-year period beginning on the date of receipt—
(A) as income for the month during which the amounts were received; or

(B) as a resource.

SEC. 605. APPROPRIATION OF FUNDS FOR FINAL SETTLEMENT OF CLAIMS FROM IN RE BLACK FARMERS DISCRIMINATION LITIGATION.

(a) DEFINITIONS.—In this section:

(1) SETTLEMENT AGREEMENT.—The term “Settlement Agreement” means the settlement agreement dated February 18, 2010 (including any modifications agreed to by the parties and approved by the court under that agreement) between certain plaintiffs, by and through their counsel, and the Secretary of Agriculture to resolve, fully and forever, the claims raised or that could have been raised in the cases consolidated in In re Black Farmers Discrimination Litigation, No. 08–511 (D.D.C.), including Pigford claims asserted under section 14012 of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 2209).

(2) PIGFORD CLAIM.—The term “Pigford claim” has the meaning given that term in section 14012(a)(3) of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 2210).
(b) Appropriation of Funds.—There is hereby appropriated to the Secretary of Agriculture $1,150,000,000, to remain available until expended, to carry out the terms of the Settlement Agreement if the Settlement Agreement is approved by a court order that is or becomes final and nonappealable. The funds appropriated by this subsection are in addition to the $100,000,000 of funds of the Commodity Credit Corporation made available by section 14012(i) of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 2212) and shall be available for obligation only after those Commodity Credit Corporation funds are fully obligated. If the Settlement Agreement is not approved as provided in this subsection, the $100,000,000 of funds of the Commodity Credit Corporation made available by section 14012(i) of the Food, Conservation, and Energy Act of 2008 shall be the sole funding available for Pigford claims.

(c) Use of Funds.—The use of the funds appropriated by subsection (b) shall be subject to the express terms of the Settlement Agreement.

(d) Treatment of Remaining Funds.—If any of the funds appropriated by subsection (b) are not obligated and expended to carry out the Settlement Agreement, the Secretary of Agriculture shall return the unused funds to
the Treasury and may not make the unused funds available for any purpose related to section 14012 of the Food, Conservation, and Energy Act of 2008, for any other settlement agreement executed in *In re Black Farmers Discrimination Litigation*, No. 08–511 (D.D.C.), or for any other purpose.

(e) Rules of Construction.—Nothing in this section shall be construed as requiring the United States, any of its officers or agencies, or any other party to enter into the Settlement Agreement or any other settlement agreement. Nothing in this section shall be construed as creating the basis for a Pigford claim.

(f) Conforming Amendments.—Section 14012 of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 2209) is amended—

(1) in subsection (c)(1)—

(A) by striking “subsection (h)” and inserting “subsection (g)”; and

(B) by striking “subsection (i)” and inserting “subsection (h)”;

(2) by striking subsection (e);

(3) in subsection (g), by striking “subsection (f)” and inserting “subsection (e)”;

(4) in subsection (i)—
(A) by striking “(1) IN GENERAL.—Of the funds” and inserting “Of the funds”; and

(B) by striking paragraph (2);

(5) by striking subsection (j); and

(6) by redesignating subsections (f), (g), (h), (i), and (k) as subsections (e), (f), (g), (h), and (i), respectively.

SEC. 606. EXPANSION OF ELIGIBILITY FOR CONCURRENT RECEIPT OF MILITARY RETIRED PAY AND VETERANS’ DISABILITY COMPENSATION TO INCLUDE ALL CHAPTER 61 DISABILITY RETIREE REGARDLESS OF DISABILITY RATING PERCENTAGE OR YEARS OF SERVICE.

(a) Phased Expansion Concurrent Receipt.—

Subsection (a) of section 1414 of title 10, United States Code, is amended to read as follows:

“(a) PAYMENT OF BOTH RETIRED PAY AND DISABILITY COMPENSATION.—

“(1) PAYMENT OF BOTH REQUIRED.—

“(A) IN GENERAL.—Subject to subsection (b), a member or former member of the uniformed services who is entitled for any month to retired pay and who is also entitled for that month to veterans’ disability compensation for a qualifying service-connected disability (in this
section referred to as a ‘qualified retiree’) is ent-
titled to be paid both for that month without
regard to sections 5304 and 5305 of title 38.

“(B) APPLICABILITY OF FULL CONCUR-
RENT RECEIPT PHASE-IN REQUIREMENT.—Dur-
ing the period beginning on January 1, 2004,
and ending on December 31, 2013, payment of
retired pay to a qualified retiree is subject to
subsection (c).

“(C) PHASE-IN EXCEPTION FOR 100 PER-
CENT DISABLED RETIREES.—The payment of
retired pay is subject to subsection (c) only dur-
ing the period beginning on January 1, 2004,
and ending on December 31, 2004, in the case
of the following qualified retirees:

“(i) A qualified retiree receiving vet-
erans’ disability compensation for a dis-
ability rated as 100 percent.

“(ii) A qualified retiree receiving vet-
erans’ disability compensation at the rate
payable for a 100 percent disability by rea-
son of a determination of individual
unemployability.

“(D) TEMPORARY PHASE-IN EXCEPTION
FOR CERTAIN CHAPTER 61 DISABILITY RETIR-
EEES; TERMINATION.—Subject to subsection (b), during the period beginning on January 1, 2011, and ending on September 30, 2012, subsection (c) shall not apply to a qualified retiree described in subparagraph (B) or (C) of paragraph (2).

“(2) QUALIFYING SERVICE-CONNECTED DISABILITY DEFINED.—In this section:

“(A) 50 PERCENT RATING THRESHOLD.—

In the case of a member or former member receiving retired pay under any provision of law other than chapter 61 of this title, or under chapter 61 with 20 years or more of service otherwise creditable under section 1405 or computed under section 12732 of this title, the term ‘qualifying service-connected disability’ means a service-connected disability or combination of service-connected disabilities that is rated as not less than 50 percent disabling by the Secretary of Veterans Affairs. However, during the period specified in paragraph (1)(D), members or former members receiving retired pay under chapter 61 with 20 years or more of creditable service computed under section 12732 of this title, but not otherwise entitled to
retired pay under any other provision of this
title, shall qualify in accordance with subpara-
graphs (B) and (C).

“(B) INCLUSION OF MEMBERS NOT OTH-
ERWISE ENTITLED TO RETIRED PAY.—In the
case of a member or former member receiving
retired pay under chapter 61 of this title, but
who is not otherwise entitled to retired pay
under any other provision of this title, the term
‘qualifying service-connected disability’ means a
service-connected disability or combination of
service-connected disabilities that is rated by
the Secretary of Veterans Affairs at the dis-
able level specified in one of the following
clauses (which, subject to paragraph (3), is ef-
fective on or after the date specified in the ap-
licable clause):

“(i) January 1, 2011, rated 100 per-
cent, or a rate payable at 100 percent by
reason of individual unemployability or
rated 90 percent.

“(ii) January 1, 2012, rated 80 per-
cent or 70 percent.

“(iii) January 1, 2013, rated 60 per-
cent or 50 percent.
“(C) Elimination of rating threshold.—In the case of a member or former member receiving retired pay under chapter 61 regardless of being otherwise eligible for retirement, the term ‘qualifying service-connected disability’ means a service-connected disability or combination of service-connected disabilities that is rated by the Secretary of Veterans Affairs at the disabling level specified in one of the following clauses (which, subject to paragraph (3), is effective on or after the date specified in the applicable clause):

“(i) January 1, 2014, rated 40 percent or 30 percent.

“(ii) January 1, 2015, any rating.

“(3) Limited duration.—Notwithstanding the effective date specified in each clause of subparagraphs (B) and (C) of paragraph (2), the clause—

“(A) shall apply only if the termination date specified in paragraph (1)(D) would occur during or after the calendar year specified in the clause; and

“(B) shall not apply beyond the termination date specified in paragraph (1)(D).”.
(b) CONFORMING AMENDMENT TO SPECIAL RULES FOR CHAPTER 61 DISABILITY RETIREES.—Subsection (b) of such section is amended to read as follows:

“(b) SPECIAL RULES FOR CHAPTER 61 DISABILITY RETIREES WHEN ELIGIBILITY HAS BEEN ESTABLISHED FOR SUCH RETIREES.—

“(1) GENERAL REDUCTION RULE.—The retired pay of a member retired under chapter 61 of this title is subject to reduction under sections 5304 and 5305 of title 38, but only to the extent that the amount of the members retired pay under chapter 61 of this title exceeds the amount of retired pay to which the member would have been entitled under any other provision of law based upon the member’s service in the uniformed services if the member had not been retired under chapter 61 of this title.

“(2) CHAPTER 61 RETIREES NOT OTHERWISE ENTITLED TO RETIRED PAY.—

“(A) BEFORE TERMINATION DATE.—If a member with a qualifying service-connected disability (as defined in subsection (a)(2)) is retired under chapter 61 of this title, but is not otherwise entitled to retired pay under any other provision of this title, and the termination date specified in subsection (a)(1)(D) has not
occurred, the retired pay of the member is subject to reduction under sections 5304 and 5305 of title 38, but only to the extent that the amount of the member’s retired pay under chapter 61 of this title exceeds the amount equal to 2½ percent of the member’s years of creditable service multiplied by the member’s retired pay base under section 1406(b)(1) or 1407 of this title, whichever is applicable to the member.

“(B) After termination date.—Subsection (a) does not apply to a member described in subparagraph (A) if the termination date specified in subsection (a)(1)(D) has occurred.”.

(e) Conforming Amendment to Full Concurrent Receipt Phase-in.—Subsection (c) of such section is amended by striking “the second sentence of”.

(d) Clerical Amendments.—

(1) Section heading.—The heading of such section is amended to read as follows:

“§1414. Concurrent receipt of retired pay and veterans’ disability compensation”.

(2) Table of sections.—The table of sections at the beginning of chapter 71 of such title is
amended by striking the item related to section 1414
and inserting the following new item:

“1414. Concurrent receipt of retired pay and veterans’ disability compensa-
tion.”.

(e) EFFECTIVE DATE.—The amendments made by
this section shall take effect on January 1, 2011.

SEC. 607. REFUNDS DISREGARDED IN THE ADMINISTRA-
TION OF FEDERAL PROGRAMS AND FEDER-
ALLY ASSISTED PROGRAMS.

(a) IN GENERAL.—Subchapter A of chapter 65 of the
Internal Revenue Code of 1986 is amended by adding at
the end the following new section:

“SEC. 6409. REFUNDS DISREGARDED IN THE ADMINISTRA-
TION OF FEDERAL PROGRAMS AND FEDER-
ALLY ASSISTED PROGRAMS.

“(a) IN GENERAL.—Notwithstanding any other pro-
vision 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 eligi-
bility of such individual (or any other individual) for bene-
fits 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. 608. QUALIFYING TIMBER CONTRACT OPTIONS.

(a) DEFINITIONS.—In this section:

(1) QUALIFYING CONTRACT.—The term “qualifying contract” means a contract that has not been terminated by the Bureau of Land Management for the sale of timber on lands administered by the Bureau of Land Management that meets all of the following criteria:

(A) The contract was awarded during the period beginning on January 1, 2005, and ending on December 31, 2008.

(B) There is unharvested volume remaining for the contract.

