

Calendar No. 572

111TH CONGRESS
2^D SESSION**S. 3793**

To extend expiring provisions and for other purposes.

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE;**

4 **TABLE OF CONTENTS.**

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

7 (b) AMENDMENT OF 1986 CODE.—Except as other-
8 wise expressly provided, whenever in titles I, II, and IV
9 of this Act an amendment or repeal is expressed in terms

1 of an amendment to, or repeal of, a section or other provi-
 2 sion, the reference shall be considered to be made to a
 3 section or other provision of the Internal Revenue Code
 4 of 1986.

5 (c) TABLE OF CONTENTS.—The table of contents for
 6 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 vehi-
 cles 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 alter-
 native 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 re-
 spect 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.
- Sec. 268. Renewal community tax incentives.

- Sec. 269. Temporary increase in limit on cover over of rum excise taxes to Puerto Rico and the Virgin Islands.
- Sec. 270. Payment to American Samoa in lieu of extension of economic development credit.
- Sec. 271. Election to temporarily utilize unused AMT credits determined by domestic investment.
- Sec. 272. Reduction in corporate rate for qualified timber gain.
- Sec. 273. Study of extended tax expenditures.

Subtitle D—Temporary Disaster Relief Provisions

PART I—NATIONAL DISASTER RELIEF

- Sec. 281. Waiver of certain mortgage revenue bond requirements.
- Sec. 282. Losses attributable to federally declared disasters.
- Sec. 283. Special depreciation allowance for qualified disaster property.
- Sec. 284. Net operating losses attributable to federally declared disasters.
- Sec. 285. Expensing of qualified disaster expenses.

PART II—REGIONAL PROVISIONS

SUBPART A—NEW YORK LIBERTY ZONE

- Sec. 291. Special depreciation allowance for nonresidential and residential real property.
- Sec. 292. Tax-exempt bond financing.

SUBPART B—GO ZONE

- Sec. 295. Increase in rehabilitation credit.
- Sec. 296. Work opportunity tax credit with respect to certain individuals affected by Hurricane Katrina for employers inside disaster areas.
- Sec. 297. Extension of low-income housing credit rules for buildings in GO zones.

TITLE III—TECHNICAL CORRECTIONS TO PENSION FUNDING LEGISLATION

- Sec. 301. Definition of eligible plan year.
- Sec. 302. Eligible charity plans.
- Sec. 303. Suspension of certain funding level limitations.
- Sec. 304. Optional use of 30-year amortization periods.
- Sec. 305. Transition rule for certifications of plan status.

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.
- Sec. 402. Income of partners for performing investment management services treated as ordinary income received for performance of services.

Subtitle B—Corporate Provisions

- Sec. 411. Treatment of securities of a controlled corporation exchanged for assets in certain reorganizations.
- Sec. 412. Taxation of boot received in reorganizations.

Subtitle C—Other Provisions

- Sec. 421. Modifications with respect to Oil Spill Liability Trust Fund.
- Sec. 422. Denial of deduction for punitive damages.

TITLE V—HEALTH AND OTHER ASSISTANCE

- Sec. 501. Extension of section 508 reclassifications.
- Sec. 502. Repeal of delay of RUG-IV.
- Sec. 503. Limitation on reasonable costs payments for certain clinical diagnostic laboratory tests furnished to hospital patients in certain rural areas.
- Sec. 504. Funding for claims reprocessing.
- Sec. 505. Medicaid and CHIP technical corrections.
- Sec. 506. Addition of inpatient drug discount program to 340B drug discount program.
- 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.
- 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.
- Sec. 510. Adjustment to Medicare payment localities.
- Sec. 511. Clarification for affiliated hospitals for distribution of additional residency positions.

TITLE VI—OTHER PROVISIONS

Subtitle A—General Provisions

- Sec. 601. Allocation of geothermal receipts.
- Sec. 602. Employment for youth.
- Sec. 603. Housing Trust Fund.
- Sec. 604. The Individual Indian Money Account Litigation Settlement Act of 2010.
- Sec. 605. Appropriation of funds for final settlement of claims from In re Black Farmers Discrimination Litigation.
- Sec. 606. Expansion of eligibility for concurrent receipt of military retired pay and veterans' disability compensation to include all chapter 61 disability retirees regardless of disability rating percentage or years of service.
- Sec. 607. Refunds disregarded in the administration of Federal programs and federally assisted programs.
- Sec. 608. Qualifying timber contract options.
- Sec. 609. Extension and flexibility for certain allocated surface transportation programs.
- Sec. 610. Community College and Career Training Grant Program.
- Sec. 611. Extensions of duty suspensions on cotton shirting fabrics and related provisions.
- Sec. 612. Modification of Wool Apparel Manufacturers Trust Fund.
- Sec. 613. Department of Commerce Study.
- Sec. 614. ARRA planning and reporting.

- Sec. 615. Surety bonds.
- Sec. 616. Funding for Deployment of Renewable Energy, Energy Efficiency, and Electric Power Transmission Projects.

Subtitle B—Extension of Trade Adjustment Assistance

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

Subtitle C—Extension of Health Coverage Improvement

- 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.
- Sec. 635. Continued qualification of family members after certain events.
- Sec. 636. Extension of COBRA benefits for certain TAA-eligible individuals and PBGC recipients.
- Sec. 637. Addition of coverage through voluntary employees' beneficiary associations.
- Sec. 638. Notice requirements.

Subtitle D—TANF Provisions

- Sec. 641. Extension of Temporary Assistance for Needy Families and related programs.
- Sec. 642. Reinstatement of Federal matching of State spending of child support incentive payments.
- Sec. 643. Extension and modification of the TANF Emergency Fund.
- Sec. 644. Modifications to TANF data reporting.
- Sec. 645. State court improvement program.

Subtitle E—Unemployment Compensation Program Integrity

- Sec. 651. Permissible uses of unemployment fund moneys for program integrity purposes.
- Sec. 652. Mandatory penalty assessment on fraud claims.
- 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.
- Sec. 656. State use of compensating balances and interest earned on clearing account to pay associated banking costs.
- Sec. 657. Reporting of first day of earnings to directory of new hires.
- Sec. 658. Deduction of obligations for custodial parents.
- Sec. 659. Advisory Council on unemployment compensation.
- Sec. 660. Amendment to the Federal-State extended benefits program.
- Sec. 661. Operating instructions and regulations.

Subtitle F—Custom User Fees

- Sec. 665. Customs user fees.

TITLE VII—TRANSPARENCY REQUIREMENTS FOR FOREIGN-HELD DEBT

- 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.

TITLE IX—OFFICE OF THE HOMEOWNER ADVOCATE

- Sec. 901. Office of the Homeowner Advocate.
 Sec. 902. Functions of the Office.
 Sec. 903. Relationship with existing entities.
 Sec. 904. Rule of construction.
 Sec. 905. Reports to Congress.
 Sec. 906. Funding.
 Sec. 907. Prohibition on participation in Making Home Affordable for borrowers who strategically default.
 Sec. 908. Public availability of information.

TITLE X—BUDGETARY PROVISIONS

- Sec. 1001. Determination of budgetary effects.

1 **TITLE I—INFRASTRUCTURE**
 2 **INCENTIVES**

3 **SEC. 101. EXTENSION OF BUILD AMERICA BONDS.**

4 (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—

1 (A) by striking “January 1, 2011” in sub-
2 section (a) and inserting “January 1, 2012”;
3 and

4 (B) by striking “January 1, 2011” in sub-
5 section (f)(1)(B) and inserting “a particular
6 date”.

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

9 (A) by striking “January 1, 2011” and in-
10 sserting “January 1, 2012”; and

11 (B) by striking “QUALIFIED BONDS
12 ISSUED BEFORE 2011” in the heading and in-
13 sserting “CERTAIN QUALIFIED BONDS”.

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

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

18 “(1) IN GENERAL.—The Secretary”;

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

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

23 “(2) APPLICABLE PERCENTAGE.—For purposes
24 of this subsection, the term ‘applicable percentage’

1 means the percentage determined in accordance with
 2 the following table:

“In the case of a qualified bond issued during cal- endar year:	The applicable percentage is:
2009 or 2010	35 percent
2011	32 percent.”.

3 (d) CURRENT REFUNDINGS PERMITTED.—Sub-
 4 section (g) of section 54AA is amended by adding at the
 5 end the following new paragraph:

6 “(3) TREATMENT OF CURRENT REFUNDING
 7 BONDS.—

8 “(A) IN GENERAL.—For purposes of this
 9 subsection, the term ‘qualified bond’ includes
 10 any bond (or series of bonds) issued to refund
 11 a qualified bond if—

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

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

19 “(iii) the refunded bond is redeemed
 20 not later than 90 days after the date of the
 21 issuance of the refunding bond.

1 “(B) APPLICABLE PERCENTAGE.—In the
 2 case of a refunding bond referred to in subpara-
 3 graph (A), the applicable percentage with re-
 4 spect to such bond under section 6431(b) shall
 5 be the lowest percentage specified in paragraph
 6 (2) of such section.

7 “(C) DETERMINATION OF AVERAGE MATU-
 8 RITY.—For purposes of subparagraph (A)(i),
 9 average maturity shall be determined in accord-
 10 ance with section 147(b)(2)(A).”.

11 (e) CLARIFICATION RELATED TO LEVEES AND
 12 FLOOD CONTROL PROJECTS.—Subparagraph (A) of sec-
 13 tion 54AA(g)(2) is amended by inserting “(including cap-
 14 ital expenditures for levees and other flood control
 15 projects)” after “capital expenditures”.

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

18 (a) BONDS FOR WATER AND SEWAGE FACILITIES
 19 EXEMPT FROM VOLUME CAP ON PRIVATE ACTIVITY
 20 BONDS.—

21 (1) IN GENERAL.—Paragraph (3) of section
 22 146(g) is amended by inserting “(4), (5),” after
 23 “(2),”.

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

4 (b) TAX-EXEMPT ISSUANCE BY INDIAN TRIBAL GOV-
5 ERNMENTS.—

6 (1) IN GENERAL.—Subsection (c) of section
7 7871 is amended by adding at the end the following
8 new paragraph:

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

15 (2) CONFORMING AMENDMENT.—Paragraph (2)
16 of section 7871(c) is amended by striking “para-
17 graph (3)” and inserting “paragraphs (3) and (4)”.

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

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

24 (a) IN GENERAL.—Clause (vi) of section 57(a)(5)(C)
25 is amended—

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

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

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

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

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

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to obligations issued after Decem-
13 ber 31, 2010.

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

16 (a) EXTENSION OF RECOVERY ZONE BOND AUTHOR-
17 ITY.—Section 1400U–2(b)(1) and section 1400U–
18 3(b)(1)(B) are each amended by striking “January 1,
19 2011” and inserting “January 1, 2012”.

20 (b) ADDITIONAL ALLOCATIONS OF RECOVERY ZONE
21 BOND AUTHORITY BASED ON UNEMPLOYMENT.—Section
22 1400U–1 is amended by adding at the end the following
23 new subsection:

24 “(c) ALLOCATION OF 2010 RECOVERY ZONE BOND
25 LIMITATIONS BASED ON UNEMPLOYMENT.—

1 “(1) IN GENERAL.—The Secretary shall allo-
2 cate the 2010 national recovery zone economic devel-
3 opment bond limitation and the 2010 national recov-
4 ery zone facility bond limitation among the States in
5 the proportion that each such State’s 2009 unem-
6 ployment number bears to the aggregate of the 2009
7 unemployment numbers for all of the States.

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

16 “(3) ALLOCATIONS BY STATES.—

17 “(A) IN GENERAL.—Each State with re-
18 spect to which an allocation is made under
19 paragraph (1) shall reallocate such allocation
20 among the counties and large municipalities (as
21 defined in subsection (a)(3)(B)) in such State
22 in the proportion that each such county’s or
23 municipality’s 2009 unemployment number
24 bears to the aggregate of the 2009 unemploy-

1 ment numbers for all the counties and large
2 municipalities (as so defined) in such State.

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

6 “(i) the amount of the 2010 national
7 recovery zone economic development bond
8 limitation allocated to each county or large
9 municipality (as so defined) in such State
10 by the amount of the national recovery
11 zone economic development bond limitation
12 allocated to such county or large municipi-
13 pality under subsection (a)(3)(A) (deter-
14 mined without regard to any waiver there-
15 of), and

16 “(ii) the amount of the 2010 national
17 recovery zone facility bond limitation allo-
18 cated to each county or large municipality
19 (as so defined) in such State by the
20 amount of the national recovery zone facil-
21 ity bond limitation allocated to such county
22 or large municipality under subsection
23 (a)(3)(A) (determined without regard to
24 any waiver thereof).

1 “(C) WAIVER OF SUBALLOCATIONS.—A
2 county or municipality may waive any portion
3 of an allocation made under this paragraph. A
4 county or municipality shall be treated as hav-
5 ing waived any portion of an allocation made
6 under this paragraph which has not been allo-
7 cated to a bond issued before May 1, 2011. Any
8 allocation waived (or treated as waived) under
9 this subparagraph may be used or reallocated
10 by the State.

11 “(D) SPECIAL RULE FOR A MUNICIPALITY
12 IN A COUNTY.—In the case of any large munic-
13 ipality any portion of which is in a county, such
14 portion shall be treated as part of such munic-
15 ipality and not part of such county.

16 “(4) 2009 UNEMPLOYMENT NUMBER.—For
17 purposes of this subsection, the term ‘2009 unem-
18 ployment number’ means, with respect to any State,
19 county or municipality, the number of individuals in
20 such State, county, or municipality who were deter-
21 mined to be unemployed by the Bureau of Labor
22 Statistics for December 2009.

23 “(5) 2010 NATIONAL LIMITATIONS.—

24 “(A) RECOVERY ZONE ECONOMIC DEVEL-
25 OPMENT BONDS.—The 2010 national recovery

1 zone economic development bond limitation is
2 \$10,000,000,000. Any allocation of such limita-
3 tion under this subsection shall be treated for
4 purposes of section 1400U-2 in the same man-
5 ner as an allocation of national recovery zone
6 economic development bond limitation.

7 “(B) RECOVERY ZONE FACILITY BONDS.—
8 The 2010 national recovery zone facility bond
9 limitation is \$15,000,000,000. Any allocation of
10 such limitation under this subsection shall be
11 treated for purposes of section 1400U-3 in the
12 same manner as an allocation of national recov-
13 ery zone facility bond limitation.”.

14 (c) AUTHORITY OF STATE TO WAIVE CERTAIN 2009
15 ALLOCATIONS.—Subparagraph (A) of section 1400U-
16 1(a)(3) is amended by adding at the end the following:
17 “A county or municipality shall be treated as having
18 waived any portion of an allocation made under this sub-
19 paragraph which has not been allocated to a bond issued
20 before May 1, 2011. Any allocation waived (or treated as
21 waived) under this subparagraph may be used or reallo-
22 cated by the State.”.

1 **SEC. 105. ALLOWANCE OF NEW MARKETS TAX CREDIT**
2 **AGAINST ALTERNATIVE MINIMUM TAX.**

3 (a) **IN GENERAL.**—Subparagraph (B) of section
4 38(c)(4), as amended by the Patient Protection and Af-
5 fordable Care Act, is amended by redesignating clauses
6 (v) through (ix) as clauses (vi) through (x), respectively,
7 and by inserting after clause (iv) the following new clause:

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

13 (b) **EFFECTIVE DATE.**—The amendments made by
14 this section shall apply to credits determined with respect
15 to qualified equity investments (as defined in section
16 45D(b) of the Internal Revenue Code of 1986) initially
17 made after March 15, 2010.

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

21 Clause (iv) of section 149(b)(3)(A) is amended by
22 striking “December 31, 2010” and inserting “December
23 31, 2011”.

1 **SEC. 107. EXTENSION OF TEMPORARY SMALL ISSUER**
 2 **RULES FOR ALLOCATION OF TAX-EXEMPT IN-**
 3 **TEREST EXPENSE BY FINANCIAL INSTITU-**
 4 **TIONS.**

5 (a) IN GENERAL.—Clauses (i), (ii), and (iii) of sec-
 6 tion 265(b)(3)(G) are each amended by striking “or
 7 2010” and inserting “, 2010, or 2011”.

8 (b) CONFORMING AMENDMENT.—Subparagraph (G)
 9 of section 265(b)(3) is amended by striking “AND 2010”
 10 in the heading and inserting “, 2010, AND 2011”.

11 (c) EFFECTIVE DATE.—The amendments made by
 12 this section shall apply to obligations issued after Decem-
 13 ber 31, 2010.

14 **TITLE II—EXTENSION OF**
 15 **EXPIRING PROVISIONS**

16 **Subtitle A—Energy**

17 **SEC. 201. ALTERNATIVE MOTOR VEHICLE CREDIT FOR NEW**
 18 **QUALIFIED HYBRID MOTOR VEHICLES**
 19 **OTHER THAN PASSENGER AUTOMOBILES**
 20 **AND LIGHT TRUCKS.**

21 (a) IN GENERAL.—Paragraph (3) of section 30B(k)
 22 is amended by striking “December 31, 2009” and insert-
 23 ing “December 31, 2010”.

24 (b) EFFECTIVE DATE.—The amendment made by
 25 this section shall apply to property purchased after De-
 26 cember 31, 2009.

1 **SEC. 202. INCENTIVES FOR BIODIESEL AND RENEWABLE**
2 **DIESEL.**

3 (a) CREDITS FOR BIODIESEL AND RENEWABLE DIE-
4 SEL USED AS FUEL.—Subsection (g) of section 40A is
5 amended by striking “December 31, 2009” and inserting
6 “December 31, 2010”.

7 (b) EXCISE TAX CREDITS AND OUTLAY PAYMENTS
8 FOR BIODIESEL AND RENEWABLE DIESEL FUEL MIX-
9 TURES.—

10 (1) Paragraph (6) of section 6426(c) is amend-
11 ed by striking “December 31, 2009” and inserting
12 “December 31, 2010”.

13 (2) Subparagraph (B) of section 6427(e)(6) is
14 amended by striking “December 31, 2009” and in-
15 serting “December 31, 2010”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to fuel sold or used after December
18 31, 2009.

19 **SEC. 203. CREDIT FOR ELECTRICITY PRODUCED AT CER-**
20 **TAIN OPEN-LOOP BIOMASS FACILITIES.**

21 (a) IN GENERAL.—Clause (ii) of section 45(b)(4)(B)
22 is amended—

23 (1) by striking “5-year period” and inserting
24 “6-year period”; and

25 (2) by adding at the end the following: “In the
26 case of the last year of the 6-year period described

1 in the preceding sentence, the credit determined
2 under subsection (a) with respect to electricity pro-
3 duced during such year shall not exceed 80 percent
4 of such credit determined without regard to this sen-
5 tence.”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 this section shall apply to electricity produced and sold
8 after December 31, 2009.

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

11 (a) CREDIT PERIOD.—

12 (1) IN GENERAL.—Subclause (II) of section
13 45(e)(8)(D)(ii) is amended to read as follows:

14 “(II) CREDIT PERIOD.—In lieu
15 of the 10-year period referred to in
16 clauses (i) and (ii)(II) of subpara-
17 graph (A), the credit period shall be
18 the period beginning on the date that
19 the facility first produces steel indus-
20 try fuel that is sold to an unrelated
21 person after September 30, 2008, and
22 ending 2 years after such date.”.

23 (2) CONFORMING AMENDMENT.—Section
24 45(e)(8)(D) is amended by striking clause (iii) and
25 by redesignating clause (iv) as clause (iii).

1 (b) EXTENSION OF PLACED-IN-SERVICE DATE.—

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

3 (1) by striking “(or any modification to a facil-
4 ity)”; and

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

6 (c) CLARIFICATIONS.—

7 (1) STEEL INDUSTRY FUEL.—Subclause (I) of
8 section 45(c)(7)(C)(i) is amended by inserting “, a
9 blend of coal and petroleum coke, or other coke feed-
10 stock” after “on coal”.

11 (2) OWNERSHIP INTEREST.—Section 45(d)(8)
12 is amended by adding at the end the following new
13 flush sentence:

14 “With respect to a facility producing steel industry
15 fuel, no person (including a ground lessor, customer,
16 supplier, or technology licensor) shall be treated as
17 having an ownership interest in the facility or as
18 otherwise entitled to the credit allowable under sub-
19 section (a) with respect to such facility if such per-
20 son’s rent, license fee, or other entitlement to net
21 payments from the owner of such facility is meas-
22 ured by a fixed dollar amount or a fixed amount per
23 ton, or otherwise determined without regard to the
24 profit or loss of such facility.”.

1 (3) PRODUCTION AND SALE.—Subparagraph
2 (D) of section 45(e)(8), as amended by subsection
3 (a)(2), is amended by redesignating clause (iii) as
4 clause (iv) and by inserting after clause (ii) the fol-
5 lowing new clause:

6 “(iii) PRODUCTION AND SALE.—The
7 owner of a facility producing steel industry
8 fuel shall be treated as producing and sell-
9 ing steel industry fuel where that owner
10 manufactures such steel industry fuel from
11 coal, a blend of coal and petroleum coke,
12 or other coke feedstock to which it has
13 title. The sale of such steel industry fuel
14 by the owner of the facility to a person
15 who is not the owner of the facility shall
16 not fail to qualify as a sale to an unrelated
17 person solely because such purchaser may
18 also be a ground lessor, supplier, or cus-
19 tomer.”.

20 (d) SPECIFIED CREDIT FOR PURPOSES OF ALTER-
21 NATIVE MINIMUM TAX EXCLUSION.—Subclause (II) of
22 section 38(c)(4)(B)(iii) is amended by inserting “(in the
23 case of a refined coal production facility producing steel
24 industry fuel, during the credit period set forth in section
25 45(e)(8)(D)(ii)(II))” after “service”.

1 (e) EFFECTIVE DATES.—

2 (1) IN GENERAL.—The amendments made by
3 subsections (a), (b), and (d) shall apply to fuel pro-
4 duced and sold after September 30, 2008.

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

9 **SEC. 205. CREDIT FOR PRODUCING FUEL FROM COKE OR**
10 **COKE GAS.**

11 (a) IN GENERAL.—Paragraph (1) of section 45K(g)
12 is amended by striking “January 1, 2010” and inserting
13 “January 1, 2011”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section shall apply to facilities placed in service after
16 December 31, 2009.

17 **SEC. 206. NEW ENERGY EFFICIENT HOME CREDIT.**

18 (a) IN GENERAL.—Subsection (g) of section 45L is
19 amended by striking “December 31, 2009” and inserting
20 “December 31, 2010”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to homes acquired after December
23 31, 2009.

1 **SEC. 207. EXCISE TAX CREDITS AND OUTLAY PAYMENTS**
2 **FOR ALTERNATIVE FUEL AND ALTERNATIVE**
3 **FUEL MIXTURES.**

4 (a) ALTERNATIVE FUEL CREDIT.—Paragraph (5) of
5 section 6426(d) is amended by striking “after December
6 31, 2009” and all that follows and inserting “after—

7 “(A) September 30, 2014, in the case of
8 liquefied hydrogen,

9 “(B) December 31, 2010, in the case of
10 fuels described in subparagraph (A), (C), (F),
11 or (G) of paragraph (2), and

12 “(C) December 31, 2009, in any other
13 case.”.

14 (b) ALTERNATIVE FUEL MIXTURE CREDIT.—Para-
15 graph (3) of section 6426(e) is amended by striking “after
16 December 31, 2009” and all that follows and inserting
17 “after—

18 “(A) September 30, 2014, in the case of
19 liquefied hydrogen,

20 “(B) December 31, 2010, in the case of
21 fuels described in subparagraph (A), (C), (F),
22 or (G) of subsection (d)(2), and

23 “(C) December 31, 2009, in any other
24 case.”.

25 (c) PAYMENT AUTHORITY.—

1 (1) IN GENERAL.—Paragraph (6) of section
2 6427(e) is amended by striking “and” at the end of
3 subparagraph (C), by striking the period at the end
4 of subparagraph (D) and inserting “, and”, and by
5 adding at the end the following new subparagraph:

6 “(E) any alternative fuel or alternative fuel
7 mixture (as so defined) involving fuel described
8 in subparagraph (A), (C), (F), or (G) of section
9 6426(d)(2) sold or used after December 31,
10 2010.”.

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

14 (d) EXCLUSION OF BLACK LIQUOR FROM CREDIT
15 ELIGIBILITY.—The last sentence of section 6426(d)(2) is
16 amended by striking “or biodiesel” and inserting “bio-
17 diesel, or any fuel (including lignin, wood residues, or
18 spent pulping liquors) derived from the production of
19 paper or pulp”.

20 (e) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to fuel sold or used after December
22 31, 2009.

1 **SEC. 208. SPECIAL RULE FOR SALES OR DISPOSITIONS TO**
2 **IMPLEMENT FERC OR STATE ELECTRIC RE-**
3 **STRUCTURING POLICY FOR QUALIFIED ELEC-**
4 **TRIC UTILITIES.**

5 (a) IN GENERAL.—Paragraph (3) of section 451(i)
6 is amended by striking “January 1, 2010” and inserting
7 “January 1, 2011”.

8 (b) MODIFICATION OF DEFINITION OF INDE-
9 PENDENT TRANSMISSION COMPANY.—

10 (1) IN GENERAL.—Clause (i) of section
11 451(i)(4)(B) is amended to read as follows:

12 “(i) who the Federal Energy Regu-
13 latory Commission determines in its au-
14 thorization of the transaction under section
15 203 of the Federal Power Act (16 U.S.C.
16 824b) or by declaratory order—

17 “(I) is not itself a market partici-
18 pant as determined by the Commis-
19 sion, and also is not controlled by any
20 such market participant, or

21 “(II) to be independent from
22 market participants or to be an inde-
23 pendent transmission company within
24 the meaning of such Commission’s
25 rules applicable to independent trans-
26 mission providers, and”.

1 (2) RELATED PERSONS.—Paragraph (4) of sec-
2 tion 451(i) is amended by adding at the end the fol-
3 lowing flush sentence:

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

8 (c) EFFECTIVE DATE.—

9 (1) IN GENERAL.—The amendment made by
10 subsection (a) shall apply to dispositions after De-
11 cember 31, 2009.

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

15 **SEC. 209. SUSPENSION OF LIMITATION ON PERCENTAGE**
16 **DEPLETION FOR OIL AND GAS FROM MAR-**
17 **GINAL WELLS.**

18 (a) IN GENERAL.—Clause (ii) of section
19 613A(c)(6)(H) is amended by striking “January 1, 2010”
20 and inserting “January 1, 2011”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to taxable years beginning after
23 December 31, 2009.

1 **SEC. 210. DIRECT PAYMENT OF ENERGY EFFICIENT APPLI-**
2 **ANCES TAX CREDIT.**

3 In the case of any taxable year which includes the
4 last day of calendar year 2009 or calendar year 2010, a
5 taxpayer who elects to waive the credit which would other-
6 wise be determined with respect to the taxpayer under sec-
7 tion 45M of the Internal Revenue Code of 1986 for such
8 taxable year shall be treated as making a payment against
9 the tax imposed under subtitle A of such Code for such
10 taxable year in an amount equal to 85 percent of the
11 amount of the credit which would otherwise be so deter-
12 mined. Such payment shall be treated as made on the later
13 of the due date of the return of such tax or the date on
14 which such return is filed. Elections under this section
15 may be made separately for 2009 and 2010, but once
16 made shall be irrevocable. No amount shall be includible
17 in gross income or alternative minimum taxable income
18 by reason of this section.

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

23 (a) IN GENERAL.—Paragraph (4) of section 25C(c)
24 is amended by striking “unless” and all that follows and
25 inserting “unless—

1 “(A) in the case of any component placed
2 in service after the date which is 90 days after
3 the date of the enactment of the Job Creation
4 and Tax Cuts Act of 2010, such component
5 meets the criteria for such components estab-
6 lished by the 2010 Energy Star Program Re-
7 quirements for Residential Windows, Doors,
8 and Skylights, Version 5.0 (or any subsequent
9 version of such requirements which is in effect
10 after January 4, 2010),

11 “(B) in the case of any component placed
12 in service after the date of the enactment of the
13 Job Creation and Tax Cuts Act of 2010 and on
14 or before the date which is 90 days after such
15 date, such component meets the criteria de-
16 scribed in subparagraph (A) or is equal to or
17 below a U factor of 0.30 and SHGC of 0.30,
18 and

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

22 (b) EFFECTIVE DATE.—The amendment made by
23 this section shall apply to property placed in service after
24 the date of the enactment of this Act.

1 **Subtitle B—Individual Tax Relief**

2 **PART I—MISCELLANEOUS PROVISIONS**

3 **SEC. 221. DEDUCTION FOR CERTAIN EXPENSES OF ELE-**
4 **MENTARY AND SECONDARY SCHOOL TEACH-**
5 **ERS.**

6 (a) IN GENERAL.—Subparagraph (D) of section
7 62(a)(2) is amended by striking “or 2009” and inserting
8 “2009, or 2010”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 this section shall apply to taxable years beginning after
11 December 31, 2009.

12 **SEC. 222. ADDITIONAL STANDARD DEDUCTION FOR STATE**
13 **AND LOCAL REAL PROPERTY TAXES.**

14 (a) IN GENERAL.—Subparagraph (C) of section
15 63(c)(1) is amended by striking “or 2009” and inserting
16 “2009, or 2010”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 this section shall apply to taxable years beginning after
19 December 31, 2009.

20 **SEC. 223. DEDUCTION OF STATE AND LOCAL SALES TAXES.**

21 (a) IN GENERAL.—Subparagraph (I) of section
22 164(b)(5) is amended by striking “January 1, 2010” and
23 inserting “January 1, 2011”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to taxable years beginning after
3 December 31, 2009.

4 **SEC. 224. CONTRIBUTIONS OF CAPITAL GAIN REAL PROP-**
5 **ERTY MADE FOR CONSERVATION PURPOSES.**

6 (a) IN GENERAL.—Clause (vi) of section
7 170(b)(1)(E) is amended by striking “December 31,
8 2009” and inserting “December 31, 2010”.

9 (b) CONTRIBUTIONS BY CERTAIN CORPORATE FARM-
10 ERS AND RANCHERS.—Clause (iii) of section 170(b)(2)(B)
11 is amended by striking “December 31, 2009” and insert-
12 ing “December 31, 2010”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to contributions made in taxable
15 years beginning after December 31, 2009.

16 **SEC. 225. ABOVE-THE-LINE DEDUCTION FOR QUALIFIED**
17 **TUITION AND RELATED EXPENSES.**

18 (a) IN GENERAL.—Subsection (e) of section 222 is
19 amended by striking “December 31, 2009” and inserting
20 “December 31, 2010”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to taxable years beginning after
23 December 31, 2009.

24 (c) TEMPORARY COORDINATION WITH HOPE AND
25 LIFETIME LEARNING CREDITS.—In the case of any tax-

1 payer for any taxable year beginning in 2010, no deduc-
2 tion shall be allowed under section 222 of the Internal
3 Revenue Code of 1986 if—

4 (1) the taxpayer's net Federal income tax re-
5 duction which would be attributable to such deduc-
6 tion for such taxable year, is less than

7 (2) the credit which would be allowed to the
8 taxpayer for such taxable year under section 25A of
9 such Code (determined without regard to sections
10 25A(e) and 26 of such Code).

11 **SEC. 226. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RE-**
12 **TIREMENT PLANS FOR CHARITABLE PUR-**
13 **POSES.**

14 (a) IN GENERAL.—Subparagraph (F) of section
15 408(d)(8) is amended by striking “December 31, 2009”
16 and inserting “December 31, 2010”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 this section shall apply to distributions made in taxable
19 years beginning after December 31, 2009.

20 **SEC. 227. LOOK-THRU OF CERTAIN REGULATED INVEST-**
21 **MENT COMPANY STOCK IN DETERMINING**
22 **GROSS ESTATE OF NONRESIDENTS.**

23 (a) IN GENERAL.—Paragraph (3) of section 2105(d)
24 is amended by striking “December 31, 2009” and insert-
25 ing “December 31, 2010”.

1 (b) EFFECTIVE DATE.—The amendment made by
 2 this section shall apply to estates of decedents dying after
 3 December 31, 2009.

4 **PART II—LOW-INCOME HOUSING CREDITS**

5 **SEC. 231. ELECTION FOR DIRECT PAYMENT OF LOW-IN-**
 6 **COME HOUSING CREDIT FOR 2010.**

7 (a) IN GENERAL.—Section 42 is amended by redesi-
 8 gnating subsection (n) as subsection (o) and by inserting
 9 after subsection (m) the following new subsection:

10 “(n) ELECTION FOR DIRECT PAYMENT OF CRED-
 11 IT.—

12 “(1) IN GENERAL.—The housing credit agency
 13 of each State shall be allowed a credit in an amount
 14 equal to such State’s 2010 low-income housing re-
 15 fundable credit election amount, which shall be pay-
 16 able by the Secretary as provided in paragraph (5).

17 “(2) 2010 LOW-INCOME HOUSING REFUNDABLE
 18 CREDIT ELECTION AMOUNT.—For purposes of this
 19 subsection, the term ‘2010 low-income housing re-
 20 fundable credit election amount’ means, with respect
 21 to any State, such amount as the State may elect
 22 which does not exceed 85 percent of the product
 23 of—

24 “(A) the sum of—

1 “(i) 100 percent of the State housing
2 credit ceiling for 2010 which is attrib-
3 utable to amounts described in clauses (i)
4 and (iii) of subsection (h)(3)(C), plus any
5 credits returned to the State attributable
6 to section 1400N(c) (including credits
7 made available under such section as ap-
8 plied by reason of sections 702(d)(2) and
9 704(b) of the Tax Extenders and Alter-
10 native Minimum Tax Relief Act of 2008),
11 and

12 “(ii) 40 percent of the State housing
13 credit ceiling for 2010 which is attrib-
14 utable to amounts described in clauses (ii)
15 and (iv) of such subsection, plus any cred-
16 its for 2010 attributable to the application
17 of such section 702(d)(2) and 704(b), mul-
18 tiplied by

19 “(B) 10.

20 For purposes of subparagraph (A)(ii), in the case of
21 any area to which section 702(d)(2) or 704(b) of the
22 Tax Extenders and Alternative Minimum Tax Relief
23 Act of 2008 applies, section 1400N(c)(1)(A) shall be
24 applied without regard to clause (i)

1 “(3) COORDINATION WITH NON-REFUNDABLE
2 CREDIT.—For purposes of this section, the amounts
3 described in clauses (i) through (iv) of subsection
4 (h)(3)(C) with respect to any State for 2010 shall
5 each be reduced by so much of such amount as is
6 taken into account in determining the amount of the
7 credit allowed with respect to such State under para-
8 graph (1).

9 “(4) SPECIAL RULE FOR BASIS.—Basis of a
10 qualified low-income building shall not be reduced by
11 the amount of any payment made under this sub-
12 section.

13 “(5) PAYMENT OF CREDIT; USE TO FINANCE
14 LOW-INCOME BUILDINGS.—The Secretary shall pay
15 to the housing credit agency of each State an
16 amount equal to the credit allowed under paragraph
17 (1). Rules similar to the rules of subsections (c) and
18 (d) of section 1602 of the American Recovery and
19 Reinvestment Tax Act of 2009 shall apply with re-
20 spect to any payment made under this paragraph,
21 except that such subsection (d) shall be applied by
22 substituting ‘January 1, 2012’ for ‘January 1,
23 2011’.”.

1 (b) CONFORMING AMENDMENT.—Section 1324(b)(2)
2 of title 31, United States Code, is amended by inserting
3 “42(n),” after “36C,”.

4 **SEC. 232. LOW-INCOME HOUSING GRANT ELECTION.**

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

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

17 (2) by inserting “, plus any credits for 2009 at-
18 tributable to the application of such section
19 702(d)(2) and 704(b)” after “such section” in sub-
20 paragraph (B).

21 (b) APPLICATION OF ADDITIONAL HOUSING CREDIT
22 AMOUNT FOR PURPOSES OF 2009 GRANT ELECTION.—
23 Subsection (b) of section 1602 of the American Recovery
24 and Reinvestment Tax Act of 2009, as amended by sub-

1 section (a), is amended by adding at the end the following
2 flush sentence:

3 “For purposes of paragraph (1)(B), in the case of any
4 area to which section 702(d)(2) or 704(b) of the Tax Ex-
5 tenders and Alternative Minimum Tax Relief Act of 2008
6 applies, section 1400N(c)(1)(A) of such Code shall be ap-
7 plied without regard to clause (i).”.

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

12 **Subtitle C—Business Tax Relief**

13 **SEC. 241. RESEARCH CREDIT.**

14 (a) IN GENERAL.—Subparagraph (B) of section
15 41(h)(1) is amended by striking “December 31, 2009”
16 and inserting “December 31, 2010”.

17 (b) CONFORMING AMENDMENT.—Subparagraph (D)
18 of section 45C(b)(1) is amended by striking “December
19 31, 2009” and inserting “December 31, 2010”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to amounts paid or incurred after
22 December 31, 2009.

1 **SEC. 242. INDIAN EMPLOYMENT TAX CREDIT.**

2 (a) IN GENERAL.—Subsection (f) of section 45A is
3 amended by striking “December 31, 2009” and inserting
4 “December 31, 2010”.

5 (b) EFFECTIVE DATE.—The amendment made by
6 this section shall apply to taxable years beginning after
7 December 31, 2009.

8 **SEC. 243. NEW MARKETS TAX CREDIT.**

9 (a) IN GENERAL.—Subparagraph (F) of section
10 45D(f)(1) is amended by inserting “and 2010” after
11 “2009”.

12 (b) CONFORMING AMENDMENT.—Paragraph (3) of
13 section 45D(f) is amended by striking “2014” and insert-
14 ing “2015”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to calendar years beginning after
17 2009.

18 **SEC. 244. RAILROAD TRACK MAINTENANCE CREDIT.**

19 (a) IN GENERAL.—Subsection (f) of section 45G is
20 amended by striking “January 1, 2010” and inserting
21 “January 1, 2011”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 this section shall apply to expenditures paid or incurred
24 in taxable years beginning after December 31, 2009.

1 **SEC. 245. MINE RESCUE TEAM TRAINING CREDIT.**

2 (a) IN GENERAL.—Subsection (e) of section 45N is
3 amended by striking “December 31, 2009” and inserting
4 “December 31, 2010”.

5 (b) CREDIT ALLOWABLE AGAINST AMT.—Subpara-
6 graph (B) of section 38(c)(4), as amended by section 105,
7 is amended—

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

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

12 “(vii) the credit determined under sec-
13 tion 45N,”.

14 (c) EFFECTIVE DATE.—

15 (1) IN GENERAL.—Except as provided in para-
16 graph (2), the amendments made by this section
17 shall apply to taxable years beginning after Decem-
18 ber 31, 2009.

19 (2) ALLOWANCE AGAINST AMT.—The amend-
20 ments made by subsection (b) shall apply to credits
21 determined for taxable years beginning after Decem-
22 ber 31, 2009, and to carrybacks of such credits.

1 **SEC. 246. EMPLOYER WAGE CREDIT FOR EMPLOYEES WHO**
2 **ARE ACTIVE DUTY MEMBERS OF THE UNI-**
3 **FORMED SERVICES.**

4 (a) IN GENERAL.—Subsection (f) of section 45P is
5 amended by striking “December 31, 2009” and inserting
6 “December 31, 2010”.