(C) The contract is not a salvage sale.

(D) The Secretary determined there is not an urgent need to harvest under the contract
due to deteriorating timber conditions that developed after the award of the contract.

(2) Secretary.—The term “Secretary” means the Secretary of the Interior, acting through the Director of Bureau of Land Management.

(3) Timber Purchaser.—The term “timber purchaser” means the party to the qualifying contract for the sale of timber from lands administered by the Bureau of Land Management.

(b) Market-related Contract Extension Option.—Upon a timber purchaser’s written request, the Secretary may make a one-time modification to the qualifying contract to add 3 years to the contract expiration date if the written request—

(1) is received by the Secretary not later than 90 days after the date of enactment of this Act; and

(2) contains a provision releasing the United States from all liability, including further consideration or compensation, resulting from the modification under this subsection of the term of a qualifying contract.

(c) Reporting.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to Congress a report detailing a plan and timeline to promulgate new regulations authorizing the Bureau of
Land Management to extend timber contracts due to changes in market conditions.

(d) Regulations.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall promulgate new regulations authorizing the Bureau of Land Management to extend timber contracts due to changes in market conditions.

(e) No Surrender of Claims.—This section shall not have the effect of surrendering any claim by the United States against any timber purchaser that arose under a timber sale contract, including a qualifying contract, before the date on which the Secretary adjusts the contract term under subsection (b).

SEC. 609. EXTENSION AND FLEXIBILITY FOR CERTAIN ALLOCATED SURFACE TRANSPORTATION PROGRAMS.

(a) Modification of Allocation Rules.—Section 411(d) of the Surface Transportation Extension Act of 2010 (Public Law 111–147; 124 Stat. 80) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A)—

(i) by striking “1301, 1302,”; and

(ii) by striking “1198, 1204,”; and

(B) in subparagraph (A)—
(i) in the matter preceding clause (i) by striking “apportioned under sections 104(b) and 144 of title 23, United States Code,” and inserting “specified in section 105(a)(2) of title 23, United States Code (except the high priority projects program),”; and

(ii) in clause (ii) by striking “apportioned under such sections of such Code” and inserting “specified in such section 105(a)(2) (except the high priority projects program)”;

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A)—

(i) by striking “1301, 1302,”; and

(ii) by striking “1198, 1204,”; and

(B) in subparagraph (A)—

(i) in the matter preceding clause (i) by striking “apportioned under sections 104(b) and 144 of title 23, United States Code,” and inserting “specified in section 105(a)(2) of title 23, United States Code (except the high priority projects program),”; and
(ii) in clause (ii) by striking “apportioned under such sections of such Code” and inserting “specified in such section 105(a)(2) (except the high priority projects program)”;

(3) by adding at the end the following:

“(5) PROJECTS OF NATIONAL AND REGIONAL SIGNIFICANCE AND NATIONAL CORRIDOR INFRASTRUCTURE IMPROVEMENT PROGRAMS.—

“(A) REDISTRIBUTION AMONG STATES.—

Notwithstanding sections 1301(m) and 1302(e) of SAFETEA–LU (119 Stat. 1202 and 1205), the Secretary shall apportion funds authorized to be appropriated under subsection (b) for the projects of national and regional significance program and the national corridor infrastructure improvement program among all States such that each State’s share of the funds so apportioned is equal to the State’s share for fiscal year 2009 of funds apportioned or allocated for the programs specified in section 105(a)(2) of title 23, United States Code.

“(B) DISTRIBUTION AMONG PROGRAMS.—

Funds apportioned to a State pursuant to subparagraph (A) shall be—
“(i) made available to the State for
the programs specified in section 105(a)(2)
of title 23, United States Code (except the
high priority projects program), and in the
same proportion for each such program
that—

“(I) the amount apportioned to
the State for that program for fiscal
year 2009; bears to

“(II) the amount apportioned to
the State for fiscal year 2009 for all
such programs; and

“(ii) administered in the same manner
and with the same period of availability as
funding is administered under programs
identified in clause (i).”.

(b) EXPENDITURE AUTHORITY FROM HIGHWAY
TRUST FUND.—Paragraph (1) of section 9503(c) of the
Internal Revenue Code of 1986 is amended by striking
“Surface Transportation Extension Act of 2010” and in-
serting “Job Creation and Tax Cuts Act of 2010”.

(c) EFFECTIVE DATE.—The amendments made by
this section shall take effect upon the date of enactment
of the Surface Transportation Extension Act of 2010
(Public Law 111–147; 124 Stat. 78 et seq.) and shall be
treated as being included in that Act at the time of the enactment of that Act.

(d) **Savings Clause.**—

(1) IN GENERAL.—For fiscal year 2010 and for the period beginning on October 1, 2010, and ending on December 31, 2010, the amount of funds apportioned to each State under section 411(d) of the Surface Transportation Extension Act of 2010 (Public Law 111–147) that is determined by the amount that the State received or was authorized to receive for fiscal year 2009 to carry out the projects of national and regional significance program and national corridor infrastructure improvement program shall be the greater of—

(A) the amount that the State was authorized to receive under section 411(d) of the Surface Transportation Extension Act of 2010 with respect to each such program according to the provisions of that Act, as in effect on the day before the date of enactment of this Act; or

(B) the amount that the State is authorized to receive under section 411(d) of the Surface Transportation Extension Act of 2010 with respect to each such program pursuant to the
provisions of that Act, as amended by the amendments made by this section.

(2) Obligation Authority.—For fiscal year 2010, the amount of obligation authority distributed to each State shall be the greater of—

(A) the amount that the State was authorized to receive pursuant to section 120(a)(4)(A) (as it pertains to the Appalachian Development Highway System program) of title I of division A of the Consolidated Appropriations Act, 2010 (Public Law 111–117) and sections 120(a)(4)(B) and 120(a)(6) of such title, as of the day before the date of enactment of this Act; or

(B) the amount that the State is authorized to receive pursuant to section 120(a)(4)(A) (as it pertains to the Appalachian Development Highway System program) of title I of division A of the Consolidated Appropriations Act, 2010 (Public Law 111–117) and sections 120(a)(4)(B) and 120(a)(6) of such title, as of the date of enactment of this Act.

(3) Authorization of Appropriations.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit
Account) such sums as may be necessary to carry out this subsection.

(4) **INCREASE IN OBLIGATION LIMITATION.**—

The limitation under the heading “Federal-aid Highways (Limitation on Obligations) (Highway Trust Fund)” in Public Law 111–117 is increased by such sums as may be necessary to carry out this subsection.

(5) **CONTRACT AUTHORITY.**—Funds made available to carry out this subsection shall be available for obligation and administered in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

(6) **AMOUNTS.**—The dollar amount specified in section 105(d)(1) of title 23, United States Code, the dollar amount specified in section 120(a)(4)(B) of title I of division A of the Consolidated Appropriations Act, 2010 (Public Law 111–117), and the dollar amount specified in section 120(b)(10) of such title shall each be increased as necessary to carry out this subsection.
SEC. 610. COMMUNITY COLLEGE AND CAREER TRAINING GRANT PROGRAM.

(a) In General.—Section 278(a) of the Trade Act of 1974 (19 U.S.C. 2372(a)) is amended by adding at the end the following:

“(3) Rule of construction.—For purposes of this section, any reference to ‘workers’, ‘workers eligible for training under section 236’, or any other reference to workers under this section shall be deemed to include individuals who are, or are likely to become, eligible for unemployment compensation as defined in section 85(b) of the Internal Revenue Code of 1986, or who remain unemployed after exhausting all rights to such compensation.”.

(b) Definition of Eligible Institution.—Section 278(b)(1) of the Trade Act of 1974 (19 U.S.C. 2372(b)(1)) is amended—

(1) by striking “section 102” and inserting “section 101(a)”; and

(2) by striking “1002” and inserting “1001(a)”.

(c) Authorization of Appropriations.—Section 279 of the Trade Act of 1974 (19 U.S.C. 2372a) is amended—

(1) in subsection (a), by striking the last sentence; and

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(2) by adding at the end the following:

“(c) Administrative and Related Costs.—The Secretary may retain not more than 5 percent of the funds appropriated under subsection (b) for each fiscal year to administer, evaluate, and establish reporting systems for the Community College and Career Training Grant program under section 278.

“(d) Supplement Not Supplant.—Funds appropriated under subsection (b) shall be used to supplement and not supplant other Federal, State, and local public funds expended to support community college and career training programs.

“(e) Availability.—Funds appropriated under subsection (b) shall remain available for the fiscal year for which the funds are appropriated and the subsequent fiscal year.”.

SEC. 611. EXTENSIONS OF DUTY SUSPENSIONS ON COTTON SHIRTING FABRICS AND RELATED PROVISIONS.

(a) Extensions.—Each of the following headings of the Harmonized Tariff Schedule of the United States is amended by striking the date in the effective date column and inserting “12/31/2013”:

(1) Heading 9902.52.08 (relating to woven fabrics of cotton).
(2) Heading 9902.52.09 (relating to woven fabrics of cotton).

(3) Heading 9902.52.10 (relating to woven fabrics of cotton).

(4) Heading 9902.52.11 (relating to woven fabrics of cotton).

(5) Heading 9902.52.12 (relating to woven fabrics of cotton).

(6) Heading 9902.52.13 (relating to woven fabrics of cotton).

(7) Heading 9902.52.14 (relating to woven fabrics of cotton).

(8) Heading 9902.52.15 (relating to woven fabrics of cotton).

(9) Heading 9902.52.16 (relating to woven fabrics of cotton).

(10) Heading 9902.52.17 (relating to woven fabrics of cotton).

(11) Heading 9902.52.18 (relating to woven fabrics of cotton).

(12) Heading 9902.52.19 (relating to woven fabrics of cotton).

(13) Heading 9902.52.20 (relating to woven fabrics of cotton).
(14) Heading 9902.52.21 (relating to woven fabrics of cotton).

(15) Heading 9902.52.22 (relating to woven fabrics of cotton).

(16) Heading 9902.52.23 (relating to woven fabrics of cotton).

(17) Heading 9902.52.24 (relating to woven fabrics of cotton).

(18) Heading 9902.52.25 (relating to woven fabrics of cotton).

(19) Heading 9902.52.26 (relating to woven fabrics of cotton).

(20) Heading 9902.52.27 (relating to woven fabrics of cotton).

(21) Heading 9902.52.28 (relating to woven fabrics of cotton).

(22) Heading 9902.52.29 (relating to woven fabrics of cotton).

(23) Heading 9902.52.30 (relating to woven fabrics of cotton).

(24) Heading 9902.52.31 (relating to woven fabrics of cotton).

(b) EXTENSION OF DUTY REFUNDS AND PIMA COTTON TRUST FUND; MODIFICATION OF AFFIDAVIT REQUIREMENTS.—Section 407 of title IV of division C of the
Tax Relief and Health Care Act of 2006 (Public Law 109–432; 120 Stat. 3060) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking “amounts determined by the Secretary” and all that follows through “5208.59.80” and inserting “amounts received in the general fund that are attributable to duties received since January 1, 2004, on articles classified under heading 5208”; and

(B) in paragraph (2), by striking “October 1, 2008” and inserting “December 31, 2013”;

(2) in subsection (d)—

(A) in the matter preceding paragraph (1), by inserting “annually” after “provided”; and

(B) in paragraph (1), by inserting “during the year in which the affidavit is filed and” after “imported cotton fabric”; and

(3) in subsection (f)—

(A) in the matter preceding paragraph (1), by inserting “annually” after “provided”; and

(B) in paragraph (1), by inserting “during the year in which the affidavit is filed and” after “United States”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and apply with respect to affidavits filed on or after such date of enactment.

SEC. 612. MODIFICATION OF WOOL APPAREL MANUFACTURERS TRUST FUND.

(a) IN GENERAL.—Section 4002(c)(2)(A) of the Miscellaneous Trade and Technical Corrections Act of 2004 (Public Law 108–429; 118 Stat. 2600) is amended by striking “chapter 51” and inserting “chapter 62”.

(b) FULL RESTORATION OF PAYMENT LEVELS IN FISCAL YEAR 2010.—

(1) TRANSFER OF AMOUNTS.—

(A) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Secretary of the Treasury shall transfer to the Wool Apparel Manufacturers Trust Fund, out of the general fund of the Treasury of the United States, amounts determined by the Secretary of the Treasury to be equivalent to amounts received in the general fund that are attributable to the duty received on articles classified under chapter 62 of the Harmonized Tariff Schedule of the United States, subject to the limitation in subparagraph (B).
(B) LIMITATION.—The Secretary of the Treasury shall not transfer more than the amount determined by the Secretary to be necessary for—

(i) U.S. Customs and Border Protection to make payments to eligible manufacturers under section 4002(e)(3) of the Miscellaneous Trade and Technical Corrections Act of 2004 so that the amount of such payments, when added to any other payments made to eligible manufacturers under section 4002(e)(3) of such Act for calendar year 2010, equal the total amount of payments authorized to be provided to eligible manufacturers under section 4002(e)(3) of such Act for calendar year 2010; and

(ii) the Secretary of Commerce to provide grants to eligible manufacturers under section 4002(e)(6) of the Miscellaneous Trade and Technical Corrections Act of 2004 so that the amounts of such grants, when added to any other grants made to eligible manufacturers under section 4002(e)(6) of such Act for calendar year
2010, equal the total amount of grants au-

thorized to be provided to eligible manufac-


turers under section 4002(c)(6) of such

Act for calendar year 2010.

(2) Payment of Amounts.—U.S. Customs

and Border Protection shall make payments de-

scribed in paragraph (1) to eligible manufacturers

not later than 30 days after such transfer of

amounts from the general fund of the Treasury of

the United States to the Wool Apparel Manufactur-

ers Trust Fund. The Secretary of Commerce shall

promptly provide grants described in paragraph (1)
to eligible manufacturers after such transfer of

amounts from the general fund of the Treasury of

the United States to the Wool Apparel Manufactur-

ers Trust Fund.

(c) Rule of Construction.—The amendment

made by subsection (a) shall not be construed to affect

the availability of amounts transferred to the Wool Ap-

parel Manufacturers Trust Fund before the date of the

enactment of this Act.

SEC. 613. DEPARTMENT OF COMMERCE STUDY.

Not later than 180 days after the date of enactment

of this Act, the Secretary of Commerce shall report to

Congress detailing—
(1) the pattern of job loss in the New England, Mid-Atlantic, and Midwest States over the past 20 years;

(2) the role of the off-shoring of manufacturing jobs in overall job loss in the regions; and

(3) recommendations to attract industries and bring jobs to the region.

SEC. 614. 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 un-expired 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 Attorney General may bring a civil action in an appropriate
United States district court against a recipient of recovery funds from an 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. In a civil action under this paragraph, the court may impose a civil penalty on a recipient of recovery funds in an amount not more than $250,000. 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.—A court 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) CONSIDERATIONS.—In determining the amount of a penalty under this paragraph for a recipient of recovery funds, a court 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 report required to be submitted on or after the date of enactment of this paragraph.

“(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), the Board shall make available on the website established under section 1526 a list of all recipients of recovery funds that did not provide the information re-
quired 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 Board, the reason for noncompliance.

“(5) REGULATIONS AND REPORTING.—

“(A) REGULATIONS.—Not later than 90 days after the date of enactment of this paragraph, the Attorney General, in consultation with the Director of the Office of Management and Budget and the Chairperson, shall promulgate regulations regarding implementation of this section.

“(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 re-
porting requirements under this section.

“(ii) CONTENTS.—Each report sub-
mitted 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 de-
termined appropriate by the Direc-
tor.”; and

(3) by adding at the end the following:

“(i) TERMINATION.—The reporting requirements
under this section shall terminate on September 30,
2013.”.

SEC. 615. SURETY BONDS.

Section 508(f) of division A of the American Recovery
and Reinvestment Act of 2009 (15 U.S.C. 694a note) is
repealed.
SEC. 616. FUNDING FOR DEPLOYMENT OF RENEWABLE ENERGY, ENERGY EFFICIENCY, AND ELECTRIC POWER TRANSMISSION PROJECTS.

Section 1703 of the Energy Policy Act of 2005 (42 U.S.C. 16513) is amended—

(1) in paragraph (1) by striking “The Secretary” and inserting “Except as provided in subsection (f), the Secretary”;

“(2) by adding at the end the following:

“(f) AUTHORIZATION FOR CREDIT SUBSIDY.—

“(1) IN GENERAL.—The Secretary may make guarantees under this section for the following categories of projects:

“(A) Renewable energy systems, including incremental hydropower, that generate electricity or thermal energy.

“(B) Electric power transmission systems, including upgrading and reconductoring projects.

“(C) Leading edge biofuel projects that will use technologies performing at the pilot- or demonstration-scale that the Secretary determines are likely to become commercial technologies and will produce transportation fuels that substantially reduce life-cycle greenhouse
gas emissions compared to other transportation fuels.

“(D) Energy efficiency projects, including projects to retrofit residential, commercial, and industrial buildings, facilities, and equipment.

“(E) Facilities that manufacture components related to the categories of projects in subparagraphs (A) through (D).

“(2) MULTIPLE APPLICATIONS.—Notwithstanding any other provision of law (including under part 609.3(a) of title 10, Code of Federal Regulations, or successor regulations), a project applicant or sponsor of an eligible project may submit an application for more than 1 eligible project under this subsection.

“(3) FUNDING.—From amounts in the Treasury not otherwise appropriated, there is appropriated for the cost of guaranteed loans authorized by this subsection $1,500,000,000, to remain available until expended.”.

Subtitle B—Extension of Trade Adjustment Assistance

SEC. 621. SHORT TITLE.

This subtitle may be cited as the “Trade Adjustment Assistance Extension Act of 2010”. 
SEC. 622. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE.

(a) IN GENERAL.—Section 1893 of the Trade and Globalization Adjustment Assistance Act of 2009 (Public Law 111–5; 123 Stat. 422) is amended by striking “2011” each place it appears and inserting “2012”.

(b) CONFORMING AMENDMENTS.—


(A) in clause (i), by striking “2009 and 2010” and inserting “2010 and 2011”; and

(B) in clause (ii)—

(i) by striking “2009 and 2010” and inserting “2010 and 2011”; and

(ii) by striking “October 1, 2010, and ending December 31, 2010” and inserting “October 1, 2011, and ending December 31, 2011”.

(2) Section 245(a) of the Trade Act of 1974 (19 U.S.C. 2317(a)) is amended by striking “2010” and inserting “2011”.

(3) Section 246(b)(1) of the Trade Act of 1974 (19 U.S.C. 2318(b)(1)) is amended by striking “2010” and inserting “2011”.

(4) Section 255(a) of the Trade Act of 1974 (19 U.S.C. 2345(a)) is amended to read as follows:
“(a) IN GENERAL.—There are authorized to be ap-
propriated to the Secretary $50,000,000 for each of the 
fiscal years 2010 through 2011, and $12,501,000 for the 
period beginning October 1, 2011, and ending December 
31, 2011, to carry out the provisions of this chapter. 
Amounts appropriated pursuant to this subsection shall 
remain available until expended.”.

(5) Section 275(f) of the Trade Act of 1974 (19 
U.S.C. 2371d(f)) is amended by striking “2011” 
and inserting “2012”.

(6) Section 276(c)(2) of the Trade Act of 1974 
(19 U.S.C. 2371e(c)(2)) is amended—

(A) by striking “2009 and 2010” and in-
serting “2010 and 2011”; and

(B) by striking “October 1, 2010, and end-
ing December 31, 2010” and inserting “Octo-
ber 1, 2011, and ending December 31, 2011”.

(7) Section 277(c) of the Trade Act of 1974 
(19 U.S.C. 2371f(c)) is amended—

(A) in paragraph (1)—

(i) by striking “2009 and 2010” and 
inserting “2010 and 2011”; and

(ii) by striking “October 1, 2010, and 
ending December 31, 2010” and inserting
“October 1, 2011, and ending December 31, 2011”; and

(B) by striking paragraph (2) and redesignating paragraph (3) as paragraph (2).

(8) Section 278(e) of the Trade Act of 1974 (19 U.S.C. 2372(e)) is amended by striking “2011” and inserting “2012”.

(9) Section 279A(h)(2) of the Trade Act of 1974 (19 U.S.C. 2373(h)(2)) is amended by striking “2011” and inserting “2012”.

(10) Section 279B(a) of the Trade Act of 1974 (19 U.S.C. 2373a(a)) is amended—

(A) by striking “2009 and 2010” and inserting “2010 and 2011”; and

(B) by striking “October 1, 2010, and ending December 31, 2010” and inserting “October 1, 2011, and ending December 31, 2011”.


(12) Section 298(a) of the Trade Act of 1974 (19 U.S.C. 2401g(a)) is amended—

(A) by striking “2009 and 2010” and inserting “2010 and 2011”; and
(B) by striking “October 1, 2010, and ending December 31, 2010” and inserting “October 1, 2011, and ending December 31, 2011”.

(13) The table of contents for the Trade Act of 1974 is amended by striking the item relating to section 235 and inserting the following:

“Sec. 235. Employment and case management services.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2011.

Subtitle C—Extension of Health Coverage Improvement

SEC. 631. IMPROVEMENT OF THE AFFORDABILITY OF THE CREDIT.

(a) IN GENERAL.—Section 35(a) of the Internal Revenue Code of 1986 is amended by striking “January 1, 2011” and inserting “January 1, 2012”.

(b) CONFORMING AMENDMENT.—Section 7527(b) of such Code is amended by striking “January 1, 2011” and inserting “January 1, 2012”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to coverage months beginning after the date of the enactment of this Act.
SEC. 632. PAYMENT FOR THE MONTHLY PREMIUMS PAID PRIOR TO COMMENCEMENT OF THE ADVANCE PAYMENTS OF CREDIT.

(a) In General.—Section 7527(e) of the Internal Revenue Code of 1986 is amended by striking “January 1, 2011” and inserting “January 1, 2012”.

(b) Effective Date.—The amendment made by this section shall apply to coverage months beginning after the date of the enactment of this Act.

SEC. 633. TAA RECIPIENTS NOT ENROLLED IN TRAINING PROGRAMS ELIGIBLE FOR CREDIT.