7 (b) EFFECTIVE DATE.—The amendment made by
8 this section shall apply to payments made after December
9 31, 2009.

10 **SEC. 247. 5-YEAR DEPRECIATION FOR FARMING BUSINESS**
11 **MACHINERY AND EQUIPMENT.**

12 (a) IN GENERAL.—Clause (vii) of section
13 168(e)(3)(B) is amended by striking “January 1, 2010”
14 and inserting “January 1, 2011”.

15 (b) EFFECTIVE DATE.—The amendment made by
16 this section shall apply to property placed in service after
17 December 31, 2009.

18 **SEC. 248. 15-YEAR STRAIGHT-LINE COST RECOVERY FOR**
19 **QUALIFIED LEASEHOLD IMPROVEMENTS,**
20 **QUALIFIED RESTAURANT BUILDINGS AND IM-**
21 **PROVEMENTS, AND QUALIFIED RETAIL IM-**
22 **PROVEMENTS.**

23 (a) IN GENERAL.—Clauses (iv), (v), and (ix) of sec-
24 tion 168(e)(3)(E) are each amended by striking “January
25 1, 2010” and inserting “January 1, 2011”.

26 (b) CONFORMING AMENDMENTS.—

1 (1) Clause (i) of section 168(e)(7)(A) is amend-
2 ed by striking “if such building is placed in service
3 after December 31, 2008, and before January 1,
4 2010,”.

5 (2) Paragraph (8) of section 168(e) is amended
6 by striking subparagraph (E).

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to property placed in service after
9 December 31, 2009.

10 **SEC. 249. 7-YEAR RECOVERY PERIOD FOR MOTORSPORTS**
11 **ENTERTAINMENT COMPLEXES.**

12 (a) IN GENERAL.—Subparagraph (D) of section
13 168(i)(15) is amended by striking “December 31, 2009”
14 and inserting “December 31, 2010”.

15 (b) EFFECTIVE DATE.—The amendment made by
16 this section shall apply to property placed in service after
17 December 31, 2009.

18 **SEC. 250. ACCELERATED DEPRECIATION FOR BUSINESS**
19 **PROPERTY ON AN INDIAN RESERVATION.**

20 (a) IN GENERAL.—Paragraph (8) of section 168(j)
21 is amended by striking “December 31, 2009” and insert-
22 ing “December 31, 2010”.

23 (b) EFFECTIVE DATE.—The amendment made by
24 this section shall apply to property placed in service after
25 December 31, 2009.

1 **SEC. 251. ENHANCED CHARITABLE DEDUCTION FOR CON-**
2 **TRIBUTIONS OF FOOD INVENTORY.**

3 (a) IN GENERAL.—Clause (iv) of section
4 170(e)(3)(C) is amended by striking “December 31,
5 2009” and inserting “December 31, 2010”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 this section shall apply to contributions made after De-
8 cember 31, 2009.

9 **SEC. 252. ENHANCED CHARITABLE DEDUCTION FOR CON-**
10 **TRIBUTIONS OF BOOK INVENTORIES TO PUB-**
11 **LIC SCHOOLS.**

12 (a) IN GENERAL.—Clause (iv) of section
13 170(e)(3)(D) is amended by striking “December 31,
14 2009” and inserting “December 31, 2010”.

15 (b) EFFECTIVE DATE.—The amendment made by
16 this section shall apply to contributions made after De-
17 cember 31, 2009.

18 **SEC. 253. ENHANCED CHARITABLE DEDUCTION FOR COR-**
19 **PORATE CONTRIBUTIONS OF COMPUTER IN-**
20 **VENTORY FOR EDUCATIONAL PURPOSES.**

21 (a) IN GENERAL.—Subparagraph (G) of section
22 170(e)(6) is amended by striking “December 31, 2009”
23 and inserting “December 31, 2010”.

24 (b) EFFECTIVE DATE.—The amendment made by
25 this section shall apply to contributions made in taxable
26 years beginning after December 31, 2009.

1 **SEC. 254. ELECTION TO EXPENSE MINE SAFETY EQUIP-**
2 **MENT.**

3 (a) IN GENERAL.—Subsection (g) of section 179E is
4 amended by striking “December 31, 2009” and inserting
5 “December 31, 2010”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 this section shall apply to property placed in service after
8 December 31, 2009.

9 **SEC. 255. SPECIAL EXPENSING RULES FOR CERTAIN FILM**
10 **AND TELEVISION PRODUCTIONS.**

11 (a) IN GENERAL.—Subsection (f) of section 181 is
12 amended by striking “December 31, 2009” and inserting
13 “December 31, 2010”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section shall apply to productions commencing after
16 December 31, 2009.

17 **SEC. 256. EXPENSING OF ENVIRONMENTAL REMEDIATION**
18 **COSTS.**

19 (a) IN GENERAL.—Subsection (h) of section 198 is
20 amended by striking “December 31, 2009” and inserting
21 “December 31, 2010”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 this section shall apply to expenditures paid or incurred
24 after December 31, 2009.

1 **SEC. 257. DEDUCTION ALLOWABLE WITH RESPECT TO IN-**
2 **COME ATTRIBUTABLE TO DOMESTIC PRO-**
3 **DUCTION ACTIVITIES IN PUERTO RICO.**

4 (a) **IN GENERAL.**—Subparagraph (C) of section
5 199(d)(8) is amended—

6 (1) by striking “first 4 taxable years” and in-
7 serting “first 5 taxable years”; and

8 (2) by striking “January 1, 2010” and insert-
9 ing “January 1, 2011”.

10 (b) **EFFECTIVE DATE.**—The amendments made by
11 this section shall apply to taxable years beginning after
12 December 31, 2009.

13 **SEC. 258. MODIFICATION OF TAX TREATMENT OF CERTAIN**
14 **PAYMENTS TO CONTROLLING EXEMPT ORGA-**
15 **NIZATIONS.**

16 (a) **IN GENERAL.**—Clause (iv) of section
17 512(b)(13)(E) is amended by striking “December 31,
18 2009” and inserting “December 31, 2010”.

19 (b) **EFFECTIVE DATE.**—The amendment made by
20 this section shall apply to payments received or accrued
21 after December 31, 2009.

1 **SEC. 259. EXCLUSION OF GAIN OR LOSS ON SALE OR EX-**
2 **CHANGE OF CERTAIN BROWNFIELD SITES**
3 **FROM UNRELATED BUSINESS INCOME.**

4 (a) IN GENERAL.—Subparagraph (K) of section
5 512(b)(19) is amended by striking “December 31, 2009”
6 and inserting “December 31, 2010”.

7 (b) EFFECTIVE DATE.—The amendment made by
8 this section shall apply to property acquired after Decem-
9 ber 31, 2009.

10 **SEC. 260. TIMBER REIT MODERNIZATION.**

11 (a) IN GENERAL.—Paragraph (8) of section 856(c)
12 is amended by striking “means” and all that follows and
13 inserting “means December 31, 2010.”.

14 (b) CONFORMING AMENDMENTS.—

15 (1) Subparagraph (I) of section 856(e)(2) is
16 amended by striking “the first taxable year begin-
17 ning after the date of the enactment of this subpara-
18 graph” and inserting “a taxable year beginning on
19 or before the termination date”.

20 (2) Clause (iii) of section 856(e)(5)(H) is
21 amended by inserting “in taxable years beginning”
22 after “dispositions”.

23 (3) Clause (v) of section 857(b)(6)(D) is
24 amended by inserting “in a taxable year beginning”
25 after “sale”.

1 (4) Subparagraph (G) of section 857(b)(6) is
2 amended by inserting “in a taxable year beginning”
3 after “In the case of a sale”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to taxable years ending after May
6 22, 2009.

7 **SEC. 261. TREATMENT OF CERTAIN DIVIDENDS OF REGU-**
8 **LATED INVESTMENT COMPANIES.**

9 (a) IN GENERAL.—Paragraphs (1)(C) and (2)(C) of
10 section 871(k) are each amended by striking “December
11 31, 2009” and inserting “December 31, 2010”.

12 (b) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to taxable years beginning after
14 December 31, 2009.

15 **SEC. 262. RIC QUALIFIED INVESTMENT ENTITY TREATMENT**
16 **UNDER FIRPTA.**

17 (a) IN GENERAL.—Clause (ii) of section
18 897(h)(4)(A) is amended by striking “December 31,
19 2009” and inserting “December 31, 2010”.

20 (b) EFFECTIVE DATE.—

21 (1) IN GENERAL.—The amendment made by
22 subsection (a) shall take effect on January 1, 2010.
23 Notwithstanding the preceding sentence, such
24 amendment shall not apply with respect to the with-
25 holding requirement under section 1445 of the Inter-

1 nal Revenue Code of 1986 for any payment made
2 before the date of the enactment of this Act.

3 (2) AMOUNTS WITHHELD ON OR BEFORE DATE
4 OF ENACTMENT.—In the case of a regulated invest-
5 ment company—

6 (A) which makes a distribution after De-
7 cember 31, 2009, and before the date of the en-
8 actment of this Act; and

9 (B) which would (but for the second sen-
10 tence of paragraph (1)) have been required to
11 withhold with respect to such distribution under
12 section 1445 of such Code,

13 such investment company shall not be liable to any
14 person to whom such distribution was made for any
15 amount so withheld and paid over to the Secretary
16 of the Treasury.

17 **SEC. 263. EXCEPTIONS FOR ACTIVE FINANCING INCOME.**

18 (a) IN GENERAL.—Sections 953(e)(10) and
19 954(h)(9) are each amended by striking “January 1,
20 2010” and inserting “January 1, 2011”.

21 (b) CONFORMING AMENDMENT.—Section 953(e)(10)
22 is amended by striking “December 31, 2009” and insert-
23 ing “December 31, 2010”.

24 (c) EFFECTIVE DATE.—The amendments made by
25 this section shall apply to taxable years of foreign corpora-

1 tions beginning after December 31, 2009, and to taxable
2 years of United States shareholders with or within which
3 any such taxable year of such foreign corporation ends.

4 **SEC. 264. LOOK-THRU TREATMENT OF PAYMENTS BE-**
5 **TWEEN RELATED CONTROLLED FOREIGN**
6 **CORPORATIONS UNDER FOREIGN PERSONAL**
7 **HOLDING COMPANY RULES.**

8 (a) **IN GENERAL.**—Subparagraph (C) of section
9 954(c)(6) is amended by striking “January 1, 2010” and
10 inserting “January 1, 2011”.

11 (b) **EFFECTIVE DATE.**—The amendment made by
12 this section shall apply to taxable years of foreign corpora-
13 tions beginning after December 31, 2009, and to taxable
14 years of United States shareholders with or within which
15 any such taxable year of such foreign corporation ends.

16 **SEC. 265. BASIS ADJUSTMENT TO STOCK OF S CORPS MAK-**
17 **ING CHARITABLE CONTRIBUTIONS OF PROP-**
18 **ERTY.**

19 (a) **IN GENERAL.**—Paragraph (2) of section 1367(a)
20 is amended by striking “December 31, 2009” and insert-
21 ing “December 31, 2010”.

22 (b) **EFFECTIVE DATE.**—The amendment made by
23 this section shall apply to contributions made in taxable
24 years beginning after December 31, 2009.

1 **SEC. 266. EMPOWERMENT ZONE TAX INCENTIVES.**

2 (a) IN GENERAL.—Section 1391 is amended—

3 (1) by striking “December 31, 2009” in sub-
4 section (d)(1)(A)(i) and inserting “December 31,
5 2010”; and

6 (2) by striking the last sentence of subsection
7 (h)(2).

8 (b) INCREASED EXCLUSION OF GAIN ON STOCK OF
9 EMPOWERMENT ZONE BUSINESSES.—Subparagraph (C)
10 of section 1202(a)(2) is amended—

11 (1) by striking “December 31, 2014” and in-
12 serting “December 31, 2015”; and

13 (2) by striking “2014” in the heading and in-
14 serting “2015”.

15 (c) TREATMENT OF CERTAIN TERMINATION DATES
16 SPECIFIED IN NOMINATIONS.—In the case of a designa-
17 tion of an empowerment zone the nomination for which
18 included a termination date which is contemporaneous
19 with the date specified in subparagraph (A)(i) of section
20 1391(d)(1) of the Internal Revenue Code of 1986 (as in
21 effect before the enactment of this Act), subparagraph (B)
22 of such section shall not apply with respect to such des-
23 ignation unless, after the date of the enactment of this
24 section, the entity which made such nomination reconfirms
25 such termination date, or amends the nomination to pro-
26 vide for a new termination date, in such manner as the

1 Secretary of the Treasury (or the Secretary's designee)
2 may provide.

3 (d) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to periods after December 31,
5 2009.

6 **SEC. 267. TAX INCENTIVES FOR INVESTMENT IN THE DIS-**
7 **TRICT OF COLUMBIA.**

8 (a) IN GENERAL.—Subsection (f) of section 1400 is
9 amended by striking “December 31, 2009” each place it
10 appears and inserting “December 31, 2010”.

11 (b) TAX-EXEMPT DC EMPOWERMENT ZONE
12 BONDS.—Subsection (b) of section 1400A is amended by
13 striking “December 31, 2009” and inserting “December
14 31, 2010”.

15 (c) ZERO-PERCENT CAPITAL GAINS RATE.—

16 (1) ACQUISITION DATE.—Paragraphs (2)(A)(i),
17 (3)(A), (4)(A)(i), and (4)(B)(i)(I) of section
18 1400B(b) are each amended by striking “January 1,
19 2010” and inserting “January 1, 2011”.

20 (2) LIMITATION ON PERIOD OF GAINS.—

21 (A) IN GENERAL.—Paragraph (2) of sec-
22 tion 1400B(e) is amended—

23 (i) by striking “December 31, 2014”
24 and inserting “December 31, 2015”; and

1 (ii) by striking “2014” in the heading
2 and inserting “2015”.

3 (B) PARTNERSHIPS AND S-CORPS.—Para-
4 graph (2) of section 1400B(g) is amended by
5 striking “December 31, 2014” and inserting
6 “December 31, 2015”.

7 (d) FIRST-TIME HOMEBUYER CREDIT.—Subsection
8 (i) of section 1400C is amended by striking “January 1,
9 2010” and inserting “January 1, 2011”.

10 (e) EFFECTIVE DATES.—

11 (1) IN GENERAL.—Except as otherwise pro-
12 vided in this subsection, the amendments made by
13 this section shall apply to periods after December
14 31, 2009.

15 (2) TAX-EXEMPT DC EMPOWERMENT ZONE
16 BONDS.—The amendment made by subsection (b)
17 shall apply to bonds issued after December 31,
18 2009.

19 (3) ACQUISITION DATES FOR ZERO-PERCENT
20 CAPITAL GAINS RATE.—The amendments made by
21 subsection (c) shall apply to property acquired or
22 substantially improved after December 31, 2009.

23 (4) HOMEBUYER CREDIT.—The amendment
24 made by subsection (d) shall apply to homes pur-
25 chased after December 31, 2009.

1 **SEC. 268. RENEWAL COMMUNITY TAX INCENTIVES.**

2 (a) IN GENERAL.—Subsection (b) of section 1400E
3 is amended—

4 (1) by striking “December 31, 2009” in para-
5 graphs (1)(A) and (3) and inserting “December 31,
6 2010”; and

7 (2) by striking “January 1, 2010” in paragraph
8 (3) and inserting “January 1, 2011”.

9 (b) ZERO-PERCENT CAPITAL GAINS RATE.—

10 (1) ACQUISITION DATE.—Paragraphs (2)(A)(i),
11 (3)(A), (4)(A)(i), and (4)(B)(i) of section 1400F(b)
12 are each amended by striking “January 1, 2010”
13 and inserting “January 1, 2011”.

14 (2) LIMITATION ON PERIOD OF GAINS.—Para-
15 graph (2) of section 1400F(c) is amended—

16 (A) by striking “December 31, 2014” and
17 inserting “December 31, 2015”; and

18 (B) by striking “2014” in the heading and
19 inserting “2015”.

20 (3) CLERICAL AMENDMENT.—Subsection (d) of
21 section 1400F is amended by striking “and ‘Decem-
22 ber 31, 2014’ for ‘December 31, 2014’”.

23 (c) COMMERCIAL REVITALIZATION DEDUCTION.—

24 (1) IN GENERAL.—Subsection (g) of section
25 1400I is amended by striking “December 31, 2009”
26 and inserting “December 31, 2010”.

1 (2) CONFORMING AMENDMENT.—Subparagraph
2 (A) of section 1400I(d)(2) is amended by striking
3 “after 2001 and before 2010” and inserting “which
4 begins after 2001 and before the date referred to in
5 subsection (g)”.

6 (d) INCREASED EXPENSING UNDER SECTION 179.—
7 Subparagraph (A) of section 1400J(b)(1) is amended by
8 striking “January 1, 2010” and inserting “January 1,
9 2011”.

10 (e) TREATMENT OF CERTAIN TERMINATION DATES
11 SPECIFIED IN NOMINATIONS.—In the case of a designa-
12 tion of a renewal community the nomination for which in-
13 cluded a termination date which is contemporaneous with
14 the date specified in subparagraph (A) of section
15 1400E(b)(1) of the Internal Revenue Code of 1986 (as
16 in effect before the enactment of this Act), subparagraph
17 (B) of such section shall not apply with respect to such
18 designation unless, after the date of the enactment of this
19 section, the entity which made such nomination reconfirms
20 such termination date, or amends the nomination to pro-
21 vide for a new termination date, in such manner as the
22 Secretary of the Treasury (or the Secretary’s designee)
23 may provide.

24 (f) EFFECTIVE DATES.—

1 (1) IN GENERAL.—Except as otherwise pro-
2 vided in this subsection, the amendments made by
3 this section shall apply to periods after December
4 31, 2009.

5 (2) ACQUISITIONS.—The amendments made by
6 subsections (b)(1) and (d) shall apply to acquisitions
7 after December 31, 2009.

8 (3) COMMERCIAL REVITALIZATION DEDUC-
9 TION.—

10 (A) IN GENERAL.—The amendment made
11 by subsection (c)(1) shall apply to buildings
12 placed in service after December 31, 2009.

13 (B) CONFORMING AMENDMENT.—The
14 amendment made by subsection (c)(2) shall
15 apply to calendar years beginning after Decem-
16 ber 31, 2009.

17 **SEC. 269. TEMPORARY INCREASE IN LIMIT ON COVER OVER**
18 **OF RUM EXCISE TAXES TO PUERTO RICO AND**
19 **THE VIRGIN ISLANDS.**

20 (a) IN GENERAL.—Paragraph (1) of section 7652(f)
21 is amended by striking “January 1, 2010” and inserting
22 “January 1, 2011”.

23 (b) EFFECTIVE DATE.—The amendment made by
24 this section shall apply to distilled spirits brought into the
25 United States after December 31, 2009.

1 **SEC. 270. PAYMENT TO AMERICAN SAMOA IN LIEU OF EX-**
 2 **TENSION OF ECONOMIC DEVELOPMENT**
 3 **CREDIT.**

4 The Secretary of the Treasury (or his designee) shall
 5 pay \$18,000,000 to the Government of American Samoa
 6 for purposes of economic development. The payment made
 7 under the preceding sentence shall be treated for purposes
 8 of section 1324 of title 31, United States Code, as a re-
 9 fund of internal revenue collections to which such section
 10 applies.

11 **SEC. 271. ELECTION TO TEMPORARILY UTILIZE UNUSED**
 12 **AMT CREDITS DETERMINED BY DOMESTIC IN-**
 13 **VESTMENT.**

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

16 “(g) ELECTION FOR CORPORATIONS WITH NEW DO-
 17 MESTIC INVESTMENTS.—

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

23 “(2) AMT CREDIT ADJUSTMENT AMOUNT.—
 24 For purposes of paragraph (1), the term ‘AMT cred-
 25 it adjustment amount’ means, the lesser of—

1 “(A) 50 percent of a corporation’s min-
2 imum tax credit for its first taxable year begin-
3 ning after December 31, 2009, determined
4 under subsection (b), or

5 “(B) 10 percent of new domestic invest-
6 ments made during such taxable year.