(a) In General.—Section 35(c)(2)(B) of the Internal Revenue Code of 1986 is amended by striking “January 1, 2011” and inserting “January 1, 2012”.

(b) Effective Date.—The amendment made by this section shall apply to coverage months beginning after the date of the enactment of this Act.

SEC. 634. TAA PRE-CERTIFICATION PERIOD RULE FOR PURPOSES OF DETERMINING WHETHER THERE IS A 63-DAY LAPSE IN CREDITABLE COVERAGE.

(a) IRC Amendment.—Section 9801(c)(2)(D) of the Internal Revenue Code of 1986 is amended by striking “January 1, 2011” and inserting “January 1, 2012”.

(b) ERISA Amendment.—Section 701(e)(2)(C) of the Employee Retirement Income Security Act of 1974
(29 U.S.C. 1181(c)(2)(C)) is amended by striking “January 1, 2011” and inserting “January 1, 2012”.

(c) PHSA Amendment.—Section 2701(c)(2)(C) of the Public Health Service Act (42 U.S.C. 300gg(c)(2)(C)) is amended by striking “January 1, 2011” and inserting “January 1, 2012”.

(d) Effective Date.—The amendments made by this section shall apply to plan years beginning after the date of the enactment of this Act.

SEC. 635. CONTINUED QUALIFICATION OF FAMILY MEMBERS AFTER CERTAIN EVENTS.

(a) In General.—Section 35(g)(9) of the Internal Revenue Code of 1986 is amended by striking “January 1, 2011” and inserting “January 1, 2012”.


(c) Effective Date.—The amendments made by this section shall apply to months beginning after the date of the enactment of this Act.

SEC. 636. EXTENSION OF COBRA BENEFITS FOR CERTAIN TAA-ELIGIBLE INDIVIDUALS AND PBGC RECIPIENTS.

(a) ERISA Amendments.—


(b) IRC AMENDMENTS.—


(2) TAA-ELIGIBLE INDIVIDUALS.—Section 4980B(f)(2)(B)(i)(VI) of such Code is amended by striking “December 31, 2010” and inserting “December 31, 2011”.

(c) PHSA AMENDMENTS.—Section 2202(2)(A)(iv) of the Public Health Service Act (42 U.S.C. 300bb-2(2)(A)(iv)) is amended by striking “December 31, 2010” and inserting “December 31, 2011”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to periods of coverage which would
SEC. 637. ADDITION OF COVERAGE THROUGH VOLUNTARY EMPLOYEES' BENEFICIARY ASSOCIATIONS.

(a) IN GENERAL.—Section 35(e)(1)(K) of the Internal Revenue Code of 1986 is amended by striking “January 1, 2011” and inserting “January 1, 2012”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to coverage months beginning after the date of the enactment of this Act.

SEC. 638. NOTICE REQUIREMENTS.

(a) IN GENERAL.—Section 7527(d)(2) of the Internal Revenue Code of 1986 is amended by striking “January 1, 2011” and inserting “January 1, 2012”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to certificates issued after the date of the enactment of this Act.

Subtitle D—TANF Provisions

SEC. 641. EXTENSION OF TEMPORARY ASSISTANCE FOR NEEDY FAMILIES AND RELATED PROGRAMS.

(a) IN GENERAL.—Activities authorized by part A of title IV and section 1108(b) of the Social Security Act (other than the Emergency Contingency Fund for State Temporary Assistance for Needy Families Programs established under subsection (c) of section 403 of such Act)
shall continue through September 30, 2011, in the manner authorized for fiscal year 2010, and out of any money in the Treasury of the United States not otherwise appropriated, there are hereby appropriated such sums as may be necessary for such purpose. In the case of the activities authorized by section 403(b) of such Act, the preceding sentence shall be applied by substituting “September 30, 2012” for “September 30, 2011”. Grants and payments may be made pursuant to this authority on a quarterly basis through fiscal year 2011 at the level provided for such activities for the corresponding quarter of fiscal year 2010, except that—

(1) in the case of healthy marriage promotion and responsible fatherhood grants under section 403(a)(2) of such Act, such grants and payments shall be made in accordance with the amendments made by subsection (b) of this section;

(2) in the case of supplemental grants under section 403(a)(3) of such Act, the total amount appropriated for fiscal year 2011 shall not exceed $319,450,000; and

(3) in the case of the Contingency Fund for State Welfare Programs established under subsection (b) of section 403 of such Act, grants and
payments may be made pursuant to this authority on a quarterly basis through fiscal year 2012, and—

(A) the total amount appropriated for fiscal year 2011 shall not exceed $292,550,000, and

(B) the total amount appropriated for fiscal year 2012 shall not exceed $612,000,000.

(b) Healthy Marriage Promotion and Responsible Fatherhood Grants.—Section 403(a)(2) of the Social Security Act (42 U.S.C. 603(a)(2)) is amended—

(1) in subparagraph (A)(iii),

(A) by striking subclause (III) and inserting the following:

“(III) Marriage education, marriage skills, and relationship improvement programs, that may include components designed to improve parenting skills, address or prevent substance abuse, address or prevent domestic violence, improve financial management, improve conflict resolution, or improve employment outcomes, including job and career advancement.”; and

(B) by adding at the end the following:
“(IX) Such other activities as the Secretary determines are reasonably calculated to improve outcomes for needy children and needy communities through the promotion of healthy marriages, if offered in conjunction with any activity described in this subparagraph.”;

(2) in subparagraph (C)(i), by striking “$50,000,000” and inserting “$75,000,000”;

(3) by striking subparagraph (D) and inserting the following:

“(D) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal year 2011 for expenditure in accordance with this paragraph—

“(i) $75,000,000 for awarding funds for the purpose of carrying out healthy marriage promotion activities; and

“(ii) $75,000,000 for awarding funds for the purpose of carrying out activities promoting responsible fatherhood.”; and

(4) in subparagraph (A)(ii), in the matter preceding subclause (I), by inserting “(or, in the case
of an entity seeking funding for carrying out both
healthy marriage promotion activities and activities
promoting responsible fatherhood, a combined appli-
cation)” after “an application”.

(c) CONFORMING AMENDMENTS.—

(1) Section 403(a)(3)(H)(ii) of the Social Secu-
rity Act (42 U.S.C. 603(a)(3)(H)(ii)) is amended by
striking “2010” and inserting “2011”.

(2) Section 403(b)(3)(C)(ii) of the Social Secu-
rity Act (42 U.S.C. 603(b)(3)(C)(ii)) is amended by
striking “2010” and inserting “2011”.

(3) Section 409(a)(7) of the Social Security Act
(42 U.S.C. 609(a)(7)) is amended—

(A) in subparagraph (A), by striking “or
2011” and inserting “2011, or 2012”; and

(B) in subparagraph (B)(ii), by striking
“2010” and inserting “2011”.

(d) NATIONAL RANDOM SAMPLE STUDY OF CHILD
WELFARE.—Activities authorized by section 429 of the
Social Security Act shall continue through September 30,
2011, in the manner authorized for fiscal year 2010, and
out of any money in the Treasury of the United States
not otherwise appropriated, there are hereby appropriated
such sums as may be necessary for such purpose. Grants
and payments may be made pursuant to this authority on
a quarterly basis through fiscal year 2011 at the level pro-
vided for such activities for the corresponding quarter of
fiscal year 2010.

(e) Effective Date.—This section and the amend-
ments made by this section take effect on October 1, 2010.

SEC. 642. REINSTATEMENT OF FEDERAL MATCHING OF
STATE SPENDING OF CHILD SUPPORT INCEN-
TIVE PAYMENTS.

(a) In General.—Effective October 1, 2010, section
455(a)(1) of the Social Security Act (42 U.S.C. 655(a)(1))
is amended by striking “from amounts paid to the State
under section 458 or”.

(b) Sunset.—Effective October 1, 2011, section
455(a)(1) of the Social Security Act (42 U.S.C. 655(a)(1))
is amended by inserting “from amounts paid to the State
under section 458 or” before “to carry out an agreement
which it has entered into pursuant to section 463”.

SEC. 643. EXTENSION AND MODIFICATION OF THE TANF
EMERGENCY FUND.

(a) Extension.—

(1) In General.—Section 403(c) of the Social
Security Act (42 U.S.C. 603(c)) is amended—

(A) in paragraph (2)(A), by inserting “,
and for fiscal year 2011, $1,500,000,000” be-
fore “for payment”;

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(B) by striking paragraph (2)(B) and inserting the following:

“(B) AVAILABILITY AND USE OF FUNDS.—

“(i) FISCAL YEARS 2009 AND 2010.—
The amounts appropriated to the Emergency Fund under subparagraph (A) for fiscal year 2009 shall remain available through fiscal year 2010 and shall be used to make grants to States in each of fiscal years 2009 and 2010 in accordance with paragraph (3), except that the amounts shall remain available through fiscal year 2011 to make grants and payments to States in accordance with paragraph (3)(C) to cover expenditures to subsidize employment positions held by individuals placed in the positions before fiscal year 2011.

“(ii) FISCAL YEAR 2011.—Subject to clause (iii), the amounts appropriated to the Emergency Fund under subparagraph (A) for fiscal year 2011 shall remain available through fiscal year 2012 and shall be used to make grants to States based on expenditures in fiscal year 2011 for benefits
and services provided in fiscal year 2011 in accordance with the requirements of paragraph (3).

“(iii) RESERVATION OF FUNDS.—Of the amounts appropriated to the Emergency Fund under subparagraph (A) for fiscal year 2011, $500,000 shall be placed in reserve for use in fiscal year 2012, and shall be used to award grants for any expenditures described in this subsection incurred by States after September 30, 2011.”;

(C) in paragraph (2)(C), by striking “2010” and inserting “2012”;  

(D) in paragraph (3)—

(i) in clause (i) of each of subparagraphs (A), (B), and (C)—

(I) by striking “year 2009 or 2010” and inserting “years 2009 through 2011”;

(II) by striking “and” at the end of subclause (I);

(III) by striking the period at the end of subclause (II) and inserting “; and”;

and
(IV) by adding at the end the fol-
lowing:

“(III) if the quarter is in fiscal
year 2011, has provided the Secretary
with such information as the Sec-
etary may find necessary in order to
make the determinations, or take any
other action, described in paragraph
(5)(C).”; and

(ii) in subparagraph (C), by adding at
the end the following:

“(iv) LIMITATION ON EXPENDITURES
FOR SUBSIDIZED EMPLOYMENT.—An ex-
penditure for subsidized employment shall
be taken into account under clause (ii)
only if the expenditure is used to subsidize
employment for—

“(I) a member of a needy family
(without regard to whether the family
is receiving assistance under the State
program funded under this part); or

“(II) an individual who has ex-
hausted (or, within 60 days, will ex-
haust) all rights to receive unemploy-
ment compensation under Federal and
State law, and who is a member of a needy family.”;

(E) by striking paragraph (5) and inserting the following:

“(5) LIMITATIONS ON PAYMENTS; ADJUSTMENT AUTHORITY.—

“(A) FISCAL YEARS 2009 AND 2010.—The total amount payable to a single State under subsection (b) and this subsection for fiscal years 2009 and 2010 combined shall not exceed 50 percent of the annual State family assistance grant.