7 “(3) NEW DOMESTIC INVESTMENTS.—For pur-
8 poses of this subsection, the term ‘new domestic in-
9 vestments’ means the cost of qualified property (as
10 defined in section 168(k)(2)(A)(i))—

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

13 “(B) which is placed in service in the
14 United States by the taxpayer during such tax-
15 able year.

16 “(4) CREDIT REFUNDABLE.—For purposes of
17 subsection (b) of section 6401, the aggregate in-
18 crease in the credits allowable under this part for
19 any taxable year resulting from the application of
20 this subsection shall be treated as allowed under
21 subpart C (and not under any other subpart). For
22 purposes of section 6425, any amount treated as so
23 allowed shall be treated as a payment of estimated
24 income tax for the taxable year.

1 “(5) ELECTION.—An election under this sub-
2 section shall be made at such time and in such man-
3 ner as prescribed by the Secretary, and once made,
4 may be revoked only with the consent of the Sec-
5 retary. Not later than 90 days after the date of the
6 enactment of this subsection, the Secretary shall
7 issue guidance specifying such time and manner.

8 “(6) TREATMENT OF CERTAIN PARTNERSHIP
9 INVESTMENTS.—For purposes of this subsection, a
10 corporation shall take into account its allocable
11 share of any new domestic investments by a partner-
12 ship for any taxable year if, and only if, more than
13 90 percent of the capital and profits interests in
14 such partnership are owned by such corporation (di-
15 rectly or indirectly) at all times during such taxable
16 year.

17 “(7) NO DOUBLE BENEFIT.—

18 “(A) IN GENERAL.—A corporation making
19 an election under this subsection may not make
20 an election under subparagraph (H) of section
21 172(b)(1).

22 “(B) SPECIAL RULES WITH RESPECT TO
23 TAXPAYERS PREVIOUSLY ELECTING APPLICA-
24 BLE NET OPERATING LOSSES.—In the case of a
25 corporation which made an election under sub-

1 paragraph (H) of section 172(b)(1) and elects
2 the application of this subsection—

3 “(i) ELECTION OF APPLICABLE NET
4 OPERATING LOSS TREATED AS RE-
5 VOKED.—The election under such subpara-
6 graph (H) shall (notwithstanding clause
7 (iii)(II) of such subparagraph) be treated
8 as having been revoked by the taxpayer.

9 “(ii) COORDINATION WITH PROVISION
10 FOR EXPEDITED REFUND.—The amount
11 otherwise treated as a payment of esti-
12 mated income tax under the last sentence
13 of paragraph (4) shall be reduced (but not
14 below zero) by the aggregate increase in
15 unpaid tax liability determined under this
16 chapter by reason of the revocation of the
17 election under clause (i).

18 “(iii) APPLICATION OF STATUTE OF
19 LIMITATIONS.—With respect to the revoca-
20 tion of an election under clause (i)—

21 “(I) the statutory period for the
22 assessment of any deficiency attrib-
23 utable to such revocation shall not ex-
24 pire before the end of the 3-year pe-

1 riod beginning on the date of the elec-
2 tion to have this subsection apply, and

3 “(II) such deficiency may be as-
4 sessed before the expiration of such 3-
5 year period notwithstanding the provi-
6 sions of any other law or rule of law
7 which would otherwise prevent such
8 assessment.

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

13 “(8) REGULATIONS.—The Secretary may issue
14 such regulations or other guidance as may be nec-
15 essary or appropriate to carry out the purposes of
16 this subsection, including to prevent fraud and abuse
17 under this subsection.”.

18 (b) CONFORMING AMENDMENTS.—

19 (1) Section 6211(b)(4)(A) is amended by insert-
20 ing “53(g),” after “53(e),”.

21 (2) Section 1324(b)(2) of title 31, United
22 States Code, is amended by inserting “53(g),” after
23 “53(e),”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2009.

4 **SEC. 272. REDUCTION IN CORPORATE RATE FOR QUALI-**
5 **FIED TIMBER GAIN.**

6 (a) IN GENERAL.—Paragraph (1) of section 1201(b)
7 is amended by striking “‘ending’” and all that follows
8 through “‘such date’”.

9 (b) CONFORMING AMENDMENT.—Paragraph (3) of
10 section 1201(b) is amended to read as follows:

11 “(3) APPLICATION OF SUBSECTION.—The
12 qualified timber gain for any taxable year shall not
13 exceed the qualified timber gain which would be de-
14 termined by not taking into account any portion of
15 such taxable year after December 31, 2010.”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to taxable years ending after May
18 22, 2009.

19 **SEC. 273. STUDY OF EXTENDED TAX EXPENDITURES.**

20 (a) FINDINGS.—Congress finds the following:

21 (1) Currently, the aggregate cost of Federal tax
22 expenditures rivals, or even exceeds, the amount of
23 total Federal discretionary spending.

1 (2) Given the escalating public debt, a critical
2 examination of this use of taxpayer dollars is essen-
3 tial.

4 (3) Additionally, tax expenditures can com-
5 plicate the Internal Revenue Code of 1986 for tax-
6 payers and complicate tax administration for the In-
7 ternal Revenue Service.

8 (4) To facilitate a better understanding of tax
9 expenditures in the future, it is constructive for leg-
10 islation extending these provisions to include a study
11 of such provisions.

12 (b) REQUIREMENT TO REPORT.—Not later than No-
13 vember 30, 2010, the Chief of Staff of the Joint Com-
14 mittee on Taxation, in consultation with the Comptroller
15 General of the United States, shall submit to the Com-
16 mittee on Ways and Means of the House of Representa-
17 tives and the Committee on Finance of the Senate a report
18 on each tax expenditure (as defined in section 3(3) of the
19 Congressional Budget Impoundment Control Act of 1974
20 (2 U.S.C. 622(3)) extended by this title.

21 (c) ROLLING SUBMISSION OF REPORTS.—The Chief
22 of Staff of the Joint Committee on Taxation shall initially
23 submit the reports for each such tax expenditure enacted
24 in this subtitle (relating to business tax relief) and subtitle
25 A (relating to energy) in order of the tax expenditure in-

1 ccurring the least aggregate cost to the greatest aggregate
2 cost (determined by reference to the cost estimate of this
3 Act by the Joint Committee on Taxation). Thereafter,
4 such reports may be submitted in such order as the Chief
5 of Staff determines appropriate.

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

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

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

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

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

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

22 (6) An analysis of whether the tax expenditure
23 is the most cost-effective method for achieving the
24 purpose for which it was intended, and a description

1 of any more cost-effective methods through which
2 such purpose could be accomplished.

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

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

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

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

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

1 **Subtitle D—Temporary Disaster**
2 **Relief Provisions**

3 **PART I—NATIONAL DISASTER RELIEF**

4 **SEC. 281. WAIVER OF CERTAIN MORTGAGE REVENUE BOND**
5 **REQUIREMENTS.**

6 (a) **IN GENERAL.**—Paragraph (11) of section 143(k)
7 is amended by striking “January 1, 2010” and inserting
8 “January 1, 2011”.

9 (b) **SPECIAL RULE FOR RESIDENCES DESTROYED IN**
10 **FEDERALLY DECLARED DISASTERS.**—Paragraph (13) of
11 section 143(k), as redesignated by subsection (c), is
12 amended by striking “January 1, 2010” in subparagraphs
13 (A)(i) and (B)(i) and inserting “January 1, 2011”.

14 (c) **TECHNICAL AMENDMENT.**—Subsection (k) of sec-
15 tion 143 is amended by redesignating the second para-
16 graph (12) (relating to special rules for residences de-
17 stroyed in federally declared disasters) as paragraph (13).

18 (d) **EFFECTIVE DATES.**—

19 (1) **IN GENERAL.**—Except as otherwise pro-
20 vided in this subsection, the amendment made by
21 this section shall apply to bonds issued after Decem-
22 ber 31, 2009.

23 (2) **RESIDENCES DESTROYED IN FEDERALLY**
24 **DECLARED DISASTERS.**—The amendments made by

1 subsection (b) shall apply with respect to disasters
2 occurring after December 31, 2009.

3 (3) TECHNICAL AMENDMENT.—The amendment
4 made by subsection (c) shall take effect as if in-
5 cluded in section 709 of the Tax Extenders and Al-
6 ternative Minimum Tax Relief Act of 2008.

7 **SEC. 282. LOSSES ATTRIBUTABLE TO FEDERALLY DE-**
8 **CLARED DISASTERS.**

9 (a) IN GENERAL.—Subclause (I) of section
10 165(h)(3)(B)(i) is amended by striking “January 1,
11 2010” and inserting “January 1, 2011”.

12 (b) \$500 LIMITATION.—Paragraph (1) of section
13 165(h) is amended by striking “December 31, 2009” and
14 inserting “December 31, 2010”.

15 (c) EFFECTIVE DATE.—

16 (1) IN GENERAL.—The amendment made by
17 subsection (a) shall apply to federally declared disas-
18 ters occurring after December 31, 2009.

19 (2) \$500 LIMITATION.—The amendment made
20 by subsection (b) shall apply to taxable years begin-
21 ning after December 31, 2009.

1 **SEC. 283. SPECIAL DEPRECIATION ALLOWANCE FOR QUALI-**
2 **FIED DISASTER PROPERTY.**

3 (a) IN GENERAL.—Subclause (I) of section
4 168(n)(2)(A)(ii) is amended by striking “January 1,
5 2010” and inserting “January 1, 2011”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 this section shall apply to disasters occurring after Decem-
8 ber 31, 2009.

9 **SEC. 284. NET OPERATING LOSSES ATTRIBUTABLE TO FED-**
10 **ERALLY DECLARED DISASTERS.**

11 (a) IN GENERAL.—Subclause (I) of section
12 172(j)(1)(A)(i) is amended by striking “January 1, 2010”
13 and inserting “January 1, 2011”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section shall apply to losses attributable to disasters
16 occurring after December 31, 2009.

17 **SEC. 285. EXPENSING OF QUALIFIED DISASTER EXPENSES.**

18 (a) IN GENERAL.—Subparagraph (A) of section
19 198A(b)(2) is amended by striking “January 1, 2010”
20 and inserting “January 1, 2011”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to expenditures on account of dis-
23 asters occurring after December 31, 2009.

1 **PART II—REGIONAL PROVISIONS**

2 **Subpart A—New York Liberty Zone**

3 **SEC. 291. SPECIAL DEPRECIATION ALLOWANCE FOR NON-**
4 **RESIDENTIAL AND RESIDENTIAL REAL PROP-**
5 **ERTY.**

6 (a) IN GENERAL.—Subparagraph (A) of section
7 1400L(b)(2) is amended by striking “December 31, 2009”
8 and inserting “December 31, 2010”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 this section shall apply to property placed in service after
11 December 31, 2009.

12 **SEC. 292. TAX-EXEMPT BOND FINANCING.**

13 (a) IN GENERAL.—Subparagraph (D) of section
14 1400L(d)(2) is amended by striking “January 1, 2010”
15 and inserting “January 1, 2011”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 this section shall apply to bonds issued after December
18 31, 2009.

19 **Subpart B—GO Zone**

20 **SEC. 295. INCREASE IN REHABILITATION CREDIT.**

21 (a) IN GENERAL.—Subsection (h) of section 1400N
22 is amended by striking “December 31, 2009” and insert-
23 ing “December 31, 2010”.

24 (b) EFFECTIVE DATE.—The amendment made by
25 this section shall apply to amounts paid or incurred after
26 December 31, 2009.

1 **SEC. 296. WORK OPPORTUNITY TAX CREDIT WITH RESPECT**
2 **TO CERTAIN INDIVIDUALS AFFECTED BY**
3 **HURRICANE KATRINA FOR EMPLOYERS IN-**
4 **SIDE DISASTER AREAS.**

5 (a) IN GENERAL.—Paragraph (1) of section 201(b)
6 of the Katrina Emergency Tax Relief Act of 2005 is
7 amended by striking “4-year” and inserting “5-year”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 subsection (a) shall apply to individuals hired after August
10 27, 2009.

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

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

15 **TITLE III—TECHNICAL CORREC-**
16 **TIONS TO PENSION FUNDING**
17 **LEGISLATION**

18 **SEC. 301. DEFINITION OF ELIGIBLE PLAN YEAR.**

19 (a) AMENDMENT TO ERISA.—Clause (v) of section
20 303(c)(2)(D) of the Employee Retirement Income Secu-
21 rity Act of 1974 (29 U.S.C. 1083(c)(2)(D)), as added by
22 section 201(a)(1) of the Preservation of Access to Care
23 for Medicare Beneficiaries and Pension Relief Act of 2010,
24 is amended by striking “on or after the date of the enact-
25 ment of this subparagraph” and inserting “on or after
26 March 10, 2010”.

1 (b) AMENDMENT TO INTERNAL REVENUE CODE OF
2 1986.—Clause (v) of section 430(c)(2)(D) of the Internal
3 Revenue Code of 1986, as added by section 201(b)(1) of
4 the Preservation of Access to Care for Medicare Bene-
5 ficiaries and Pension Relief Act of 2010, is amended by
6 striking “on or after the date of the enactment of this
7 subparagraph” and inserting “on or after March 10,
8 2010”.

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall take effect as if included in the amend-
11 ments made by the provisions of the Preservation of Ac-
12 cess to Care for Medicare Beneficiaries and Pension Relief
13 Act of 2010 to which the amendments relate.

14 **SEC. 302. ELIGIBLE CHARITY PLANS.**

15 (a) DEFINITION OF ELIGIBLE CHARITY PLANS.—

16 (1) IN GENERAL.—Section 104(d) of the Pen-
17 sion Protection Act of 2006, as added by section
18 202(b) of the Preservation of Access to Care for
19 Medicare Beneficiaries and Pension Relief Act of
20 2010, is amended to read as follows:

21 “(d) ELIGIBLE CHARITY PLAN DEFINED.—For pur-
22 poses of this section, a plan shall be treated as an eligible
23 charity plan for a plan year if—

1 “(1) the plan is maintained by one or more em-
2 ployers employing employees who are accruing bene-
3 fits based on service for the plan year,

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

6 “(3) each such employee (other than a de mini-
7 mis number of employees) is employed by an em-
8 ployer described in section 501(c)(3) of such Code
9 and the primary exempt purpose of each such em-
10 ployer is to provide services with respect to children,
11 and

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

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

17 (2) EFFECTIVE DATE.—The amendment made
18 by this subsection shall take effect as if included in
19 the amendment made by the provision of the Preser-
20 vation of Access to Care for Medicare Beneficiaries
21 and Pension Relief Act of 2010 to which the amend-
22 ment relates (determined after application of the
23 amendment made by subsection (c)), except that a
24 plan sponsor may elect to apply such amendment to
25 plan years beginning on or after January 1, 2011.

1 (b) REGULATIONS.—The Secretary of the Treasury
2 may prescribe such regulations as may be necessary to
3 carry out the purposes of the amendments made by section
4 202(b) of the Preservation of Access to Care for Medicare
5 Beneficiaries and Pension Relief Act of 2010 and the
6 amendment made by subsection (a).

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

9 (1) IN GENERAL.—Paragraph (2) of section
10 202(c) of the Preservation of Access to Care for
11 Medicare Beneficiaries and Pension Relief Act of
12 2010 is amended to read as follows:

13 “(2) ELIGIBLE CHARITY PLANS.—The amend-
14 ments made by subsection (b) shall apply to plan
15 years beginning after December 31, 2010, except
16 that a plan sponsor may elect to apply such amend-
17 ments to plan years beginning after an earlier
18 date.”.

19 (2) EFFECTIVE DATE.—The amendment made
20 by this subsection shall take effect as if included in
21 the amendment made by the provision of the Preser-
22 vation of Access to Care for Medicare Beneficiaries
23 and Pension Relief Act of 2010 to which the amend-
24 ment relates.

1 **SEC. 303. SUSPENSION OF CERTAIN FUNDING LEVEL LIM-**
2 **TATIONS.**

3 (a) LIMITATIONS ON BENEFIT ACCRUALS.—Section
4 203 of the Worker, Retiree, and Employer Recovery Act
5 of 2008 (Public Law 110–458; 122 Stat. 5118) is amend-
6 ed—

7 (1) by striking “the first plan year beginning
8 during the period beginning on October 1, 2008, and
9 ending on September 30, 2009” and inserting “any
10 plan year beginning during the period beginning on
11 October 1, 2008, and ending on December 31,
12 2011”;

13 (2) by striking “substituting” and all that fol-
14 lows through “for such plan year” and inserting
15 “substituting for such percentage the plan’s ad-
16 justed funding target attainment percentage for the
17 last plan year ending before September 30, 2009,”;
18 and

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

22 (b) SOCIAL SECURITY LEVEL-INCOME OPTIONS.—

23 (1) ERISA AMENDMENT.—Section
24 206(g)(3)(E) of the Employee Retirement Income
25 Security Act of 1974 is amended by adding at the
26 end the following new sentence: “For purposes of

1 applying clause (i) in the case of payments the an-
2 nuity starting date for which occurs on or before De-
3 cember 31, 2011, payments under a social security
4 leveling option shall be treated as not in excess of
5 the monthly amount paid under a single life annuity
6 (plus an amount not in excess of a social security
7 supplement described in the last sentence of section
8 204(b)(1)(G)).”.

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

20 (3) EFFECTIVE DATE.—

21 (A) IN GENERAL.—The amendments made
22 by this subsection shall apply to annuity pay-
23 ments the annuity starting date for which oc-
24 curs on or after January 1, 2011.

1 (B) PERMITTED APPLICATION.—A plan
 2 shall not be treated as failing to meet the re-
 3 quirements of sections 206(g) of the Employee
 4 Retirement Income Security Act of 1974 (as
 5 amended by this subsection) and section 436(d)
 6 of the Internal Revenue Code of 1986 (as so
 7 amended) if the plan sponsor elects to apply the
 8 amendments made by this subsection to pay-
 9 ments the annuity starting date for which oc-
 10 curs before January 1, 2011.

11 (c) REPEAL OF RELATED PROVISIONS.—The provi-
 12 sions of, and the amendments made by, section 203 of
 13 the Preservation of Access to Care for Medicare Bene-
 14 ficiaries and Pension Relief Act of 2010 are repealed and
 15 the Employee Retirement Income Security Act of 1974,
 16 the Internal Revenue Code of 1986, and the Worker, Re-
 17 tiree, and Employer Recovery Act of 2008 (Public Law
 18 110–458; 122 Stat. 5118) shall be applied as if such sec-
 19 tion had never been enacted.

20 **SEC. 304. OPTIONAL USE OF 30-YEAR AMORTIZATION PERI-**
 21 **ODS.**

22 (a) REPEAL.—The provisions of, and the amend-
 23 ments made by, section 211 of the Preservation of Access
 24 to Care for Medicare Beneficiaries and Pension Relief Act
 25 of 2010 are repealed and the Employee Retirement In-

1 come Security Act of 1974 and the Internal Revenue Code
2 of 1986 shall be applied as if such section had never been
3 enacted.

4 (b) ELECTIVE SPECIAL RELIEF RULES.—

5 (1) AMENDMENT TO ERISA.—Section 304(b) of
6 the Employee Retirement Income Security Act of
7 1974, as in effect after the application of subsection
8 (a), is amended by adding at the end the following
9 new paragraph:

10 “(8) ELECTIVE SPECIAL RELIEF RULES.—Not-
11 withstanding any other provision of this sub-
12 section—

13 “(A) AMORTIZATION OF NET INVESTMENT
14 LOSSES.—

15 “(i) IN GENERAL.—The plan sponsor
16 of a multiemployer plan with respect to
17 which the solvency test under subpara-
18 graph (B) is met may elect to treat the
19 portion of any experience loss or gain for
20 a plan year that is attributable to the allo-
21 cable portion of the net investment losses
22 incurred in either or both of the first two
23 plan years ending on or after June 30,
24 2008, as an experience loss separate from
25 other experience losses or gains to be am-

1 ortized in equal annual installments (until
2 fully amortized) over the period—

3 “(I) beginning with the plan year
4 for which the allocable portion is de-
5 termined, and

6 “(II) ending with the last plan
7 year in the 30-plan year period begin-
8 ning with the plan year following the
9 plan year in which such net invest-
10 ment loss was incurred.