“(B) FISCAL YEAR 2011.—Subject to subparagraph (C), the total amount payable to a single State under subsection (b) and this subsection for fiscal year 2011 shall not exceed 30 percent of the annual State family assistance grant.

“(C) ADJUSTMENT AUTHORITY.—If the Secretary determines that the Emergency Fund is at risk of being depleted before September 30, 2011, or that funds are available to accommodate additional State requests under this subsection, the Secretary may, through program instructions issued without regard to the re-
quirements of section 553 of title 5, United States Code—

“(i) specify priority criteria for awarding grants to States during fiscal year 2011; and

“(ii) adjust the percentage limitation applicable under subparagraph (B) with respect to the total amount payable to a single State for fiscal year 2011.”; and

(F) in paragraph (6), by inserting “or for expenditures described in paragraph (3)(C)(iv)” before the period.

(2) CONFORMING AMENDMENTS.—Section 2101 of division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) is amended—

(A) in subsection (a)(2)—

(i) by striking “2010” and inserting “2011”; and

(ii) by striking all that follows “repealed” and inserting a period; and

(B) in subsection (d)(1), by striking “2010” and inserting “2011”.

(b) MODIFICATION OF GRANT REQUIREMENTS.—
(1) IN GENERAL.—Effective October 1, 2010, section 403(c) of the Social Security Act (42 U.S.C. 603(c)), as amended by subsection (a), is amended—

(A) in paragraph (3)(A)—

(i) by striking “RELATED TO CASE-LOAD INCREASES” in the heading and inserting “RELATED TO INCREASED EXPENDITURES”;

(ii) by striking clause (ii) and redesignating clause (iii) as clause (ii); and

(iii) by striking “each State that” and all that follows in clause (i) and inserting “each State that requests a grant under this subparagraph for the quarter, to the extent provided in clause (ii)”;

(B) in paragraph (4), by striking “the caseload of a State and”;

(C) in paragraph (9)—

(i) by striking subparagraph (A) and redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively; and

(ii) by striking “The average monthly assistance caseload of the State.” in clause
(ii)(I) and inserting “The average quarterly total expenditures of the State for basic assistance (as defined by the Secretary under paragraph (3)(A)(ii)).”.

(2) CONFORMING AMENDMENTS.—Effective October 1, 2010, section 407(b)(3) of the Social Security Act (42 U.S.C. 607(b)(3)) is amended—

(A) by striking “(within the meaning of section 403(c)(9))” in subparagraph (A)(i); and

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

“(C) AVERAGE MONTHLY ASSISTANCE CASELOAD.—For purposes of this paragraph, the term ‘average monthly assistance caseload’ means, with respect to a State and a quarter, the number of families receiving assistance during the quarter under the State program funded under this part or as qualified State expenditures, subject to adjustment by the Secretary as permitted by section 403(c)(4)).”.

(c) PROGRAM GUIDANCE.—The Secretary of Health and Human Services shall issue program guidance, without regard to the requirements of section 553 of title 5, United States Code, which ensures that the funds provided under the amendments made by this section to a jurisdic-
tion for subsidized employment do not support any sub-
sidized employment position the annual salary of which
is greater than, at State option—

(1) 200 percent of the poverty line (within the
meaning of section 673(2) of the Omnibus Budget
Reconciliation Act of 1981, including any revision
required by such section 673(2)) for a family of 4;
or

(2) the median wage in the jurisdiction.

SEC. 644. MODIFICATIONS TO TANF DATA REPORTING.

(a) Measurement of Work Activities.—Section
407(i)(1)(A)(i) of the Social Security Act (42 U.S.C.
607(i)(1)(A)(i)) is amended—

(1) by striking “and” at the end of subclause
(III);

(2) by striking the period at the end of sub-
clause (IV) and inserting “; and”; and

(3) by adding at the end the following new sub-
clause:

“(V) any other activities of a re-
cipient of assistance that are carried
out in the course of participation in
State programs but do not qualify as
a work activity under subsection (d).”.
(b) **MEASUREMENT OF TANF SPENDING ON BENEFITS AND SERVICES.**—The Secretary of Health and Human Services shall amend the Form ACF-196 expenditure categories to improve data collection and provide increased detail on the types of expenditures made by States from Federal funds under section 403 of the Social Security Act and State funds expended to meet the requirements of section 409(a)(7) of such Act.

(c) **ADDITIONAL REPORTS BY STATES.**—Section 411 of the Social Security Act (42 U.S.C. 611) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

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“(b) **ANNUAL REPORTS ON PROGRAM CHARACTERISTICS.**—Not later than 90 days after the end of fiscal year 2010 and each succeeding fiscal year, each eligible State shall submit to the Secretary a report on the characteristics of State programs funded under this part and other State programs funded with qualified State expenditures (as defined in section 409(a)(7)(B)(i)). The report shall include, with respect to each such program, the program name, a description of program activities, the program purpose, the program eligibility criteria, the sources of
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program funding, the number of program beneficiaries, sanction policies, and any program work requirements.”.

(d) DESCRIPTION OF STATE ASSISTANCE PROGRAMS.—Section 402(a)(1)(B) (42 U.S.C. 602(a)(1)(B)) is amended by adding at the end the following new clause:

“(v) The document shall include, to the extent applicable with respect to each program that provides assistance that will be funded under this part or with qualified State expenditures (as defined in section 409(a)(7)(B)(i)), a description of—

“(I) the applicable financial and nonfinancial eligibility rules for assistance provided under the program, including income eligibility thresholds, the treatment of earnings, asset eligibility rules, and excluded forms of income;

“(II) the amount of assistance provided to needy families, and the methodology for determining assistance amounts; and

“(III) the applicable time limit policies, including the length of the time limit, exemption and extension
policies, and procedures for providing services to families reaching the time limit and who have lost assistance due to time limits.”.

SEC. 645. STATE COURT IMPROVEMENT PROGRAM.

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

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

(2) by adding at the end of subsection (e) the following flush sentence: “For fiscal year 2011, out of the amount reserved pursuant to section 436(b)(2) for such fiscal year, there are available $10,000,000 for grants referred to in subsection (b)(2)(B), and $10,000,000 for grants referred to in subsection (b)(2)(C).”.

(b) Appropriations.—Effective October 1, 2011, section 436 of the Social Security Act (42 U.S.C. 629f) is amended—

(1) in subsection (a)—

(A) by striking “2011” and inserting “2010”; and

(B) by inserting before the period the following: “, and $365,000,000 for fiscal year 2011”; and
(2) by striking “$10,000,000” in subsection (b)(2) and inserting “$30,000,000”.

Subtitle E—Unemployment Compensation Program Integrity

SEC. 651. PERMISSIBLE USES OF UNEMPLOYMENT FUND MONEYS FOR PROGRAM INTEGRITY PURPOSES.

(a) Withdrawal Standard in the Internal Revenue Code.—Section 3304(a)(4) of the Internal Revenue Code of 1986 is amended—

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

(2) by inserting after subparagraph (G) the following new subparagraphs:

“(H) of those payments of benefits from a State’s unemployment fund that are determined to have been made in error and are subsequently recovered by the State, the State may, immediately following receipt of such recovered amount, deposit a percent of such recovered amount, as specified in State law (but not to exceed 5 percent), in a fund from which moneys may be withdrawn for—
“(i) the payment of costs of deterring, detecting, and collecting erroneous payments to individuals;

“(ii) purposes relating to the misclassification of employees as independent contractors, implementation of provisions of State law implementing section 303(k) of the Social Security Act, or other provisions of State law relating to employer fraud or evasion of contributions;

or

“(iii) payment to the Secretary of the Treasury to the credit of the State’s account in the Unemployment Trust Fund; and

“(I) of those payments of contributions (or payments in lieu of contributions) that are collected as a result of an investigation and assessment by the State agency, the State may, immediately following receipt of such payments, deposit a percentage of such payments, as specified in State law (but not to exceed 5 percent), in a fund (which may be the same fund described in subparagraph (H)) from which monies may be withdrawn for the purposes de-
scribed in clauses (i) through (iii) of subpara-
graph (H);”.

(b) DEFINITION OF UNEMPLOYMENT FUND.—Sec-
tion 3306(f) of the Internal Revenue Code of 1986 is
amended by striking all that follows “(exclusive of ex-
penses of administration)” and inserting “, except as oth-
erwise provided in section 3304(a)(4) of the Social Secu-
rity Act or any other provision of Federal law.”.

(c) WITHDRAWAL STANDARD IN SOCIAL SECURITY
ACT.—Section 303(a)(5) of the Social Security Act (42
U.S.C. 503(a)(5)) is amended by striking all that follows
“payment of unemployment compensation, exclusive of ex-
penses of administration,” and inserting “except as other-
wise provided in this section, section 3304(a)(4) of the In-
ternal Revenue Code of 1986, or any other provision of
Federal law; and”.

(d) IMMEDIATE DEPOSIT REQUIREMENTS.—

(1) INTERNAL REVENUE CODE REQUIRE-
MENT.—Paragraph (3) of section 3304(a) of the In-
ternal Revenue Code of 1986 is amended to read as
follows:

“(3) all money received in the unemployment
fund of the State shall immediately upon such re-
cipt be paid over to the Secretary of the Treasury
to the credit of the Unemployment Trust Fund es-
established by section 904 of the Social Security Act (42 U.S.C. 1104), except for—

“(A) refunds of sums erroneously paid into the unemployment fund of the State;

“(B) refunds paid in accordance with the provisions of section 3305(b); and

“(C) amounts deposited in a State fund pursuant to subparagraph (H) or (I) of paragraph (4);”.

(2) SOCIAL SECURITY ACT REQUIREMENT.—

Section 303(a)(4) of the Social Security Act (42 U.S.C. 503(a)(4)) is amended by striking “(except for refunds” and all that follows through “Federal Unemployment Tax Act” and inserting “(except as otherwise provided in this section, section 3304(a)(3) of the Internal Revenue Code of 1986, or any other provision of Federal law)”.

(e) APPLICATION TO FEDERAL PAYMENTS.—

(1) IN GENERAL.—As a condition for administering any unemployment compensation program of the United States (as defined in paragraph (2)) as an agent of the United States, a State shall, with respect to erroneous payments made under such programs by the State, use the authority provided under subparagraph (H) of section 3304(a)(4) of
the Internal Revenue Code of 1986, as added by subsection (a), in the same manner as such authority is used with respect to erroneous payments made under the State unemployment compensation law. With respect to erroneous Federal payments recovered consistent with the authority under such subparagraph (H), the State shall immediately deposit the same percentage of the recovered payments into the same State fund as provided in the State law implementing such section 3304(a)(4).

(2) DEFINITION.—For purposes of this subsection, the term “unemployment compensation program of the United States” means—

(A) unemployment compensation for Federal civilian employees under subchapter I of chapter 85 of title 5, United States Code;

(B) unemployment compensation for ex-servicemembers under subchapter II of chapter 85 of title 5, United States Code;

(C) trade readjustment allowances under sections 231 through 234 of the Trade Act of 1974 (19 U.S.C. 2291-2294);

(D) disaster unemployment assistance under section 410(a) of the Robert T. Stafford
Disaster Relief and Emergency Assistance Act  
(42 U.S.C. 5177(a));

(E) any Federal temporary extension of unemployment compensation;  
(F) any Federal program which increases the weekly amount of unemployment compensation payable to individuals; and  
(G) any other Federal program providing for the payment of unemployment compensation.

SEC. 652. MANDATORY PENALTY ASSESSMENT ON FRAUD CLAIMS.

(a) IN GENERAL.—Section 303(a) of the Social Security Act (42 U.S.C. 503(a)) is amended—

(1) in paragraph (10), by striking the period at the end of subparagraph (B) and inserting “; and”;

and

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

“(11)(A) At the time the State agency determines an erroneous payment from its unemployment fund was made to an individual due to fraud committed by such individual, the assessment of a penalty on the individual in an amount of not less than

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15 percent of the amount of the erroneous payment; and

“(B) The immediate deposit of all assessments paid pursuant to subparagraph (A) in a fund in the State from which moneys may be withdrawn for the purposes described in clauses (i) through (iii) of subparagraph (H) of section 3304(a)(4) of the Internal Revenue Code of 1986, which may be the same fund as the fund established under subparagraphs (H) or (I) of such section 3304(a)(4).”.

(b) Application to Federal Payments.—As a condition for administering any unemployment compensation program of the United States (as defined in section 651(e)(2)) as an agent of the United States, if the State determines that an erroneous payment was made by the State to an individual under any such program due to fraud committed by such individual, the State shall assess a penalty on such individual and deposit any such penalty received in the same manner as the State assesses and deposits such penalties under provisions of State law implementing section 303(a)(11) of the Social Security Act, as added by subsection (a).

(e) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section
shall apply to erroneous payments established after
the end of the 2-year period beginning on the date
of the enactment of this Act.

(2) AUTHORITY.—A State may amend its State
law to apply such amendments to erroneous pay-
ments established prior to the end of the period de-
scribed in paragraph (1).

SEC. 653. PROHIBITION ON NONCHARGING DUE TO EM-
PLOYER FAULT.

(a) IN GENERAL.—Section 3303 of the Internal Rev-

ene Code is amended—

(1) by striking subsections (f) and (g); and

(2) by inserting after subsection (e) the fol-
lowing new subsection:

“(f) PROHIBITION ON NONCHARGING DUE TO EM-
PLOYER FAULT.—A State law shall be treated as meeting
the requirements of subsection (a)(1) only if such law pro-
vides that an employer’s account shall not be relieved of
charges relating to a payment from the State unemploy-
ment fund if—

“(1) the State agency determines that the pay-
ment was made because the employer, or an agent
of the employer, was at fault for failing to respond
timely or adequately to the request of the agency for
information relating to the claim for compensation; and

“(2) the State agency determines that the employer or agent has established a pattern of failing to respond timely or adequately to such requests.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to erroneous payments established after the end of the 2-year period beginning on the date of the enactment of this Act.

SEC. 654. COLLECTION OF PAST-DUE, LEGALLY ENFORCEABLE STATE DEBTS.

(a) UNEMPLOYMENT COMPENSATION DEBTS.—Section 6402(f) of the Internal Revenue Code is amended—

(1) in the heading, by striking “RESULTING FROM FRAUD”;

(2) by striking paragraphs (3) and (8) and redesignating paragraphs (4) through (7) as paragraphs (3) through (6), respectively;

(3) in paragraph (3), as so redesignated—

(A) in subparagraph (A), by striking “by certified mail with return receipt”;

(B) in subparagraph (B), by striking “due to fraud” and inserting “is not a covered unemployment compensation debt”;
(C) in subparagraph (C), by striking “due to fraud” and inserting “is not a covered unemployment compensation debt”; and

(4) in paragraph (4), as so redesignated—

(A) in subparagraph (A)—

(i) by inserting “or the person’s failure to report earnings” after “due to fraud”; and

(ii) by striking “for not more than 10 years”; and

(B) in subparagraph (B)—

(i) by striking “due to fraud”; and

(ii) by striking “for not more than 10 years”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to refunds payable under section 6402 of the Internal Revenue Code of 1986 on or after the date of the enactment of this Act.

SEC. 655. TREATMENT OF SHORT-TIME COMPENSATION PROGRAMS.

(a) DEFINITION.—Section 3306 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

(1) IN GENERAL.—
“(v) SHORT-TIME COMPENSATION PROGRAM.—For purposes of this chapter, the term ‘short-time compensation program’ means a program under which—

“(1) the participation of an employer is voluntary;

“(2) an employer reduces the number of hours worked by employees in lieu of temporary layoffs;

“(3) such employees whose workweeks have been reduced by at least 10 percent, and by not more than the percentage, if any, that is determined by the State to be appropriate, are eligible for unemployment compensation;

“(4) the amount of unemployment compensation payable to any such employee is a pro rata portion of the unemployment compensation which would be payable to the employee if such employee were totally unemployed;

“(5) such employees are not required to meet the availability for work or work search test requirements while collecting short-time compensation benefits, but are required to be available for their normal workweek;

“(6) eligible employees may participate in an employer-sponsored training program to enhance job
skills if such program has been approved by the State agency;

“(7) the State agency shall require an employer to certify that the employer will continue to provide health benefits, and retirement benefits under a defined benefit plan (as defined in section 414(j)) and contributions under a defined contribution plan (as defined in section 414(i)) to any employee whose workweek is reduced under the program under the same terms and conditions as though the workweek of such employee had not been reduced;

“(8) the State agency shall require an employer (or an employers’ association which is party to a collective bargaining agreement) to submit a written plan describing the manner in which the requirements of this subsection will be implemented and containing such other information as the Secretary of Labor determines is appropriate;

“(9) in the case of employees represented by a union, the appropriate official of the union has agreed to the terms of the written plan submitted by the employer and implementation is consistent with employer obligations under the National Labor Relations Act; and
“(10) only such other provisions are included in the State law as the Secretary of Labor determines appropriate for purposes of a short-term compensation program.”.

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(B) DELAY PERMITTED.—In the case of a State that is administering a short-time compensation program as of the date of the enactment of this Act and the State law cannot be administered consistent with the amendment made by paragraph (1), such amendment shall take effect on the earlier of—

(i) the date the State changes its State law in order to be consistent with such amendment; or

(ii) the date that is 2 years after the date of the enactment of this Act.

(b) CONFORMING AMENDMENTS.—

(1) INTERNAL REVENUE CODE OF 1986.—Subparagraph (E) of section 3304(a)(4) of the Internal
Revenue Code of 1986 is amended to read as follows:

“(E) amounts may be withdrawn for the payment of short-time compensation under a short-time compensation program (as defined in section 3306(v));”.

(2) **Unemployment Compensation Amendments of 1992.**—Subsections (b) through (d) of section 401 of the Unemployment Compensation Amendments of 1992 (26 U.S.C. 3304 note) are repealed.

**SEC. 656. State Use of Compensating Balances and Interest Earned on Clearing Account to Pay Associated Banking Costs.**

(a) **Immediate Deposit Requirement.**—Section 3304(a)(3) of the Internal Revenue Code of 1986, as amended by section 651(d)(1), is amended—

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

(2) in subparagraph (C), by inserting “and” after the semicolon at the end; and

(3) by adding at the end the following new sub-
paragraph:

“(D) such portion of the money as may be necessary to generate earnings credit or actual
interest earnings sufficient to pay reasonable
charges for banking services related to such
money and for services provided by a bank in
connection with the receipt and processing of
direct remittances from employers;”.

(b) Withdrawal Standard.—Section 3304(a)(4)
of the Internal Revenue Code of 1986, as amended by sec-
tion 651(a), is amended—

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

(2) in subparagraph (I), by inserting “and”
after the semicolon at the end; and

(3) by adding at the end the following new sub-
paragraph:

“(J) earnings credit or actual interest
earnings on money not immediately paid over to
the Secretary of the Treasury pursuant to para-
graph (3) may be used to pay reasonable
charges for banking services related to money
received in the unemployment fund and for
services provided by a bank in connection with
the receipt and processing of direct remittances
from employers;”.

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(c) CONFORMING AMENDMENT.—Section 1201(a)(3) of the Social Security Act (42 U.S.C. 1321(a)(3)) is amended—

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

(2) in subparagraph (C), by striking the period at the end and inserting “, and”; and

(3) by adding at the end the following new subparagaph:

“(D) any amounts set aside to pay reasonable charges for banking services consistent with paragraphs (3) and (4) of section 3304(a) of the Internal Revenue Code of 1986 shall not be taken into account for purposes of subparagraph (B).”.

SEC. 657. REPORTING OF FIRST DAY OF EARNINGS TO DIRECTORY OF NEW HIRES.

(a) ADDITION OF REQUIREMENT.—Section 453A(b)(1)(A) of the Social Security Act (42 U.S.C. 653a(b)(1)(A)) is amended by inserting “the date services for remuneration were first performed by the employee,” after “of the employee,”.

(b) CONFORMING AMENDMENT; REPORTING FORMAT AND METHOD.—Section 453A(c) of the Social Security Act (42 U.S.C. 653a(c)) is amended by inserting “, to the
extent practicable,’’ after ‘‘Each report required by sub-
section (b) shall’’.

(c) Effective Date.—

(1) In General.—Subject to paragraph (2),
the amendments made by this section shall take ef-
fekt 6 months after the date of the enactment of this
Act.

(2) Compliance Transition Period.—If the
Secretary of Health and Human Services determines
that State legislation (other than legislation appro-
priating funds) is required in order for a State plan
under part D of title IV of the Social Security Act
to meet the additional requirements imposed by the
amendment made by subsection (a), the plan shall
not be regarded as failing to meet such requirements
before the first day of the second calendar quarter
beginning after the close of the first regular session
of the State legislature that begins after the effective
date of such amendment. If the State has a 2-year
legislative session, each year of the session is deemed
to be a separate regular session of the State legisla-
ture.
SEC. 658. DEDUCTION OF OBLIGATIONS FOR CUSTODIAL PARENTS.

(a) Authorization To Deduct Support For Custodial Parents From Unemployment Compensation.—

(1) In general.—Section 303(e) of the Social Security Act (42 U.S.C. 503(e)) is amended—

(A) by striking “child support obligations” each place it appears and inserting “support obligations”; and

(B) in paragraph (1), in the matter following subparagraph (B), by striking “only includes obligations” and inserting “is limited to obligations established with respect to a child or a custodial parent of such child”.


(b) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to weeks of unemployment beginning after the end of the 2-year period beginning on the date of the enactment of this Act.
(2) AUTHORITY.—A State may amend its State law to provide for deducting and withholding amounts from unemployment compensation in accordance with the amendments made by this section prior to end of the period described in paragraph (1).

SEC. 659. ADVISORY COUNCIL ON UNEMPLOYMENT COMPENSATION.

(a) IN GENERAL.—Section 908 of the Social Security Act (42 U.S.C. 1108) is amended by striking subsections (a), (b), and (c) and inserting the following new subsections:

“(a) ESTABLISHMENT.—The Secretary of Labor may periodically establish an advisory council to be known as the Advisory Council on Unemployment Compensation (referred to in this section as the ‘Council’).