11 “(ii) COORDINATION WITH EXTEN-
12 SIONS.—If an election is made under
13 clause (i) for any plan year—

14 “(I) no extension of the amorti-
15 zation period under clause (i) shall be
16 allowed under subsection (d), and

17 “(II) if an extension was granted
18 under subsection (d) for any plan year
19 before the plan year for which the
20 election under this subparagraph is
21 made, such extension shall not result
22 in such amortization period exceeding
23 30 years.

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

1 “(I) NET INVESTMENT
2 LOSSES.—The net investment loss in-
3 curred by a plan in a plan year is
4 equal to the excess of the expected
5 value of the assets as of the end of
6 the plan year over the market value of
7 the assets as of the end of the plan
8 year, including any difference attrib-
9 utable to a criminally fraudulent in-
10 vestment arrangement.

11 “(II) EXPECTED VALUE.—For
12 purposes of subclause (I), the ex-
13 pected value of the assets as of the
14 end of a plan year is the excess of the
15 market value of the assets at the be-
16 ginning of the plan year plus con-
17 tributions made during the plan year
18 over disbursements made during the
19 plan year, except that such amounts
20 shall be adjusted with interest at the
21 valuation rate to the end of the plan
22 year.

23 “(III) CRIMINALLY FRAUDULENT
24 INVESTMENT ARRANGEMENTS.—The
25 determination as to whether an ar-

1 rangement is a criminally fraudulent
2 investment arrangement shall be made
3 under rules substantially similar to
4 the rules prescribed by the Secretary
5 of the Treasury for purposes of sec-
6 tion 165 of the Internal Revenue Code
7 of 1986.

8 “(IV) AMOUNT ATTRIBUTABLE
9 TO ALLOCABLE PORTION OF NET IN-
10 VESTMENT LOSS.—The amount at-
11 tributable to the allocable portion of
12 the net investment loss for a plan year
13 shall be an amount equal to the allo-
14 cable portion of net investment loss
15 for the plan year under subclauses (V)
16 and (VI), increased with interest at
17 the valuation rate determined from
18 the plan year after the plan year in
19 which the net investment loss was in-
20 curred.

21 “(V) ALLOCABLE PORTION OF
22 NET INVESTMENT LOSSES.—Except
23 as provided in subclause (VI), the net
24 investment loss incurred in a plan
25 year shall be allocated among the 5

1 plan years following the plan year in
 2 which the investment loss is incurred
 3 in accordance with the following table:

“Plan year after the plan year in which the net investment loss was incurred	Allocable portion of net investment loss
1st	1/2
2nd	0
3rd	1/6
4th	1/6
5th	1/6

4 “(VI) SPECIAL RULE FOR PLANS
 5 THAT ADOPT LONGER SMOOTHER PE-
 6 RIOD.—If a plan sponsor elects an ex-
 7 tended smoothing period for its asset
 8 valuation method under subsection
 9 (c)(2)(B), then the allocable portion of
 10 net investment loss for the first two
 11 plan years following the plan year the
 12 investment loss is incurred is the
 13 same as determined under subclause
 14 (V), but the remaining 1/2 of the net
 15 investment loss is allocated ratably
 16 over the period beginning with the
 17 third plan year following the plan year
 18 the net investment loss is incurred
 19 and ending with the last plan year in
 20 the extended smoothing period.

21 “(VII) SPECIAL RULE FOR OVER-
 22 STATEMENT OF LOSS.—If, for a plan

1 year, there is an experience loss for
2 the plan and the amount described in
3 subclause (IV) exceeds the total
4 amount of the experience loss for the
5 plan year, then the excess shall be
6 treated as an experience gain.

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

17 “(B) SOLVENCY TEST.—

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

1 funded percentage for the plan year of the
2 election.

3 “(ii) FUNDED PERCENTAGE.—For
4 purposes of clause (i), the term ‘funded
5 percentage’ has the meaning provided in
6 section 305(i)(2), except that the value of
7 the plan’s assets referred to in section
8 305(i)(2)(A) shall be the market value of
9 such assets.

10 “(iii) ACTUARIAL ASSUMPTIONS.—In
11 making any certification under this sub-
12 paragraph, the plan actuary shall use the
13 same actuarial estimates, assumptions, and
14 methods as those applicable for the most
15 recent certification under section 305, ex-
16 cept that the plan actuary may take into
17 account benefit reductions and increases in
18 contribution rates, under either funding
19 improvement plans adopted under section
20 305(e) or under section 432(e) of the In-
21 ternal Revenue Code of 1986 or rehabilita-
22 tion plans adopted under section 305(e) or
23 under section 432(e) of such Code, that
24 the plan actuary reasonably anticipates will

1 occur without regard to any change in sta-
2 tus of the plan resulting from the election.

3 “(C) ADDITIONAL RESTRICTION ON BEN-
4 EFIT INCREASES.—If an election is made under
5 subparagraph (A), then, in addition to any
6 other applicable restrictions on benefit in-
7 creases, a plan amendment which is adopted on
8 or after March 10, 2010, and which increases
9 benefits may not go into effect during the pe-
10 riod beginning on such date and ending with
11 the second plan year beginning after such date
12 unless—

13 “(i) the plan actuary certifies that—

14 “(I) any such increase is paid for
15 out of additional contributions not al-
16 located to the plan immediately before
17 the election to have this paragraph
18 apply to the plan, and

19 “(II) the plan’s funded percent-
20 age and projected credit balances for
21 the first 3 plan years ending on or
22 after such date are reasonably ex-
23 pected to be at least as high as such
24 percentage and balances would have

1 been if the benefit increase had not
2 been adopted, or

3 “(ii) the amendment is required as a
4 condition of qualification under part I of
5 subchapter D of chapter 1 of the Internal
6 Revenue Code of 1986 or to comply with
7 other applicable law.

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

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

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

18 “(ii) inform the Pension Benefit
19 Guaranty Corporation of such election in
20 such form and manner as the Pension
21 Benefit Guaranty Corporation may pre-
22 scribe.”.

23 (2) AMENDMENT TO INTERNAL REVENUE CODE
24 OF 1986 .—Section 431(b) of the Internal Revenue
25 Code of 1986, as in effect after the application of

1 subsection (a), is amended by adding at the end the
2 following new paragraph:

3 “(8) ELECTIVE SPECIAL RELIEF RULES.—Not-
4 withstanding any other provision of this sub-
5 section—

6 “(A) AMORTIZATION OF NET INVESTMENT
7 LOSSES.—

8 “(i) IN GENERAL.—The plan sponsor
9 of a multiemployer plan with respect to
10 which the solvency test under subpara-
11 graph (B) is met may elect to treat the
12 portion of any experience loss or gain for
13 a plan year that is attributable to the allo-
14 cable portion of the net investment losses
15 incurred in either or both of the first two
16 plan years ending on or after June 30,
17 2008, as an experience loss separate from
18 other experience losses and gains to be am-
19 ortized in equal annual installments (until
20 fully amortized) over the period—

21 “(I) beginning with the plan year
22 for which the allocable portion is de-
23 termined, and

24 “(II) ending with the last plan
25 year in the 30-plan year period begin-

1 ning with the plan year following the
2 plan year in which such net invest-
3 ment loss was incurred.

4 “(ii) COORDINATION WITH EXTEN-
5 SIONS.—If an election is made under
6 clause (i) for any plan year—

7 “ (I) no extension of the amorti-
8 zation period under clause (i) shall be
9 allowed under subsection (d), and

10 “(II) if an extension was granted
11 under subsection (d) for any plan year
12 before the plan year for which the
13 election under this subparagraph is
14 made, such extension shall not result
15 in such amortization period exceeding
16 30 years.

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

19 “(I) NET INVESTMENT
20 LOSSES.—The net investment loss in-
21 curred by a plan in a plan year is
22 equal to the excess of the expected
23 value of the assets as of the end of
24 the plan year over the market value of
25 the assets as of the end of the plan

1 year, including any difference attrib-
2 utable to a criminally fraudulent in-
3 vestment arrangement.

4 “(II) EXPECTED VALUE.—For
5 purposes of subclause (I), the ex-
6 pected value of the assets as of the
7 end of a plan year is the excess of the
8 market value of the assets at the be-
9 ginning of the plan year plus con-
10 tributions made during the plan year
11 over disbursements made during the
12 plan year, except that such amounts
13 shall be adjusted with interest at the
14 valuation rate to the end of the plan
15 year.

16 “(III) CRIMINALLY FRAUDULENT
17 INVESTMENT ARRANGEMENTS.—The
18 determination as to whether an ar-
19 rangement is a criminally fraudulent
20 investment arrangement shall be made
21 under rules substantially similar to
22 the rules prescribed by the Secretary
23 for purposes of section 165.

24 “(IV) AMOUNT ATTRIBUTABLE
25 TO ALLOCABLE PORTION OF NET IN-

1 VESTMENT LOSS.—The amount at-
 2 tributable to the allocable portion of
 3 the net investment loss for a plan year
 4 shall be an amount equal to the allo-
 5 cable portion of net investment loss
 6 for the plan year under subclauses (V)
 7 and (VI), increased with interest at
 8 the valuation rate determined from
 9 the plan year after the plan year in
 10 which the net investment loss was in-
 11 curred.

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

Plan year after the plan year in which the net investment loss was incurred	Allocable portion of net investment loss
1st	1/2
2nd	0
3rd	1/6
4th	1/6
5th	1/6

20 “(VI) SPECIAL RULE FOR PLANS
 21 THAT ADOPT LONGER SMOOTHER PE-
 22 RIOD.—If a plan sponsor elects an ex-

1 tended smoothing period for its asset
2 valuation method under subsection
3 (c)(2)(B), then the allocable portion of
4 net investment loss for the first two
5 plan years following the plan year the
6 investment loss is incurred is the
7 same as determined under subclause
8 (V), but the remaining $\frac{1}{2}$ of the net
9 investment loss is allocated ratably
10 over the period beginning with the
11 third plan year following the plan year
12 the net investment loss is incurred
13 and ending with the last plan year in
14 the extended smoothing period.

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

23 “(VIII) SPECIAL RULE IN YEARS
24 FOR WHICH OVERALL EXPERIENCE IS
25 GAIN.—If, for a plan year, there is an

1 experience gain for the plan, then, in
2 addition to amortization of net invest-
3 ment losses under clause (i), the
4 amount described in subclause (IV)
5 shall be treated as an experience gain
6 in addition to any other experience
7 gain.

8 “(B) SOLVENCY TEST.—

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

18 “(ii) FUNDED PERCENTAGE.—For
19 purposes of clause (i), the term ‘funded
20 percentage’ has the meaning provided in
21 section 432(i)(2), except that the value of
22 the plan’s assets referred to in section
23 432(i)(2)(A) shall be the market value of
24 such assets.

1 “(iii) ACTUARIAL ASSUMPTIONS.—In
2 making any certification under this sub-
3 paragraph, the plan actuary shall use the
4 same actuarial estimates, assumptions, and
5 methods as those applicable for the most
6 recent certification under section 432, ex-
7 cept that the plan actuary may take into
8 account benefit reductions and increases in
9 contribution rates, under either funding
10 improvement plans adopted under section
11 432(e) or under section 305(e) of the Em-
12 ployee Retirement Income Security Act of
13 1974 or rehabilitation plans adopted under
14 section 432(e) or under section 305(e) of
15 such Act, that the plan actuary reasonably
16 anticipates will occur without regard to
17 any change in status of the plan resulting
18 from the election.

19 “(C) ADDITIONAL RESTRICTION ON BEN-
20 EFIT INCREASES.—If an election is made under
21 subparagraph (A), then, in addition to any
22 other applicable restrictions on benefit in-
23 creases, a plan amendment which is adopted on
24 or after March 10, 2010, and which increases
25 benefits may not go into effect during the pe-

1 riod beginning on such date and ending with
2 the second plan year beginning after such date
3 unless—

4 “(i) the plan actuary certifies that—

5 “(I) any such increase is paid for
6 out of additional contributions not al-
7 located to the plan immediately before
8 the election to have this paragraph
9 apply to the plan, and

10 “(II) the plan’s funded percent-
11 age and projected credit balances for
12 the first 3 plan years ending on or
13 after such date are reasonably ex-
14 pected to be at least as high as such
15 percentage and balances would have
16 been if the benefit increase had not
17 been adopted, or

18 “(ii) the amendment is required as a
19 condition of qualification under part I or
20 to comply with other applicable law.

21 “(D) TIME, FORM, AND MANNER OF ELEC-
22 TION.—An election under this paragraph shall
23 be made not later than June 30, 2011, and
24 shall be made in such form and manner as the
25 Secretary may prescribe.

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

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

6 “(ii) inform the Pension Benefit
7 Guaranty Corporation of such election in
8 such form and manner as the Pension
9 Benefit Guaranty Corporation may pre-
10 scribe.”.

11 (c) ASSET SMOOTHING FOR MULTIEMPLOYER
12 PLANS.—

13 (1) AMENDMENT TO ERISA.—Section 304(c)(2)
14 of the Employee Retirement Income Security Act of
15 1974 (29 U.S.C. 1084(c)(2)) is amended—

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

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

20 “(B) EXTENDED ASSET SMOOTHING PE-
21 RIOD FOR CERTAIN INVESTMENT LOSSES.—The
22 Secretary of the Treasury shall not treat the
23 asset valuation method of a multiemployer plan
24 as unreasonable solely because such method
25 spreads the difference between expected and ac-

1 tual returns for either or both of the first 2
2 plan years ending on or after June 30, 2008,
3 over a period of not more than 10 years. Any
4 change in valuation method to so spread such
5 difference shall be treated as approved, but only
6 if, in the case that the plan sponsor has made
7 an election under subsection (b)(8), any result-
8 ing change in asset value is treated for pur-
9 poses of amortization as a net experience loss
10 or gain.”.

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

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

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

18 “(B) EXTENDED ASSET SMOOTHING PE-
19 RIOD FOR CERTAIN INVESTMENT LOSSES.—The
20 Secretary shall not treat the asset valuation
21 method of a multiemployer plan as unreason-
22 able solely because such method spreads the dif-
23 ference between expected and actual returns for
24 either or both of the first 2 plan years ending
25 on or after June 30, 2008, over a period of not

1 more than 10 years. Any change in valuation
2 method to so spread such difference shall be
3 treated as approved, but only if, in the case
4 that the plan sponsor has made an election
5 under subsection (b)(8), any resulting change in
6 asset value is treated for purposes of amortiza-
7 tion as a net experience loss or gain.”.

8 (d) EFFECTIVE DATE AND SPECIAL RULES.—

9 (1) EFFECTIVE DATE.—The amendments made
10 by this section shall take effect as of the first day
11 of the first plan year beginning after June 30, 2008,
12 except that any election a plan sponsor makes pur-
13 suant to this section or the amendments made there-
14 by that affects the plan’s funding standard account
15 for any plan year beginning before October 1, 2009,
16 shall be disregarded for purposes of applying the
17 provisions of section 305 of the Employee Retirement
18 Income Security Act of 1974 and section 432
19 of the Internal Revenue Code of 1986 to that plan
20 year.

21 (2) DEEMED APPROVAL FOR CERTAIN FUNDING
22 METHOD CHANGES.—In the case of a multiemployer
23 plan with respect to which an election has been
24 made under section 304(b)(8) of the Employee Re-
25 tirement Income Security Act of 1974 (as amended

1 by this section) or section 431(b)(8) of the Internal
 2 Revenue Code of 1986 (as so amended)—

3 (A) any change in the plan's funding meth-
 4 od for a plan year beginning on or after July
 5 1, 2008, and on or before December 31, 2010,
 6 from a method that does not establish a base
 7 for experience gains and losses to one that does
 8 establish such a base shall be treated as ap-
 9 proved by the Secretary of the Treasury; and

10 (B) any resulting funding method change
 11 base shall be treated for purposes of amortiza-
 12 tion as a net experience loss or gain.

13 **SEC. 305. TRANSITION RULE FOR CERTIFICATIONS OF**
 14 **PLAN STATUS.**

15 (a) IN GENERAL.—A plan actuary shall not be treat-
 16 ed as failing to meet the requirements of section
 17 305(b)(3)(A) of the Employee Retirement Income Secu-
 18 rity Act of 1974 and section 432(b)(3)(A) of the Internal
 19 Revenue Code of 1986 in connection with a certification
 20 required under such sections the deadline for which is
 21 after the date of the enactment of this Act if the plan
 22 actuary makes such certification at any time earlier than
 23 75 days after the date of the enactment of this Act.

24 (b) REVISION OF PRIOR CERTIFICATION.—

25 (1) IN GENERAL.—If—

1 (A) a plan sponsor makes an election
2 under section 304(b)(8) of the Employee Re-
3 tirement Income Security Act of 1974 and sec-
4 tion 431(b)(8) of the Internal Revenue Code of
5 1986, or under section 304(c)(2)(B) of such
6 Act and section 431(c)(2)(B) such Code, with
7 respect to a plan for a plan year beginning on
8 or after October 1, 2009; and

9 (B) the plan actuary's certification of the
10 plan status for such plan year (hereinafter in
11 this subsection referred to as "original certifi-
12 cation") did not take into account any election
13 so made,

14 then the plan sponsor may direct the plan actuary
15 to make a new certification with respect to the plan
16 for the plan year which takes into account such elec-
17 tion (hereinafter in this subsection referred to as
18 "new certification") if the plan's status under sec-
19 tion 305 of such Act and section 432 of such Code
20 would change as a result of such election. Any such
21 new certification shall be treated as the most recent
22 certification referred to in section 304(b)(3)(B)(iii)
23 of such Act and section 431(b)(8)(B)(iii) of such
24 Code.

1 (2) DUE DATE FOR NEW CERTIFICATION.—Any
2 such new certification shall be made pursuant to sec-
3 tion 305(b)(3) of such Act and section 432(b)(3) of
4 such Code; except that any such new certification
5 shall be made not later than 75 days after the date
6 of the enactment of this Act.

7 (3) NOTICE.—

8 (A) IN GENERAL.—Except as provided in
9 subparagraph (B), any such new certification
10 shall be treated as the original certification for
11 purposes of section 305(b)(3)(D) of such Act
12 and section 432(b)(3)(D) of such Code.

13 (B) NOTICE ALREADY PROVIDED.—In any
14 case in which notice has been provided under
15 such sections with respect to the original certifi-
16 cation, not later than 30 days after the new
17 certification is made, the plan sponsor shall
18 provide notice of any change in status under
19 rules similar to the rules such sections.

20 (4) EFFECT OF CHANGE IN STATUS.—If a plan
21 ceases to be in critical status pursuant to the new
22 certification, then the plan shall, not later than 30
23 days after the due date described in paragraph (2),
24 cease any restriction of benefit payments, and impo-
25 sition of contribution surcharges, under section 305

1 of such Act and section 432 of such Code by reason
2 of the original certification.