“(b) FUNCTION.—Each Council shall, to the extent directed by the Secretary of Labor, evaluate specific aspects of the unemployment compensation program, which may include the purpose, goals, effects on economic stabilization (including countercyclical effects), coverage, trust fund solvency, administrative performance, payment integrity and any other aspects of the program as the Secretary of Labor deems necessary.

“(c) MEMBERS.—
“(1) **Presidential Appointments.**—Each Council shall consist of 9 members appointed by the President.

“(2) **Vacancy.**—A vacancy in any Council shall be filled by appointment in accordance with paragraph (1).

“(3) **Chairman.**—The President shall designate a member of the Council to serve as its Chairman.”.

(b) **Report.**—Subsection (f) of section 908 of the Social Security Act (42 U.S.C. 1108 (f)) is amended to read as follows:

“(f) **Report.**—The Council shall submit, at such times as the Secretary of Labor may specify, to the President through the Secretary of Labor reports setting forth the findings of the Council together with and any recommendations the Council determines are appropriate.”.

**SEC. 660. AMENDMENT TO THE FEDERAL-STATE EXTENDED BENEFITS PROGRAM.**

(a) **In General.**—Section 202(a)(3)(E) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) is amended by striking clause (ii) and inserting the following:
“(ii) the individual maintains tangible
evidence that he has engaged in such an
effort during such week; and
“(iii) the individual provides such tan-
gible evidence to the State agency upon re-
quest.

The Secretary shall prescribe requirements for
State agencies to randomly audit a minimum
number of claims each week to determine com-
pliance with this subparagraph”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in para-
graph (2), the amendment made by this section shall
apply to weeks of unemployment beginning after the
end of the 2-year period beginning on the date of the
enactment of this Act.

(2) AUTHORITY.—A State may amend its State
law to provide for the administration of the Federal-
State extended benefits program in accordance with
the amendment made by this section prior to the
end of the period described in paragraph (1).

SEC. 661. OPERATING INSTRUCTIONS AND REGULATIONS.

The Secretary of Labor may prescribe any operating
instructions or regulations necessary to carry out the pro-
visions of, and amendments made by, this subtitle to the
extent that responsibility for the administration of such
provision or amendment is vested in the Secretary of
Labor.

Subtitle F—Custom User Fees

SEC. 665. CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus
is amended—

(1) in subparagraph (A), by striking “December
10, 2018” and inserting “December 31, 2019”; and

(2) in subparagraph (B)(i), by striking “No-

vember 30, 2018” and inserting “September 30,
2019”.

TITLE VII—TRANSPARENCY RE-
QUIREMENTS FOR FOREIGN-
HELD DEBT

SEC. 701. SHORT TITLE.

This title may be cited as the “Foreign-Held Debt
Transparency and Threat Assessment Act”.

SEC. 702. DEFINITIONS.

In this title:

(1) APPROPRIATE CONGRESSIONAL COMMIT-
TEES.—The term “appropriate congressional com-
mittees” means the following:
(A) The Committee on Armed Services, the Committee on Foreign Relations, the Committee on Finance, and the Committee on the Budget of the Senate.

(B) The Committee on Armed Services, the Committee on Foreign Affairs, the Committee on Ways and Means, and the Committee on the Budget of the House of Representatives.

(2) DEBT INSTRUMENTS OF THE UNITED STATES.—The term “debt instruments of the United States” means all bills, notes, and bonds issued or guaranteed by the United States or by an entity of the United States Government, including any Government-sponsored enterprise.

SEC. 703. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the growing Federal debt of the United States has the potential to jeopardize the national security and economic stability of the United States;

(2) the increasing dependence of the United States on foreign creditors has the potential to make the United States vulnerable to undue influence by certain foreign creditors in national security and economic policymaking;
(3) the People’s Republic of China is the largest foreign creditor of the United States, in terms of its overall holdings of debt instruments of the United States;

(4) the current level of transparency in the scope and extent of foreign holdings of debt instruments of the United States is inadequate and needs to be improved, particularly regarding the holdings of the People’s Republic of China;

(5) through the People’s Republic of China’s large holdings of debt instruments of the United States, China has become a super creditor of the United States;

(6) under certain circumstances, the holdings of the People’s Republic of China could give China a tool with which China can try to manipulate the domestic and foreign policymaking of the United States, including the United States relationship with Taiwan;

(7) under certain circumstances, if the People’s Republic of China were to be displeased with a given United States policy or action, China could attempt to destabilize the United States economy by rapidly divesting large portions of China’s holdings of debt instruments of the United States; and
(8) the People’s Republic of China’s expansive holdings of such debt instruments of the United States could potentially pose a direct threat to the United States economy and to United States national security. This potential threat is a significant issue that warrants further analysis and evaluation.

SEC. 704. QUARTERLY REPORT ON RISKS POSED BY FOREIGN HOLDINGS OF DEBT INSTRUMENTS OF THE UNITED STATES.

(a) Quarterly Report.—Not later than March 31, June 30, September 30, and December 31 of each year, the President shall submit to the appropriate congressional committees a report on the risks posed by foreign holdings of debt instruments of the United States, in both classified and unclassified form.

(b) Matters To Be Included.—Each report submitted under this section shall include the following:

(1) The most recent data available on foreign holdings of debt instruments of the United States, which data shall not be older than the date that is 7 months preceding the date of the report.

(2) The country of domicile of all foreign creditors who hold debt instruments of the United States.

(3) The total amount of debt instruments of the United States that are held by the foreign creditors,
broken out by the creditors’ country of domicile and
by public, quasi-public, and private creditors.

(4) For each foreign country listed in para-
graph (3)—

(A) an analysis of the country’s purpose in
holding debt instruments of the United States
and long-term intentions with regard to such
debt instruments;

(B) an analysis of the current and foresee-
able risks to the long-term national security and
economic stability of the United States posed by
each country’s holdings of debt instruments of
the United States; and

(C) a specific determination of whether the
level of risk identified under subparagraph (B)
is acceptable or unacceptable.

(c) PUBLIC AVAILABILITY.—The President shall
make each report required by subsection (a) available, in
its unclassified form, to the public by posting it on the
Internet in a conspicuous manner and location.

SEC. 705. ANNUAL REPORT ON RISKS POSED BY THE FED-
ERAL DEBT OF THE UNITED STATES.

(a) IN GENERAL.—Not later than December 31 of
each year, the Comptroller General of the United States
shall submit to the appropriate congressional committees
(b) CONTENT OF REPORT.—Each report submitted under this section shall include the following:

(1) An analysis of the current and foreseeable risks to the long-term national security and economic stability of the United States posed by the Federal debt of the United States.

(2) A specific determination of whether the levels of risk identified under paragraph (1) are sustainable.

(3) If the determination under paragraph (2) is that the levels of risk are unsustainable, specific recommendations for reducing the levels of risk to sustainable levels, in a manner that results in a reduction in Federal spending.

SEC. 706. CORRECTIVE ACTION TO ADDRESS UNACCEPTABLE AND UNSUSTAINABLE RISKS TO UNITED STATES NATIONAL SECURITY AND ECONOMIC STABILITY.

In any case in which the President determines under section 704(b)(4)(C) that a foreign country’s holdings of debt instruments of the United States pose an unacceptable risk to the long-term national security or economic
stability of the United States, the President shall, within
30 days of the determination—

(1) formulate a plan of action to reduce the risk
level to an acceptable and sustainable level, in a
manner that results in a reduction in Federal spend-
ing;

(2) submit to the appropriate congressional
committees a report on the plan of action that in-
cludes a timeline for the implementation of the plan
and recommendations for any legislative action that
would be required to fully implement the plan; and

(3) move expeditiously to implement the plan in
order to protect the long-term national security and
economic stability of the United States.

TITLE VIII—TRANSPARENCY RE-
QUIREMENTS FOR FOREIGN-
HELD DEBT

SEC. 801. SHORT TITLE.
This title may be cited as the “Foreign-Held Debt
Transparency and Threat Assessment Act”.

SEC. 802. DEFINITIONS.
In this title:

(1) APPROPRIATE CONGRESSIONAL COMMIT-
TEES.—The term “appropriate congressional com-
mittees” means the following:
(A) The Committee on Armed Services, the Committee on Foreign Relations, the Committee on Finance, the Committee on Banking, Housing, and Urban Affairs, and the Committee on the Budget of the Senate.

(B) The Committee on Armed Services, the Committee on Foreign Affairs, the Committee on Ways and Means, the Committee on Financial Services, and the Committee on the Budget of the House of Representatives.

(2) DEBT INSTRUMENTS OF THE UNITED STATES.—The term “debt instruments of the United States” means all bills, notes, and bonds held by the public and issued or guaranteed by the United States or by an entity of the United States Government.

SEC. 803. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the growing Federal debt of the United States has the potential to jeopardize the national security and economic stability of the United States;

(2) large foreign holdings of debt instruments of the United States have the potential to make the United States vulnerable to undue influence by for-
eign creditors in national security and economic policymaking;

(3) the People’s Republic of China, Japan, and the United Kingdom are the 3 largest foreign holders of debt instruments of the United States; and

(4) the current level of transparency in the scope and extent of foreign holdings of debt instruments of the United States is inadequate and needs to be improved.

SEC. 804. ANNUAL REPORT ON RISKS POSED BY FOREIGN HOLDINGS OF DEBT INSTRUMENTS OF THE UNITED STATES.

(a) Annual Report.—Not later than March 31 of each year, the Secretary of the Treasury shall submit to the appropriate congressional committees a report on the risks posed by foreign holdings of debt instruments of the United States, in both classified and unclassified form.

(b) Matters To Be Included.—Each report submitted under this section shall include the following:

(1) The most recent data available on foreign holdings of debt instruments of the United States, which data shall not be older than the date that is 9 months preceding the date of the report.

(2) The total amount of debt instruments of the United States that are held by foreign residents,
broken out by the residents’ country of domicile and
by public and private residents.

(3) An analysis of the current and foreseeable
risks to the long-term national security and eco-

momic stability of the United States posed by foreign
holdings of debt instruments of the United States.

(c) Public Availability.—The Secretary of the
Treasury shall make each report required by subsection
(a) available, in its unclassified form, to the public by post-
ing it on the Internet in a conspicuous manner and loca-
tion.

SEC. 805. ANNUAL REPORT ON RISKS POSED BY THE FED-
ERAL DEBT OF THE UNITED STATES.

(a) In General.—Not later than March 31 of each
year, the Comptroller General of the United States shall
submit to the appropriate congressional committees a re-
port on the risks to the United States posed by the Fed-
eral debt of the United States.

(b) Content of Report.—Each report submitted
under this section shall include the following:

(1) An analysis of the current and foreseeable
risks to the long-term national security and eco-

momic stability of the United States posed by the
Federal debt of the United States.
(2) Specific recommendations for reducing the
levels of risk resulting from the Federal debt.

SEC. 806. CORRECTIVE ACTION TO ADDRESS UNACCEPT-
ABLE RISKS TO UNITED STATES NATIONAL
SECURITY AND ECONOMIC STABILITY.

If the President determines that foreign holdings of
debt instruments of the United States pose an unaccept-
able risk to the long-term national security or economic
stability of the United States, the President shall, within
30 days of the determination—

(1) formulate a plan of action to reduce such
risk;

(2) submit to the appropriate congressional
committees a report on the plan of action that in-
cludes a timeline for the implementation of the plan
and recommendations for any legislative action that
would be required to fully implement the plan; and

(3) move expeditiously to implement the plan in
order to protect the long-term national security and
economic stability of the United States.

TITLE IX—OFFICE OF THE
HOMEOWNER ADVOCATE

SEC. 901. OFFICE OF THE HOMEOWNER ADVOCATE.

(a) ESTABLISHMENT.—There is established in the
Department of the Treasury an office to be known as the
“Office of the Homeowner Advocate” (in this title referred to as the “Office”).

(b) **Director.—**

(1) **In general.**—The Director of the Office of the Homeowner Advocate (in this title referred to as the “Director”) shall report directly to the Assistant Secretary of the Treasury for Financial Stability, and shall be entitled to compensation at the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code.

(2) **Appointment.**—The Director shall be appointed by the Secretary, after consultation with the Secretary of the Department of Housing and Urban Development, and without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service or the Senior Executive Service.

(3) **Qualifications.**—An individual appointed under paragraph (2) shall have—

(A) experience as an advocate for homeowners; and

(B) experience dealing with mortgage servicers.
(4) Restriction on Employment.—An individual may be appointed as Director only if such individual was not an officer or employee of either a mortgage servicer or the Department of the Treasury during the 4-year period preceding the date of such appointment.

(5) Hiring Authority.—The Director shall have the authority to hire staff, obtain support by contract, and manage the budget of the Office of the Homeowner Advocate.

SEC. 902. FUNCTIONS OF THE OFFICE.

(a) In General.—It shall be the function of the Office—

(1) to assist homeowners, housing counselors, and housing lawyers in resolving problems with the Home Affordable Modification Program of the Making Home Affordable initiative of the Secretary, authorized under the Emergency Economic Stabilization Act of 2008 (in this title referred to as the “Home Affordable Modification Program”)

(2) to identify areas, both individual and systematic, in which homeowners, housing counselors, and housing lawyers have problems in dealings with the Home Affordable Modification Program;
(3) to the extent possible, to propose changes in
the administrative practices of the Home Affordable
Modification Program, to mitigate problems identi-
ﬁed under paragraph (2);

(4) to identify potential legislative changes
which may be appropriate to mitigate such problems;
and

(5) to implement other programs and initiatives
that the Director deems important to assisting
homeowners, housing counselors, and housing law-
yers in resolving problems with the Home Affordable
Modification Program, which may include—

(A) running a triage hotline for home-
owners at risk of foreclosure;

(B) providing homeowners with access to
housing counseling programs of the Department
of Housing and Urban Development at no cost
to the homeowner;

(C) developing Internet tools related to the
Home Affordable Modification Program; and

(D) developing training and educational
materials.

(b) AUTHORITY.—

(1) IN GENERAL.—Staff designated by the Di-
rector shall have the authority to implement servicer
remedies, on a case-by-case basis, subject to the ap-
approval of the Assistant Secretary of the Treasury for
Financial Stability.

(2) Resolution of Homeowner Concerns.—The Office shall, to the extent possible, re-
solve all homeowner concerns not later than 30 days
after the opening of a case with such homeowner.

(c) Commencement of Operations.—The Office
shall commence its operations, as required by this title,
not later than 3 months after the date of enactment of
this Act.

(d) Sunset.—The Office shall cease operations as of
the date on which the Home Affordable Modification Pro-
gram ceases to operate.

SEC. 903. RELATIONSHIP WITH EXISTING ENTITIES.

(a) Transfer.—The Office shall coordinate and cen-
tralize all complaint escalations relating to the Home Af-
fordable Modification Program.

(b) Hotline.—The HOPE hotline (or any successor
triage hotline) shall reroute all complaints relating to the
Home Affordable Modification Program to the Office.

(c) Coordination.—The Office shall coordinate
with the compliance office of the Office of Financial Sta-
bility of the Department of the Treasury and the Home-
ownership Preservation Office of the Department of the Treasury.

SEC. 904. RULE OF CONSTRUCTION.

Nothing in this section shall prohibit a mortgage servicer from evaluating a homeowner for eligibility under the Home Affordable Foreclosure Alternatives Program while a case is still open with the Office of the Homeowner Advocate. Nothing in this section may be construed to relieve any loan services from otherwise applicable rules, directives, or similar guidance under the Home Affordable Modification Program relating to the continuation or completion of foreclosure proceedings.

SEC. 905. REPORTS TO CONGRESS.

(a) Testimony.—The Director shall be available to testify before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, not less frequently than 4 times a year, or at any time at the request of the Chairs of either committee.

(b) Reports.—Once annually, the Director shall provide a detailed report to Congress on the Home Affordable Modification Program. Such report shall contain full and substantive analysis, in addition to statistical information, including, at a minimum—
(1) data and analysis of the types and volume
of complaints received from homeowners, housing
counselors, and housing lawyers, broken down by
category of servicer, except that servicers may not be
identified by name in the report;

(2) a summary of not fewer than 20 of the
most serious problems encountered by Home Affordable
Modification Program participants, including a
description of the nature of such problems;

(3) to the extent known, identification of the 10
most litigated issues for Home Affordable Modification Program participants, including recommendations for mitigating such disputes;

(4) data and analysis on the resolutions of the
complaints received from homeowners, housing coun-
selors, and housing lawyers;

(5) identification of any programs or initiatives
that the Office has taken to improve the Home Affordable Modification Program;

(6) recommendations for such administrative
and legislative action as may be appropriate to re-
solve problems encountered by Home Affordable
Modification Program participants; and

(7) such other information as the Director may
deem advisable.
SEC. 906. FUNDING.

Amounts made available for the costs of administration of the Home Affordable Modification Program that are not otherwise obligated shall be available to carry out the duties of the Office. Funding shall be maintained at levels adequate to reasonably carry out the functions of the Office.

SEC. 907. PROHIBITION ON PARTICIPATION IN MAKING HOME AFFORDABLE FOR BORROWERS WHO STRATEGICALLY DEFAULT.

No mortgage may be modified under the Making Home Affordable Program, or with any funds from the Troubled Asset Relief Program, unless the servicer of the mortgage loan has determined, in accordance with standards and requirements established by the Secretary of the Treasury, that the mortgagor cannot afford to make payments under the terms of the existing mortgage loan. The Secretary of the Treasury, in consultation with the Secretary of Housing and Urban Development, shall issue rules to carry out this section not later than 90 days after the date of enactment of this Act. This section shall not apply to any refinancing or modifications made under the “FHA Program Adjustments to Support Refinancings for Underwater Homeowners,” announced by the Department of the Treasury and the Department of Housing and Urban Development on March 26, 2010, as long as the
program continues to be structured so that borrowers par-
2 ticipating in the FHA refinance program cannot be in de-
3 fault on their primary mortgage at the time of refinance
4 and their eligibility in the program is not helped if they
5 are in default on their second mortgage, and thus lack
6 a strategic reason to go into default on either their first
7 or second mortgage to participate in the program.

SEC. 908. PUBLIC AVAILABILITY OF INFORMATION.
(a) PUBLIC AVAILABILITY OF DATA.—The Secretary
of the Treasury shall revise the guidelines for the Home
Affordable Modification Program of the Making Home Af-
fordable initiative of the Secretary of the Treasury, au-
thorized under the Emergency Economic Stabilization Act
of 2008 (Public Law 110–343), to establish that the data
collected by the Secretary of the Treasury from each mort-
gage servicer and lender participating in the Program is
made public in accordance with subsection (b).

(b) CONTENT.—Not more than 60 days after each
monthly deadline for submission of data by mortgage
servicers and lender participating in the program, the
Treasury shall make all data tables available to the public
at the individual record level. This data shall include but
not be limited to—
(1) higher risk loans, including loans made in connection with any program to provide expanded loan approvals, shall be reported separately;

(2) disclose—

(A) the rate or pace at which such mortgages are becoming seriously delinquent;
(B) whether such rate or pace is increasing or decreasing;
(C) if there are certain subsets within the loans covered by this section that have greater or lesser rates or paces of delinquency; and
(D) if such subsets exist, the characteristics of such subset of mortgages;

(3) with respect to the loss mitigation efforts of the loan—

(A) the processes and practices that the reporter has in effect to minimize losses on mortgages covered by this section; and
(B) the manner and methods by which such processes and practices are being monitored for effectiveness;

(4) disclose, with respect to loans that are or become 60 or more days past due, (provided that for purposes of disclosure under this paragraph that each loan should have a unique number that is not
the same as any loan number the borrower, originator, or servicer uses), the following attributes—

(A) the original loan amount;

(B) the current loan amount;

(C) the loan-to-value ratio and combined loan-to-value ratio, both at origination and currently, and the number of liens on the property;

(D) the property valuation at the time of origination of the loan, and all subsequent property valuations and the date of each valuation;

(E) each relevant credit score of each borrower obtained at any time in connection with the loan, with the date of the credit score, to the extent allowed by existing law;

(F) whether the loan has any mortgage or other credit insurance or guarantee;

(G) the current interest rate on such loan;

(H) any rate caps and floors if the loan is an adjustable rate mortgage loan;

(I) the adjustable rate mortgage index or indices for such loan;

(J) whether the loan is currently past due, and if so how many days such loan is past due;

(K) the total number of days the loan has been past due at any time;
(L) whether the loan is subject to a balloon payment;

(M) the date of each modification of the loan;

(N) whether any amounts of loan principal has been deferred or written off, and if so, the date and amount of each deferral and the date and amount of each writedown;

(O) whether the interest rate was changed from a rate that could adjust to a fixed rate, and if so, the period of time for which the rate will be fixed;

(P) the amount by which the interest rate on the loan was reduced, and for what period of time it was reduced;

(Q) if the interest rate was reduced or fixed for a period of time less than the remaining loan term, on what dates, and to what rates, could the rate potentially increase in the future;

(R) whether the loan term was modified, and if so, whether it was extended or shortened, and by what amount of time;
(S) whether the loan is in the process of foreclosure or similar procedure, whether judicial or otherwise; and

(T) whether a foreclosure or similar procedure, whether judicial or otherwise, has been completed.

(c) GUIDELINES AND REGULATIONS.—The Secretary of the Treasury shall establish guidelines and regulations necessary—

(1) to ensure that the privacy of individual consumers is appropriately protected in the reports under this section;

(2) to make the data reported under this subsection available on a public website with no cost to access the data, in a consistent format;

(3) to update the data no less frequently than monthly;

(4) to establish procedures for disclosing such data to the public on a public website with no cost to access the data; and

(5) to allow the Secretary to make such deletions as the Secretary may determine to be appropriate to protect any privacy interest of any loan modification applicant, including the deletion or al-
teration of the applicant’s name and identification number.

(d) EXCEPTION.—No data shall have to be disclosed if it voids or violates existing contracts between the Secretary of Treasury and mortgage servicers as part of the Making Home Affordable Program.

TITLE X—BUDGETARY PROVISIONS

SEC. 1001. DETERMINATION OF BUDGETARY EFFECTS.

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, jointly submitted for printing in the Congressional Record by the Chairmen of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.
A BILL

To extend expiring provisions and for other purposes.

SEPTEMBER 20, 2010

Read the second time and placed on the calendar.