3 **TITLE IV—REVENUE OFFSETS**
4 **Subtitle A—Personal Service In-**
5 **come Earned in Pass-thru Enti-**
6 **ties**

7 **SEC. 401. PARTNERSHIP INTERESTS TRANSFERRED IN**
8 **CONNECTION WITH PERFORMANCE OF SERV-**
9 **ICES.**

10 (a) MODIFICATION TO ELECTION TO INCLUDE PART-
11 NERSHIP INTEREST IN GROSS INCOME IN YEAR OF
12 TRANSFER.—Subsection (c) of section 83 is amended by
13 redesignating paragraph (4) as paragraph (5) and by in-
14 serting after paragraph (3) the following new paragraph:

15 “(4) PARTNERSHIP INTERESTS.—Except as
16 provided by the Secretary, in the case of any trans-
17 fer of an interest in a partnership in connection with
18 the provision of services to (or for the benefit of)
19 such partnership—

20 “(A) the fair market value of such interest
21 shall be treated for purposes of this section as
22 being equal to the amount of the distribution
23 which the partner would receive if the partner-
24 ship sold (at the time of the transfer) all of its
25 assets at fair market value and distributed the

1 proceeds of such sale (reduced by the liabilities
2 of the partnership) to its partners in liquidation
3 of the partnership, and

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

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

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

15 **SEC. 402. INCOME OF PARTNERS FOR PERFORMING IN-**
16 **VESTMENT MANAGEMENT SERVICES TREAT-**
17 **ED AS ORDINARY INCOME RECEIVED FOR**
18 **PERFORMANCE OF SERVICES.**

19 (a) IN GENERAL.—Part I of subchapter K of chapter
20 1 is amended by adding at the end the following new sec-
21 tion:

1 **“SEC. 710. SPECIAL RULES FOR PARTNERS PROVIDING IN-**
2 **VESTMENT MANAGEMENT SERVICES TO**
3 **PARTNERSHIP.**

4 “(a) TREATMENT OF DISTRIBUTIVE SHARE OF
5 PARTNERSHIP ITEMS.—For purposes of this title, in the
6 case of an investment services partnership interest—

7 “(1) IN GENERAL.—Notwithstanding section
8 702(b)—

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

12 “(B) any net loss with respect to such in-
13 terest for such year, to the extent not dis-
14 allowed under paragraph (2) for such year,
15 shall be treated as an ordinary loss.

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

20 “(2) TREATMENT OF LOSSES.—

21 “(A) LIMITATION.—Any net loss with re-
22 spect to such interest shall be allowed for any
23 partnership taxable year only to the extent that
24 such loss does not exceed the excess (if any)
25 of—

1 “(i) the aggregate net income with re-
2 spect to such interest for all prior partner-
3 ship taxable years, over

4 “(ii) the aggregate net loss with re-
5 spect to such interest not disallowed under
6 this subparagraph for all prior partnership
7 taxable years.

8 “(B) CARRYFORWARD.—Any net loss for
9 any partnership taxable year which is not al-
10 lowed by reason of subparagraph (A) shall be
11 treated as an item of loss with respect to such
12 partnership interest for the succeeding partner-
13 ship taxable year.

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

18 “(D) PRIOR PARTNERSHIP YEARS.—Any
19 reference in this paragraph to prior partnership
20 taxable years shall only include prior partner-
21 ship taxable years to which this section applies.

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

24 “(A) NET INCOME.—The term ‘net in-
25 come’ means, with respect to any investment

1 services partnership interest for any partner-
2 ship taxable year, the excess (if any) of—

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

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

9 “(B) NET LOSS.—The term ‘net loss’
10 means, with respect to such interest for such
11 year, the excess (if any) of the amount de-
12 scribed in subparagraph (A)(ii) over the amount
13 described in subparagraph (A)(i).

14 “(4) SPECIAL RULE FOR DIVIDENDS.—Any div-
15 idend taken into account in determining net income
16 or net loss for purposes of paragraph (1) shall not
17 be treated as qualified dividend income for purposes
18 of section 1(h).

19 “(b) DISPOSITIONS OF PARTNERSHIP INTERESTS.—

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

22 “(A) treated as ordinary income, and

23 “(B) recognized notwithstanding any other
24 provision of this subtitle.

1 “(2) LOSS.—Any loss on the disposition of an
2 investment services partnership interest shall be
3 treated as an ordinary loss to the extent of the ex-
4 cess (if any) of—

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

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

12 “(3) ELECTION WITH RESPECT TO CERTAIN EX-
13 CHANGES.—Paragraph (1)(B) shall not apply to the
14 contribution of an investment services partnership
15 interest to a partnership in exchange for an interest
16 in such partnership if—

17 “(A) the taxpayer makes an irrevocable
18 election to treat the partnership interest re-
19 ceived in the exchange as an investment serv-
20 ices partnership interest, and

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

24 “(4) DISPOSITION OF PORTION OF INTEREST.—
25 In the case of any disposition of an investment serv-

1 ices partnership interest, the amount of net loss
2 which otherwise would have (but for subsection
3 (a)(2)(C)) applied to reduce the basis of such inter-
4 est shall be disregarded for purposes of this section
5 for all succeeding partnership taxable years.

6 “(5) DISTRIBUTIONS OF PARTNERSHIP PROP-
7 ERTY.—In the case of any distribution of property
8 by a partnership with respect to any investment
9 services partnership interest held by a partner—

10 “(A) the excess (if any) of—

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

14 “(ii) the adjusted basis of such prop-
15 erty in the hands of the partnership,

16 shall be taken into account as an increase in
17 such partner’s distributive share of the taxable
18 income of the partnership (except to the extent
19 such excess is otherwise taken into account in
20 determining the taxable income of the partner-
21 ship),

22 “(B) such property shall be treated for
23 purposes of subpart B of part II as money dis-
24 tributed to such partner in an amount equal to
25 such fair market value, and

1 “(C) the basis of such property in the
2 hands of such partner shall be such fair market
3 value.

4 Subsection (b) of section 734 shall be applied with-
5 out regard to the preceding sentence. In the case of
6 a taxpayer which satisfies requirements similar to
7 the requirements of subparagraphs (A) and (B) of
8 paragraph (3), this paragraph and paragraph (1)(B)
9 shall not apply to the distribution of a partnership
10 interest if such distribution is in connection with a
11 contribution (or deemed contribution) of any prop-
12 erty of the partnership to which section 721 applies
13 pursuant to a transaction described in paragraph
14 (1)(B) or (2) of section 708(b).

15 “(6) APPLICATION OF SECTION 751.—

16 “(A) IN GENERAL.—In applying section
17 751, an investment services partnership interest
18 shall be treated as an inventory item.

19 “(B) EXCEPTION FOR CERTAIN DISPOS-
20 ITIONS OF INTERESTS IN A PUBLICLY TRADED
21 PARTNERSHIP.—Except as provided by the Sec-
22 retary, this paragraph shall not apply in the
23 case of any (direct or indirect) disposition of an
24 interest in a publicly traded partnership (as de-
25 fined in section 7704) which is not an invest-

1 ment services partnership interest in the hands
2 of the person disposing of such interest (or the
3 hands of the person holding such interest indi-
4 rectly).

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

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

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

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

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

24 “(D) Any activity in support of any service
25 described in subparagraphs (A) through (C).

1 “(2) SPECIFIED ASSET.—The term ‘specified
2 asset’ means securities (as defined in section
3 475(c)(2) without regard to the last sentence there-
4 of), real estate held for rental or investment, inter-
5 ests in partnerships, commodities (as defined in sec-
6 tion 475(e)(2)), or options or derivative contracts
7 with respect to any of the foregoing.

8 “(3) EXCEPTION FOR FAMILY FARMS.—The
9 term ‘specified asset’ shall not include any farm
10 used for farming purposes if such farm is held by
11 a partnership all of the interests in which are held
12 (directly or indirectly) by members of the same fam-
13 ily. Terms used in the preceding sentence which are
14 also used in section 2032A shall have the same
15 meaning as when used in such section.

16 “(4) EXCEPTION FOR PARTNERSHIPS WITH PRO
17 RATA ALLOCATIONS BASED ON CAPITAL.—Except as
18 provided by the Secretary, the term ‘investment
19 services partnership interest’ shall not include any
20 interest in a partnership if all distributions and all
21 allocations of the partnership, and of any other part-
22 nership in which the partnership directly or indi-
23 rectly holds an interest, are made pro rata on the
24 basis of the capital contributions of each partner

1 which constitute qualified capital interests under
2 subsection (d).

3 “(5) RELATED PERSONS.—A person shall be
4 treated as related to another person if the relation-
5 ship between such persons is described in section
6 267 or 707(b).

7 “(d) EXCEPTION FOR CERTAIN CAPITAL INTER-
8 ESTS.—

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

15 “(A) allocations of items are made by the
16 partnership to such qualified capital interest in
17 the same manner as such allocations are made
18 to other qualified capital interests held by part-
19 ners who do not provide any services described
20 in subsection (c)(1) and who are not related to
21 the partner holding the qualified capital inter-
22 est, and

23 “(B) the allocations made to such other in-
24 terests are significant compared to the alloca-
25 tions made to such qualified capital interest.

1 “(2) AUTHORITY TO PROVIDE EXCEPTIONS TO
2 ALLOCATION REQUIREMENTS.—To the extent pro-
3 vided by the Secretary in regulations or other guid-
4 ance—

5 “(A) ALLOCATIONS TO PORTION OF QUALI-
6 FIED CAPITAL INTEREST.—Paragraph (1) may
7 be applied separately with respect to a portion
8 of a qualified capital interest.

9 “(B) NO OR INSIGNIFICANT ALLOCATIONS
10 TO NONSERVICE PROVIDERS.—In any case in
11 which the requirements of paragraph (1)(B) are
12 not satisfied, items of income, gain, loss, and
13 deduction shall not be taken into account under
14 subsection (a) to the extent that such items are
15 properly allocable under such regulations or
16 other guidance to qualified capital interests.

17 “(C) ALLOCATIONS TO SERVICE PRO-
18 VIDERS’ QUALIFIED CAPITAL INTERESTS WHICH
19 ARE LESS THAN OTHER ALLOCATIONS.—Alloca-
20 tions shall not be treated as failing to meet the
21 requirement of paragraph (1)(A) merely be-
22 cause the allocations to the qualified capital in-
23 terest represent a lower return than the alloca-
24 tions made to the other qualified capital inter-
25 ests referred to in such paragraph.

1 “(3) SPECIAL RULE FOR CHANGES IN SERV-
2 ICES.—In the case of an interest in a partnership
3 which is not an investment services partnership in-
4 terest and which, by reason of a change in the serv-
5 ices with respect to assets held (directly or indi-
6 rectly) by the partnership, would (without regard to
7 the reasonable expectation exception of subsection
8 (c)(1)) have become such an interest—

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

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

19 “(4) SPECIAL RULE FOR TIERED PARTNER-
20 SHIPS.—Except as otherwise provided by the Sec-
21 retary, in the case of tiered partnerships, all items
22 which are allocated in a manner which meets the re-
23 quirements of paragraph (1) to qualified capital in-
24 terests in a lower-tier partnership shall retain such
25 character to the extent allocated on the basis of

1 qualified capital interests in any upper-tier partner-
2 ship.

3 “(5) EXCEPTION FOR NO-SELF-CHARGED
4 CARRY AND MANAGEMENT FEE PROVISIONS.—Ex-
5 cept as otherwise provided by the Secretary, an in-
6 terest shall not fail to be treated as satisfying the
7 requirement of paragraph (1)(A) merely because the
8 allocations made by the partnership to such interest
9 do not reflect the cost of services described in sub-
10 section (c)(1) which are provided (directly or indi-
11 rectly) to the partnership by the holder of such in-
12 terest (or a related person).

13 “(6) SPECIAL RULE FOR DISPOSITIONS.—In the
14 case of any investment services partnership interest
15 any portion of which is a qualified capital interest,
16 subsection (b) shall not apply to so much of any
17 gain or loss as bears the same proportion to the en-
18 tire amount of such gain or loss as—

19 “(A) the distributive share of gain or loss
20 that would have been allocated to the qualified
21 capital interest (consistent with the require-
22 ments of paragraph (1)) if the partnership had
23 sold all of its assets at fair market value imme-
24 diately before the disposition, bears to

1 “(B) the distributive share of gain or loss
2 that would have been so allocated to the invest-
3 ment services partnership interest of which such
4 qualified capital interest is a part.

5 “(7) QUALIFIED CAPITAL INTEREST.—For pur-
6 poses of this subsection—

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

11 “(i) the fair market value of any
12 money or other property contributed to the
13 partnership in exchange for such interest
14 (determined without regard to section
15 752(a)),

16 “(ii) any amounts which have been in-
17 cluded in gross income under section 83
18 with respect to the transfer of such inter-
19 est, and

20 “(iii) the excess (if any) of—

21 “(I) any items of income and
22 gain taken into account under section
23 702 with respect to such interest, over

24 “(II) any items of deduction and
25 loss so taken into account.

1 “(B) ADJUSTMENT TO QUALIFIED CAPITAL
2 INTEREST.—

3 “(i) DISTRIBUTIONS AND LOSSES.—

4 The qualified capital interest shall be re-
5 duced by distributions from the partner-
6 ship with respect to such interest and by
7 the excess (if any) of the amount described
8 in subparagraph (A)(iii)(II) over the
9 amount described in subparagraph
10 (A)(iii)(I).

11 “(ii) SPECIAL RULE FOR CONTRIBU-
12 TIONS OF PROPERTY.—In the case of any
13 contribution of property described in sub-
14 paragraph (A)(i) with respect to which the
15 fair market value of such property is not
16 equal to the adjusted basis of such prop-
17 erty immediately before such contribution,
18 proper adjustments shall be made to the
19 qualified capital interest to take into ac-
20 count such difference consistent with such
21 regulations or other guidance as the Sec-
22 retary may provide.

23 “(8) TREATMENT OF CERTAIN LOANS.—

24 “(A) PROCEEDS OF PARTNERSHIP LOANS
25 NOT TREATED AS QUALIFIED CAPITAL INTER-

1 EST OF SERVICE PROVIDING PARTNERS.—For
2 purposes of this subsection, an investment serv-
3 ices partnership interest shall not be treated as
4 a qualified capital interest to the extent that
5 such interest is acquired in connection with the
6 proceeds of any loan or other advance made or
7 guaranteed, directly or indirectly, by any other
8 partner or the partnership (or any person re-
9 lated to any such other partner or the partner-
10 ship). The preceding sentence shall not apply to
11 the extent the loan or other advance is repaid
12 before the date of the enactment of this section
13 unless such repayment is made with the pro-
14 ceeds of a loan or other advance described in
15 the preceding sentence.

16 “(B) REDUCTION IN ALLOCATIONS TO
17 QUALIFIED CAPITAL INTERESTS FOR LOANS
18 FROM NONSERVICE-PROVIDING PARTNERS TO
19 THE PARTNERSHIP.—For purposes of this sub-
20 section, any loan or other advance to the part-
21 nership made or guaranteed, directly or indi-
22 rectly, by a partner not providing services de-
23 scribed in subsection (c)(1) to the partnership
24 (or any person related to such partner) shall be
25 taken into account in determining the qualified

1 capital interests of the partners in the partner-
2 ship.

3 “(e) OTHER INCOME AND GAIN IN CONNECTION
4 WITH INVESTMENT MANAGEMENT SERVICES.—

5 “(1) IN GENERAL.—If—

6 “(A) a person performs (directly or indi-
7 rectly) investment management services for any
8 entity,

9 “(B) such person holds (directly or indi-
10 rectly) a disqualified interest with respect to
11 such entity, and

12 “(C) the value of such interest (or pay-
13 ments thereunder) is substantially related to
14 the amount of income or gain (whether or not
15 realized) from the assets with respect to which
16 the investment management services are per-
17 formed,

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

22 “(2) DEFINITIONS.—For purposes of this sub-
23 section—

24 “(A) DISQUALIFIED INTEREST.—

1 “(i) IN GENERAL.—The term ‘dis-
2 qualified interest’ means, with respect to
3 any entity—

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

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

8 “(III) any option or other right
9 to acquire property described in sub-
10 clause (I) or (II), and

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

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

17 “(I) a partnership interest,

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

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

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

25 “(i) a domestic C corporation, or

1 “(ii) a foreign corporation substan-
2 tially all of the income of which is—

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

6 “(II) subject to a comprehensive
7 foreign income tax (as defined in sec-
8 tion 457A(d)(2)).

9 “(C) INVESTMENT MANAGEMENT SERV-
10 ICES.—The term ‘investment management serv-
11 ices’ means a substantial quantity of any of the
12 services described in subsection (c)(1).

13 “(f) REGULATIONS.—The Secretary shall prescribe
14 such regulations or other guidance as is necessary or ap-
15 propriate to carry out the purposes of this section, includ-
16 ing regulations or other guidance to—

17 “(1) provide modifications to the application of
18 this section (including treating related persons as
19 not related to one another) to the extent such modi-
20 fication is consistent with the purposes of this sec-
21 tion,

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

24 “(3) coordinate this section with the other pro-
25 visions of this title.

1 “(g) SPECIAL RULES FOR INDIVIDUALS.—In the case
2 of an individual—

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

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

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

16 “(4) SPECIAL RULE FOR RECOGNITION OF
17 GAIN.—Gain which (but for this section) would not
18 be recognized shall be recognized by reason of sub-
19 section (b) only to the extent that such gain is treat-
20 ed as ordinary income after application of paragraph
21 (2).

22 “(5) COORDINATION WITH LIMITATION ON
23 LOSSES.—For purposes of applying paragraph (2) of
24 subsection (a) with respect to any net loss for any
25 taxable year—

1 “(A) such paragraph shall only apply with
2 respect to the applicable percentage of such net
3 loss for such taxable year,

4 “(B) in the case of a prior partnership tax-
5 able year referred to in clause (i) or (ii) of sub-
6 paragraph (A) of such paragraph, only the ap-
7 plicable percentage (as in effect for such prior
8 taxable year) of net income or net loss for such
9 prior partnership taxable year shall be taken
10 into account, and

11 “(C) any net loss carried forward to the
12 succeeding partnership taxable year under sub-
13 paragraph (B) of such paragraph shall—

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

17 “(ii) in lieu of being taken into ac-
18 count as an item of loss in such succeeding
19 year, shall be taken into account—

20 “(I) as an increase in net loss or
21 as a reduction in net income (includ-
22 ing below zero), as the case may be,
23 and

1 “(II) after any reduction in the
2 amount of such net loss or net income
3 under this subsection.

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

6 “(6) COORDINATION WITH TREATMENT OF
7 DIVIDENDS.—Subsection (a)(4) shall only apply to
8 the applicable percentage of dividends described
9 therein.

10 “(7) APPLICABLE PERCENTAGE.—For purposes
11 of this subsection—

12 “(A) IN GENERAL.—Except as provided in
13 subparagraphs (B) and (C), the term ‘applica-
14 ble percentage’ means 75 percent.

15 “(B) EXCEPTION FOR DISPOSITION OF AS-
16 SETS HELD BY INVESTMENT SERVICES PART-
17 NERSHIPS AT LEAST 5 YEARS.—The applicable
18 percentage shall be 50 percent with respect to
19 any net income or net loss under subsection
20 (a)(1) which is properly allocable to gain or loss
21 from the disposition (or a distribution under
22 subsection (b)(5)) of any asset (other than an
23 investment services partnership interest) which
24 has been held by the investment services part-
25 nership for at least 5 years.

1 “(C) EXCEPTION FOR DISPOSITION OF IN-
2 VESTMENT SERVICES PARTNERSHIP INTERESTS
3 HELD AT LEAST 5 YEARS.—

4 “(i) IN GENERAL.—The applicable
5 percentage shall be 50 percent with respect
6 to—

7 “(I) net income or net loss under
8 subsection (a)(1) which is properly al-
9 locable to gain or loss from the dis-
10 position (or a distribution under sub-
11 section (b)(5)) of an investment serv-
12 ices partnership interest which has
13 been held at least 5 years, and

14 “(II) gain or loss under sub-
15 section (b) on the disposition of an in-
16 vestment services partnership interest
17 which has been held for at least 5
18 years,

19 but only to the extent such gain or loss is
20 attributable to assets held by the invest-
21 ment services partnership for at least 5
22 years.

23 “(ii) APPLICATION IN THE CASE OF
24 TIERED PARTNERSHIPS, ETC.—For pur-
25 poses of determining whether the assets of

1 the investment services partnership have
2 been held for at least 5 years under clause
3 (i), an investment services partnership
4 shall be treated as owning its propor-
5 tionate share of the property of any other
6 partnership in which it has held an invest-
7 ment services partnership interest for at
8 least 5 years.

9 “(iii) REGULATIONS.—The Secretary
10 may by regulation or other guidance ex-
11 tend the application of clause (ii) to enti-
12 ties other than investment services part-
13 nerships if necessary to prevent the avoid-
14 ance of the purposes of this subparagraph.

15 “(D) TREATMENT OF GOODWILL AND
16 OTHER SECTION 197 INTANGIBLES.—For pur-
17 poses of this paragraph, in the case of any sec-
18 tion 197 intangible of an entity through which
19 services described in subparagraphs (A)
20 through (D) of subsection (c)(1) are directly or
21 indirectly provided—

22 “(i) the holding period of such intan-
23 gible shall not be less than the holding pe-
24 riod of the investment services partnership
25 interest in the partnership, and

1 “(ii) the value of such intangible shall
2 be determined in a manner consistent with
3 the regulations described in subparagraph
4 (E).

5 “(E) VALUATION METHODS.—The Sec-
6 retary shall prescribe regulations or guidance
7 which provide—

8 “(i) the acceptable valuation methods
9 for purposes of this subparagraph, except
10 that such methods shall not include any
11 valuation method which is inconsistent
12 with the method used by the taxpayer for
13 other purposes (including reporting asset
14 valuations to partners or potential partners
15 in the partnership or any related partner-
16 ship) if such inconsistent valuation method
17 would result in the treatment of a greater
18 amount of gain as attributable to a section
19 197 intangible than would result under the
20 valuation method used by the taxpayer for
21 such other purposes,

22 “(ii) circumstances under which valu-
23 ations are sufficiently independent to pro-
24 vide an accurate determination of fair mar-
25 ket value, and

1 “(iii) any information required to be
2 furnished to the Secretary by the parties to
3 the disposition with respect to such valu-
4 ation.

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

7 “(i) INVESTMENT SERVICES PARTNER-
8 SHIP.—The term ‘investment services part-
9 nership’ means, with respect to any invest-
10 ment services partnership interest, the en-
11 tity in which such interest is held.

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

15 “(iii) APPLICATION TO DISQUALIFIED
16 INTERESTS.—Rules similar to the rules of
17 this paragraph shall apply with respect to
18 income or gain with respect to a disquali-
19 fied interest under subsection (e).

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

23 (b) TREATMENT FOR PURPOSES OF SECTION
24 7704.—Subsection (d) of section 7704 is amended by add-
25 ing at the end the following new paragraph:

1 “(6) INCOME FROM INVESTMENT SERVICES
2 PARTNERSHIP INTERESTS NOT QUALIFIED.—

3 “(A) IN GENERAL.—Items of income and
4 gain shall not be treated as qualifying income
5 if such items are treated as ordinary income by
6 reason of the application of section 710 (relat-
7 ing to special rules for partners providing in-
8 vestment management services to partnership).
9 The preceding sentence shall not apply to any
10 item described in paragraph (1)(E) (or so much
11 of paragraph (1)(F) as relates to paragraph
12 (1)(E)).

13 “(B) SPECIAL RULES FOR CERTAIN PART-
14 NERSHIPS.—

15 “(i) CERTAIN PARTNERSHIPS OWNED
16 BY REAL ESTATE INVESTMENT TRUSTS.—
17 Subparagraph (A) shall not apply in the
18 case of a partnership which meets each of
19 the following requirements:

20 “(I) Such partnership is treated
21 as publicly traded under this section
22 solely by reason of interests in such
23 partnership being convertible into in-
24 terests in a real estate investment
25 trust which is publicly traded.

1 “(II) 50 percent or more of the
2 capital and profits interests of such
3 partnership are owned, directly or in-
4 directly, at all times during the tax-
5 able year by such real estate invest-
6 ment trust (determined with the ap-
7 plication of section 267(c)).

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

11 “(ii) CERTAIN PARTNERSHIPS OWN-
12 ING OTHER PUBLICLY TRADED PARTNER-
13 SHIPS.—Subparagraph (A) shall not apply
14 in the case of a partnership which meets
15 each of the following requirements:

16 “(I) Substantially all of the as-
17 sets of such partnership consist of in-
18 terests in one or more publicly traded
19 partnerships (determined without re-
20 gard to subsection (b)(2)).

21 “(II) Substantially all of the in-
22 come of such partnership is ordinary
23 income or section 1231 gain (as de-
24 fined in section 1231(a)(3)).

1 “(C) TRANSITIONAL RULE.—Subpara-
2 graph (A) shall not apply to any taxable year
3 of the partnership beginning before the date
4 which is 10 years after the date of the enact-
5 ment of this paragraph.”.

6 (c) IMPOSITION OF PENALTY ON UNDERPAY-
7 MENTS.—

8 (1) IN GENERAL.—Subsection (b) of section
9 6662 is amended by inserting after paragraph (7)
10 the following new paragraph:

11 “(8) The application of subsection (e) of section
12 710, the regulations or other guidance prescribed
13 under section 710(f) to prevent the avoidance of the
14 purposes of section 710, or the regulations or other
15 guidance prescribed under section 710(g)(7)(E).”.

16 (2) AMOUNT OF PENALTY.—

17 (A) IN GENERAL.—Section 6662 is amend-
18 ed by adding at the end the following new sub-
19 section:

20 “(k) INCREASE IN PENALTY IN CASE OF PROPERTY
21 TRANSFERRED FOR INVESTMENT MANAGEMENT SERV-
22 ICES.—In the case of any portion of an underpayment to
23 which this section applies by reason of subsection (b)(8),
24 subsection (a) shall be applied with respect to such portion
25 by substituting ‘40 percent’ for ‘20 percent’.”.

1 (B) CONFORMING AMENDMENT.—Subpara-
2 graph (B) of section 6662A(e)(2) is amended
3 by striking “or (i)” and inserting “, (i), or (k)”.

4 (3) SPECIAL RULES FOR APPLICATION OF REA-
5 SONABLE CAUSE EXCEPTION.—Subsection (c) of sec-
6 tion 6664 is amended—

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

9 (B) by striking “paragraph (3)” in para-
10 graph (5)(A), as so redesignated, and inserting
11 “paragraph (4)”; and

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

14 “(3) SPECIAL RULE FOR UNDERPAYMENTS AT-
15 TRIBUTABLE TO INVESTMENT MANAGEMENT SERV-
16 ICES.—

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

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

24 “(ii) there is or was substantial au-
25 thority for such treatment, and

1 “(iii) the taxpayer reasonably believed
2 that such treatment was more likely than
3 not the proper treatment.

4 “(B) RULES RELATING TO REASONABLE
5 BELIEF.—Rules similar to the rules of sub-
6 section (d)(3) shall apply for purposes of sub-
7 paragraph (A)(iii).”.

8 (d) INCOME AND LOSS FROM INVESTMENT SERVICES
9 PARTNERSHIP INTERESTS TAKEN INTO ACCOUNT IN DE-
10 TERMINING NET EARNINGS FROM SELF-EMPLOYMENT.—

11 (1) INTERNAL REVENUE CODE.—Section
12 1402(a) is amended by striking “and” at the end of
13 paragraph (16), by striking the period at the end of
14 paragraph (17) and inserting “; and”, and by insert-
15 ing after paragraph (17) the following new para-
16 graph:

17 “(18) notwithstanding the preceding provisions
18 of this subsection, in the case of any individual en-
19 gaged in the trade or business of providing services
20 described in section 710(c)(1) with respect to any
21 entity, any amount treated as ordinary income or or-
22 dinary loss of such individual under section 710 with
23 respect to such entity shall be taken into account in
24 determining the net earnings from self-employment
25 of such individual.”.

1 (2) SOCIAL SECURITY ACT.—Section 211(a) of
2 the Social Security Act is amended by striking
3 “and” at the end of paragraph (15), by striking the
4 period at the end of paragraph (16) and inserting “;
5 and”, and by inserting after paragraph (16) the fol-
6 lowing new paragraph:

7 “(17) Notwithstanding the preceding provisions
8 of this subsection, in the case of any individual en-
9 gaged in the trade or business of providing services
10 described in section 710(c)(1) of the Internal Rev-
11 enue Code of 1986 with respect to any entity, any
12 amount treated as ordinary income or ordinary loss
13 of such individual under section 710 of such Code
14 with respect to such entity shall be taken into ac-
15 count in determining the net earnings from self-em-
16 ployment of such individual.”.

17 (e) CONFORMING AMENDMENTS.—

18 (1) Subsection (d) of section 731 is amended by
19 inserting “section 710(b)(4) (relating to distribu-
20 tions of partnership property),” after “to the extent
21 otherwise provided by”.

22 (2) Section 741 is amended by inserting “or
23 section 710 (relating to special rules for partners
24 providing investment management services to part-
25 nership)” before the period at the end.

1 (3) The table of sections for part I of sub-
2 chapter K of chapter 1 is amended by adding at the
3 end the following new item:

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

4 (f) EFFECTIVE DATE.—

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

9 (2) PARTNERSHIP TAXABLE YEARS WHICH IN-
10 CLUDE EFFECTIVE DATE.—In applying section
11 710(a) of the Internal Revenue Code of 1986 (as
12 added by this section) in the case of any partnership
13 taxable year which includes December 31, 2010, the
14 amount of the net income referred to in such section
15 shall be treated as being the lesser of the net income
16 for the entire partnership taxable year or the net in-
17 come determined by only taking into account items
18 attributable to the portion of the partnership taxable
19 year which is after such date.

20 (3) DISPOSITIONS OF PARTNERSHIP INTER-
21 ESTS.—Section 710(b) of the Internal Revenue Code
22 of 1986 (as added by this section) shall apply to dis-
23 positions and distributions after December 31, 2010.

1 (4) OTHER INCOME AND GAIN IN CONNECTION
 2 WITH INVESTMENT MANAGEMENT SERVICES.—Sec-
 3 tion 710(e) of such Code (as added by this section)
 4 shall take effect on December 31, 2010.

5 **Subtitle B—Corporate Provisions**

6 **SEC. 411. TREATMENT OF SECURITIES OF A CONTROLLED** 7 **CORPORATION EXCHANGED FOR ASSETS IN** 8 **CERTAIN REORGANIZATIONS.**

9 (a) IN GENERAL.—Section 361 (relating to non-
 10 recognition of gain or loss to corporations; treatment of
 11 distributions) is amended by adding at the end the fol-
 12 lowing new subsection:

13 “(d) SPECIAL RULES FOR TRANSACTIONS INVOLVING
 14 SECTION 355 DISTRIBUTIONS.—In the case of a reorga-
 15 nization described in section 368(a)(1)(D) with respect to
 16 which stock or securities of the corporation to which the
 17 assets are transferred are distributed in a transaction
 18 which qualifies under section 355—

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

23 “(2) the first sentence of subsection (b)(3) shall
 24 apply only to the extent that the sum of the money
 25 and the fair market value of the other property

1 transferred to such creditors does not exceed the ad-
2 justed bases of such assets transferred (reduced by
3 the amount of the liabilities assumed (within the
4 meaning of section 357(c))).”.

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

7 (c) EFFECTIVE DATE.—

8 (1) IN GENERAL.—Except as provided in para-
9 graph (2), the amendments made by this section
10 shall apply to exchanges after December 31, 2010.

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

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

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

20 (C) described on or before December 31,
21 2010, in a public announcement or in a filing
22 with the Securities and Exchange Commission.

1 **SEC. 412. TAXATION OF BOOT RECEIVED IN REORGANIZA-**
2 **TIONS.**

3 (a) IN GENERAL.—Paragraph (2) of section 356(a)
4 is amended—

5 (1) by striking “If an exchange” and inserting
6 “Except as otherwise provided by the Secretary—

7 “(A) IN GENERAL.—If an exchange”;

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

13 (3) by adding at the end the following new sub-
14 paragraph:

15 “(B) CERTAIN REORGANIZATIONS.—In the
16 case of a reorganization described in section
17 368(a)(1)(D) to which section 354(b)(1) applies
18 or any other reorganization specified by the
19 Secretary, in applying subparagraph (A)—

20 “(i) the earnings and profits of each
21 corporation which is a party to the reorga-
22 nization shall be taken into account, and

23 “(ii) the amount which is a dividend
24 (and source thereof) shall be determined
25 under rules similar to the rules of para-
26 graphs (2) and (5) of section 304(b).”.

1 (b) EARNINGS AND PROFITS.—Paragraph (7) of sec-
2 tion 312(n) is amended by adding at the end the following:
3 “A similar rule shall apply to an exchange to which section
4 356(a)(1) applies.”.

5 (c) CONFORMING AMENDMENT.—Paragraph (1) of
6 section 356(a) is amended by striking “then the gain” and
7 inserting “then (except as provided in paragraph (2)) the
8 gain”.

9 (d) EFFECTIVE DATE.—

10 (1) IN GENERAL.—Except as provided in para-
11 graph (2), the amendments made by this section
12 shall apply to exchanges after December 31, 2010.

13 (2) TRANSITION RULES.—

14 (A) IN GENERAL.—The amendments made
15 by this section shall not apply to any exchange
16 between unrelated persons pursuant to a trans-
17 action which is—

18 (i) made pursuant to a written agree-
19 ment which was binding on December 31,
20 2010, and at all times thereafter;

21 (ii) described in a ruling request sub-
22 mitted to the Internal Revenue Service on
23 or before July 29, 2010; or

24 (iii) described in a public announce-
25 ment or filing with the Securities and Ex-

1 change Commission on or before December
2 31, 2010.

3 (B) SPECIAL RULE.—The amendments
4 made by this section shall not apply to an ex-
5 change described in subparagraph (C) if the ex-
6 change is completed before the date which is 1
7 year after the acquisition described in subpara-
8 graph (C) occurred.

9 (C) APPLICABLE EXCHANGES.—An ex-
10 change is described in this subparagraph if sub-
11 paragraph (A) does not apply to such exchange
12 and it—

13 (i)(I) is in connection with an acquisi-
14 tion between unrelated persons which oc-
15 curred before July 29, 2010; and

16 (II) was evidenced by written docu-
17 mentation in existence before such acquisi-
18 tion occurred; or

19 (ii)(I) is in connection with an acqui-
20 sition between unrelated persons with re-
21 spect to which there was a written agree-
22 ment, ruling request, public announcement,
23 or filing which meets the requirements of
24 clauses (i), (ii), or (iii) of subparagraph
25 (A); and

1 (II) was evidenced by written docu-
2 mentation in existence before July 29,
3 2010.

4 (3) RELATED PERSONS.—For purposes of this
5 subsection, a person shall be treated as related to
6 another person if the relationship between such per-
7 sons is described in section 267 or 707(b) of the In-
8 ternal Revenue Code of 1986.

9 **Subtitle C—Other Provisions**

10 **SEC. 421. MODIFICATIONS WITH RESPECT TO OIL SPILL LI-** 11 **ABILITY TRUST FUND.**

12 (a) EXTENSION OF APPLICATION OF OIL SPILL LI-
13 ABILITY TRUST FUND FINANCING RATE.—Paragraph (2)
14 of section 4611(f) is amended by striking “December 31,
15 2017” and inserting “December 31, 2020”.

16 (b) INCREASE IN OIL SPILL LIABILITY TRUST FUND
17 FINANCING RATE.—Subparagraph (B) of section
18 4611(c)(2) is amended to read as follows:

19 “(B) the Oil Spill Liability Trust Fund fi-
20 nancing rate is 78 cents a barrel.”.

21 (c) INCREASE IN PER INCIDENT LIMITATIONS ON
22 EXPENDITURES.—Subparagraph (A) of section
23 9509(c)(2) is amended—

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

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

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

6 (d) EFFECTIVE DATE.—

7 (1) EXTENSION OF FINANCING RATE.—Except
8 as provided in paragraph (2), the amendments made
9 by this section shall take effect on the date of the
10 enactment of this Act.

11 (2) INCREASE IN FINANCING RATE.—The
12 amendment made by subsection (b) shall apply to
13 crude oil received and petroleum products entered
14 during calendar quarters beginning more than 60
15 days after the date of the enactment of this Act.

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

17 (a) DISALLOWANCE OF DEDUCTION FOR PUNITIVE
18 DAMAGES.—

19 (1) IN GENERAL.—Section 162(g) (relating to
20 treble damage payments under the antitrust laws) is
21 amended—

22 (A) by redesignating paragraphs (1) and

23 (2) as subparagraphs (A) and (B), respectively,

24 (B) by striking “If” and inserting:

25 “(1) TREBLE DAMAGES.—If”, and

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

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

9 (2) CONFORMING AMENDMENT.—The heading
10 for section 162(g) is amended by inserting “OR PU-
11 NITIVE DAMAGES” after “LAWS”.

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

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

18 **“SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSUR-**
19 **ANCE OR OTHERWISE.**

20 “Gross income shall include any amount paid to or
21 on behalf of a taxpayer as insurance or otherwise by rea-
22 son of the taxpayer’s liability (or agreement) to pay puni-
23 tive damages.”.

1 (2) REPORTING REQUIREMENTS.—Section 6041
 2 (relating to information at source) is amended by
 3 adding at the end the following new subsection:

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

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

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

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

16 **TITLE V—HEALTH AND OTHER** 17 **ASSISTANCE**

18 **SEC. 501. EXTENSION OF SECTION 508 RECLASSIFICATIONS.**

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

1 148, is amended by striking “September 30, 2010” and
2 inserting “September 30, 2011”.

3 (b) CONFORMING AMENDMENT.—Section 117(a)(3)
4 of the Medicare, Medicaid, and SCHIP Extension Act of
5 2007 (Public Law 110–173)), is amended by inserting “in
6 fiscal years 2008 and 2009” after “For purposes of imple-
7 mentation of this subsection”.

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

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

11 **SEC. 503. LIMITATION ON REASONABLE COSTS PAYMENTS**
12 **FOR CERTAIN CLINICAL DIAGNOSTIC LAB-**
13 **ORATORY TESTS FURNISHED TO HOSPITAL**
14 **PATIENTS IN CERTAIN RURAL AREAS.**

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

18 **SEC. 504. FUNDING FOR CLAIMS REPROCESSING.**

19 For purposes of carrying out the provisions of, and
20 amendments made by, this Act that relate to title XVIII
21 of the Social Security Act, and other provisions of such
22 title that involve reprocessing of claims, there are appro-
23 priated to the Secretary of Health and Human Services
24 for the Centers for Medicare & Medicaid Services Program
25 Management Account, from amounts in the general fund

1 of the Treasury not otherwise appropriated,
2 \$175,000,000. Amounts appropriated under the preceding
3 sentence shall remain available until expended.

4 **SEC. 505. MEDICAID AND CHIP TECHNICAL CORRECTIONS.**

5 (a) REPEAL OF EXCLUSION OF CERTAIN INDIVID-
6 UALS AND ENTITIES FROM MEDICAID.—Section 6502 of
7 Public Law 111–148 is repealed and the provisions of law
8 amended by such section are restored as if such section
9 had never been enacted. Nothing in the previous sentence
10 shall affect the execution or placement of the insertion
11 made by section 6503 of such Act.

12 (b) INCOME LEVEL FOR CERTAIN CHILDREN UNDER
13 MEDICAID.—Effective as if included in the enactment of
14 Public Law 111–148, section 2001(a)(5)(B) of such Act
15 is amended by striking all that follows “is amended” and
16 inserting the following: “by inserting after ‘100 percent’
17 the following: ‘(or, beginning January 1, 2014, 133 per-
18 cent)’.”.

19 (c) CALCULATION AND PUBLICATION OF PAYMENT
20 ERROR RATE MEASUREMENT FOR CERTAIN YEARS.—
21 Section 601(b) of the Children’s Health Insurance Pro-
22 gram Reauthorization Act of 2009 (Public Law 111–3)
23 is amended by adding at the end the following: “The Sec-
24 retary is not required under this subsection to calculate

1 or publish a national or a State-specific error rate for fis-
2 cal year 2009 or fiscal year 2010.”.

3 (d) CORRECTIONS TO EXCEPTIONS TO EXCLUSION
4 OF CHILDREN OF CERTAIN EMPLOYEES.—Section
5 2110(b)(6) of the Social Security Act (42 U.S.C.
6 1397jj(b)(6)) is amended—

7 (1) in subparagraph (B)—

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

10 (B) by striking “each employee” and in-
11 serting “employees”; and

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

14 (e) ELECTRONIC HEALTH RECORDS.—Effective as if
15 included in the enactment of section 4201(a)(2) of the
16 American Recovery and Reinvestment Act of 2009 (Public
17 Law 111–5), section 1903(t) of the Social Security Act
18 (42 U.S.C. 1396b(t)) is amended—

19 (1) in paragraph (3)(E), by striking “reduced
20 by any payment that is made to such Medicaid pro-
21 vider from any other source (other than under this
22 subsection or by a State or local government)” and
23 inserting “reduced by the average payment the Sec-
24 retary estimates will be made to such Medicaid pro-
25 viders (determined on a percentage or other basis

1 for such classes or types of providers as the Sec-
2 retary may specify) from other sources (other than
3 under this subsection, or by the Federal government
4 or a State or local government)”; and

5 (2) in paragraph (6)(B), by inserting before the
6 period the following: “and shall be determined to
7 have met such responsibility to the extent that the
8 payment to the Medicaid provider is not in excess of
9 85 percent of the net average allowable cost”.

10 (f) NATIVE AMERICAN TECHNICAL CORRECTION.—

11 Effective as if included in the enactment of the Patient
12 Protection and Affordable Care Act (Public Law 111–
13 148), section 1101(d)(2) of such Act (42 U.S.C.
14 18001(d)(2)) is amended by inserting after “of this Act”
15 the following: “but applied without regard to subpara-
16 graph (F) of such section”.

17 (g) CORRECTIONS OF DESIGNATIONS.—

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

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

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

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

6 **SEC. 506. ADDITION OF INPATIENT DRUG DISCOUNT PRO-**
7 **GRAM TO 340B DRUG DISCOUNT PROGRAM.**

8 (a) ADDITION OF INPATIENT DRUG DISCOUNT.—
9 Title III of the Public Health Service Act is amended by
10 inserting after section 340B (42 U.S.C. 256b) the fol-
11 lowing:

12 **“SEC. 340B-1. DISCOUNT INPATIENT DRUGS FOR INDIVID-**
13 **UALS WITHOUT PRESCRIPTION DRUG COV-**
14 **ERAGE.**

15 “(a) REQUIREMENTS FOR AGREEMENTS WITH THE
16 SECRETARY.—

17 “(1) IN GENERAL.—

18 “(A) AGREEMENT.—The Secretary shall
19 enter into an agreement with each manufac-
20 turer of covered inpatient drugs under which
21 the amount required to be paid (taking into ac-
22 count any rebate or discount, as provided by
23 the Secretary) to the manufacturer for covered
24 inpatient drugs (other than drugs described in
25 paragraph (3)) purchased by a covered entity

1 on or after January 1, 2011, does not exceed
2 an amount equal to the average manufacturer
3 price for the drug under title XIX of the Social
4 Security Act in the preceding calendar quarter,
5 reduced by the rebate percentage described in
6 paragraph (2). For a covered inpatient drug
7 that also is a covered outpatient drug under
8 section 340B, the amount required to be paid
9 under the preceding sentence shall be equal to
10 the amount required to be paid under section
11 340B(a)(1) for such drug. The agreement with
12 a manufacturer under this subparagraph may,
13 at the discretion of the Secretary, be included
14 in the agreement with the same manufacturer
15 under section 340B.

16 “(B) CEILING PRICE.—Each such agree-
17 ment shall require that the manufacturer fur-
18 nish the Secretary with reports, on a quarterly
19 basis, of the price for each covered inpatient
20 drug subject to the agreement that, according
21 to the manufacturer, represents the maximum
22 price that covered entities may permissibly be
23 required to pay for the drug (referred to in this
24 section as the ‘ceiling price’), and shall require
25 that the manufacturer offer each covered entity

1 covered inpatient drugs for purchase at or
2 below the applicable ceiling price if such drug
3 is made available to any other purchaser at any
4 price.

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

15 “(2) REBATE PERCENTAGE DEFINED.—

16 “(A) IN GENERAL.—For a covered inpa-
17 tient drug purchased in a calendar quarter, the
18 ‘rebate percentage’ is the amount (expressed as
19 a percentage) equal to—

20 “(i) the average total rebate required
21 under section 1927(c) of the Social Secu-
22 rity Act (or the average total rebate that
23 would be required if the drug were a cov-
24 ered outpatient drug under such section)
25 with respect to the drug (for a unit of the

1 dosage form and strength involved) during
2 the preceding calendar quarter; divided by

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

6 “(B) OVER THE COUNTER DRUGS.—

7 “(i) IN GENERAL.—For purposes of
8 subparagraph (A), in the case of over the
9 counter drugs, the ‘rebate percentage’ shall
10 be determined as if the rebate required
11 under section 1927(c) of the Social Secu-
12 rity Act is based on the applicable percent-
13 age provided under section 1927(c)(3) of
14 such Act.

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

21 “(3) DRUGS PROVIDED UNDER STATE MED-
22 ICAID PLANS.—Drugs described in this paragraph
23 are drugs purchased by the entity for which payment
24 is made by the State under the State plan for med-

1 ical assistance under title XIX of the Social Security
2 Act.

3 “(4) REQUIREMENTS FOR COVERED ENTI-
4 TIES.—

5 “(A) PROHIBITING DUPLICATE DISCOUNTS
6 OR REBATES.—

7 “(i) IN GENERAL.—A covered entity
8 shall not request payment under title XIX
9 of the Social Security Act for medical as-
10 sistance described in section 1905(a)(12)
11 of such Act with respect to a covered inpa-
12 tient drug that is subject to an agreement
13 under this section if the drug is subject to
14 the payment of a rebate to the State under
15 section 1927 of such Act.

16 “(ii) ESTABLISHMENT OF MECHA-
17 NISM.—The Secretary shall establish a
18 mechanism to ensure that covered entities
19 comply with clause (i). If the Secretary
20 does not establish a mechanism under the
21 previous sentence within 12 months of the
22 enactment of this section, the requirements
23 of section 1927(a)(5)(C) of the Social Se-
24 curity Act shall apply.

1 “(iii) PROHIBITING DISCLOSURE TO
2 GROUP PURCHASING ORGANIZATIONS.—In
3 the event that a covered entity is a mem-
4 ber of a group purchasing organization,
5 such entity shall not disclose the price or
6 any other information pertaining to any
7 purchases under this section directly or in-
8 directly to such group purchasing organi-
9 zation. Information pertaining to the price
10 or to any purchases under this section does
11 not include information about the safety
12 and effectiveness characteristics of a cov-
13 ered inpatient drug.

14 “(B) PROHIBITING RESALE, DISPENSING,
15 OR ADMINISTRATION OF DRUGS EXCEPT TO
16 CERTAIN PATIENTS.—With respect to any cov-
17 ered inpatient drug that is subject to an agree-
18 ment under this subsection, a covered entity
19 shall not dispense, administer, resell, or other-
20 wise transfer the covered inpatient drug to a
21 person unless—

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

24 “(ii) such person does not have health
25 plan coverage (as defined in subsection

1 (c)(3)) that provides prescription drug cov-
2 erage in the inpatient setting with respect
3 to such covered inpatient drug.

4 For purposes of clause (ii), a person shall be
5 treated as having health plan coverage (as de-
6 fined in subsection (c)(3)) with respect to a cov-
7 ered inpatient drug if benefits are not payable
8 under such coverage with respect to such drug
9 for reasons such as the application of a deduct-
10 ible or cost sharing or the use of utilization
11 management.

12 “(C) AUDITING.—A covered entity shall
13 permit the Secretary and the manufacturer of a
14 covered inpatient drug that is subject to an
15 agreement under this subsection with the entity
16 (acting in accordance with procedures estab-
17 lished by the Secretary relating to the number,
18 duration, and scope of audits) to audit at the
19 Secretary’s or the manufacturer’s expense the
20 records of the entity that directly pertain to the
21 entity’s compliance with the requirements de-
22 scribed in subparagraph (A) or (B) with respect
23 to drugs of the manufacturer. The use or dis-
24 closure of information for performance of such
25 an audit shall be treated as a use or disclosure

1 required by law for purposes of section
2 164.512(a) of title 45, Code of Federal Regula-
3 tions.

4 “(D) ADDITIONAL SANCTION FOR NON-
5 COMPLIANCE.—If the Secretary finds, after no-
6 tice and hearing, that a covered entity is in vio-
7 lation of a requirement described in subpara-
8 graph (A) or (B), the covered entity shall be
9 liable to the manufacturer of the covered inpa-
10 tient drug that is the subject of the violation in
11 an amount equal to the reduction in the price
12 of the drug (as described in subparagraph (A))
13 provided under the agreement between the Sec-
14 retary and the manufacturer under this sub-
15 section.

16 “(E) MAINTENANCE OF RECORDS.—

17 “(i) IN GENERAL.—A covered entity
18 shall establish and maintain an effective
19 recordkeeping system to comply with this
20 section and shall certify to the Secretary
21 that such entity is in compliance with sub-
22 paragraphs (A) and (B). The Secretary
23 shall require that hospitals that purchase
24 covered inpatient drugs for inpatient dis-
25 pensing or administration under this sub-

1 section appropriately segregate inventory
2 of such covered inpatient drugs, either
3 physically or electronically, from drugs for
4 outpatient use, as well as from drugs for
5 inpatient dispensing or administration to
6 individuals who have (for purposes of sub-
7 paragraph (B)) health plan coverage de-
8 scribed in clause (ii) of such subparagraph.

9 “(ii) CERTIFICATION OF NO THIRD-
10 PARTY PAYER.—A covered entity shall
11 maintain records that contain certification
12 by the covered entity that no third party
13 payment was received for any covered in-
14 patient drug that is subject to an agree-
15 ment under this subsection and that was
16 dispensed to an inpatient.

17 “(5) TREATMENT OF DISTINCT UNITS OF HOS-
18 PITALS.—In the case of a covered entity that is a
19 distinct part of a hospital, the distinct part of the
20 hospital shall not be considered a covered entity
21 under this subsection unless the hospital is otherwise
22 a covered entity under this subsection.

23 “(6) NOTICE TO MANUFACTURERS.—The Sec-
24 retary shall notify manufacturers of covered inpa-
25 tient drugs and single State agencies under section

1 1902(a)(5) of the Social Security Act of the identi-
2 ties of covered entities under this subsection, and of
3 entities that no longer meet the requirements of
4 paragraph (4), by means of timely updates of the
5 Internet website supported by the Department of
6 Health and Human Services relating to this section.

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

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

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

20 “(A) is owned or operated by a unit of
21 State or local government, is a public or private
22 non-profit corporation which is formally granted
23 governmental powers by a unit of State or local
24 government, or is a private nonprofit hospital
25 which has a contract with a State or local gov-

1 ernment to provide health care services to low
2 income individuals who are not entitled to bene-
3 fits under title XVIII of the Social Security Act
4 or eligible for assistance under the State plan
5 for medical assistance under title XIX of such
6 Act; and

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

17 “(2) A children’s hospital excluded from the
18 Medicare prospective payment system pursuant to
19 section 1886(d)(1)(B)(iii) of the Social Security Act
20 that would meet the requirements of paragraph (1),
21 including the disproportionate share adjustment per-
22 centage requirement under subparagraph (B) of
23 such paragraph, if the hospital were a subsection (d)
24 hospital as defined by section 1886(d)(1)(B) of the
25 Social Security Act.

1 “(3) A free-standing cancer hospital excluded
2 from the Medicare prospective payment system pur-
3 suant to section 1886(d)(1)(B)(v) of the Social Se-
4 curity Act that would meet the requirements of
5 paragraph (1), including the disproportionate share
6 adjustment percentage requirement under subpara-
7 graph (B) of such paragraph, if the hospital were a
8 subsection (d) hospital as defined by section
9 1886(d)(1)(B) of the Social Security Act.

10 “(4) An entity that is a critical access hospital
11 (as determined under section 1820(c)(2) of the So-
12 cial Security Act), and that meets the requirements
13 of paragraph (1)(A).

14 “(5) An entity that is a rural referral center, as
15 defined by section 1886(d)(5)(C)(i) of the Social Se-
16 curity Act, or a sole community hospital, as defined
17 by section 1886(d)(5)(C)(iii) of such Act, and that
18 both meets the requirements of paragraph (1)(A)
19 and has a disproportionate share adjustment per-
20 centage equal to or greater than 8 percent.

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

22 “(1) AVERAGE MANUFACTURER PRICE.—

23 “(A) IN GENERAL.—The term ‘average
24 manufacturer price’—

1 “(i) has the meaning given such term
2 in section 1927(k) of the Social Security
3 Act, except that such term shall be applied
4 under this section with respect to covered
5 inpatient drugs in the same manner (as
6 applicable) as such term is applied under
7 such section 1927(k) with respect to cov-
8 ered outpatient drugs (as defined in such
9 section); and

10 “(ii) with respect to a covered inpa-
11 tient drug for which there is no average
12 manufacturer price (as defined in clause
13 (i)), shall be the amount determined under
14 regulations promulgated by the Secretary
15 under subparagraph (B).

16 “(B) RULEMAKING.—The Secretary shall
17 by regulation, in consultation with the Adminis-
18 trator of the Centers for Medicare & Medicaid
19 Services, establish a method for determining the
20 average manufacturer price for covered inpa-
21 tient drugs for which there is no average manu-
22 facturer price (as defined in subparagraph
23 (A)(i)). Regulations promulgated with respect
24 to covered inpatient drugs under the preceding
25 sentence shall provide for the application of

1 methods for determining the average manufac-
2 turer price that are the same as the methods
3 used to determine such price in calculating re-
4 bates required for such drugs under an agree-
5 ment between a manufacturer and a State that
6 satisfies the requirements of section 1927(b) of
7 the Social Security Act, as applicable.

8 “(2) COVERED INPATIENT DRUG.—

9 “(A) IN GENERAL.—The term ‘covered in-
10 patient drug’ means a drug—

11 “(i) that is described in section
12 1927(k)(2) of the Social Security Act;

13 “(ii) that notwithstanding paragraph
14 (3)(A) of section 1927(k) of such Act, is
15 prescribed or ordered in connection with an
16 inpatient service provided by a covered en-
17 tity that is enrolled in the drug discount
18 program under this section and is provided
19 prior to discharge; and

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

23 “(B) RULE OF CONSTRUCTION.—Nothing
24 in this paragraph shall be construed to affect
25 the program under section 340B.

1 “(3) HEALTH PLAN COVERAGE.—The term
2 ‘health plan coverage’ means—

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

6 “(B) coverage under a group health plan
7 (as defined in such section, and including cov-
8 erage under a church plan, a governmental
9 plan, or a collectively bargained plan);

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

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

16 “(4) MANUFACTURER.—The term ‘manufac-
17 turer’ has the meaning given such term in section
18 1927(k) of the Social Security Act.

19 “(d) PROGRAM INTEGRITY.—

20 “(1) MANUFACTURER COMPLIANCE.—

21 “(A) IN GENERAL.—From amounts appro-
22 priated under subsection (f), the Secretary shall
23 provide for improvements in compliance by
24 manufacturers with the requirements of this
25 section in order to prevent overcharges and

1 other violations of the discounted pricing re-
2 quirements specified in this section.

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

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

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

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

23 “(III) Conducting periodic moni-
24 toring of sales transactions by covered
25 entities.

1 “(IV) Inquiring into any discrep-
2 ancies between ceiling prices and
3 manufacturer pricing data that may
4 be identified and taking, or requiring
5 manufacturers to take, corrective ac-
6 tion in response to such discrepancies,
7 including the issuance of refunds pur-
8 suant to the procedures set forth in
9 clause (ii).

10 “(ii) The establishment of procedures
11 for manufacturers to issue refunds to cov-
12 ered entities in the event that there is an
13 overcharge by the manufacturers, including
14 the following:

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

20 “(II) Oversight by the Secretary
21 to ensure that the refunds are issued
22 accurately and within a reasonable pe-
23 riod of time.

24 “(iii) The provision of access through
25 the Internet website supported by the De-

1 partment of Health and Human Services
2 to the applicable ceiling prices for covered
3 inpatient drugs as calculated and verified
4 by the Secretary in accordance with this
5 section, in a manner (such as through the
6 use of password protection) that limits
7 such access to covered entities and ade-
8 quately assures security and protection of
9 privileged pricing data from unauthorized
10 re-disclosure.

11 “(iv) The development of a mecha-
12 nism by which—

13 “(I) rebates, discounts, or other
14 price concessions provided by manu-
15 facturers to other purchasers subse-
16 quent to the sale of covered inpatient
17 drugs to covered entities are reported
18 to the Secretary; and

19 “(II) appropriate credits and re-
20 funds are issued to covered entities if
21 such discounts, rebates, or other price
22 concessions have the effect of lowering
23 the applicable ceiling price for the rel-
24 evant quarter for the drugs involved.

1 “(v) Selective auditing of manufactur-
2 ers and wholesalers to ensure the integrity
3 of the drug discount program under this
4 section.

5 “(vi) The establishment of a require-
6 ment that manufacturers and wholesalers
7 use the identification system developed by
8 the Secretary for purposes of facilitating
9 the ordering, purchasing, and delivery of
10 covered inpatient drugs under this section,
11 including the processing of chargebacks for
12 such drugs.

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

16 “(I) shall be assessed according
17 to standards and procedures estab-
18 lished in regulations to be promul-
19 gated by the Secretary not later than
20 January 1, 2011;

21 “(II) shall not exceed \$10,000
22 per single dosage form of a covered
23 inpatient drug purchased by a covered
24 entity where a manufacturer know-
25 ingly charges such covered entity a

1 price for such drug that exceeds the
2 ceiling price under subsection (a)(1);
3 and

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

12 “(2) COVERED ENTITY COMPLIANCE.—

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

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

23 “(i) The development of procedures to
24 enable and require covered entities to up-
25 date at least annually the information on

1 the Internet website supported by the De-
2 partment of Health and Human Services
3 relating to this section.

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

9 “(iii) The development of more de-
10 tailed guidance describing methodologies
11 and options available to covered entities for
12 billing covered inpatient drugs to State
13 Medicaid agencies in a manner that avoids
14 duplicate discounts pursuant to subsection
15 (a)(4)(A).

16 “(iv) The establishment of a single,
17 universal, and standardized identification
18 system by which each covered entity site
19 and each covered entity’s purchasing sta-
20 tus under sections 340B and this section
21 can be identified by manufacturers, dis-
22 tributors, covered entities, and the Sec-
23 retary for purposes of facilitating the or-
24 dering, purchasing, and delivery of covered
25 inpatient drugs under this section, includ-

1 ing the processing of chargebacks for such
2 drugs.

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

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

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

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

22 “(I) the violation by a covered
23 entity of a requirement of this section
24 was repeated and knowing; and

1 “(II) imposition of a monetary
2 penalty would be insufficient to rea-
3 sonably ensure compliance with the
4 requirements of this section.

5 “(vii) The referral of matters, as ap-
6 propriate, to the Food and Drug Adminis-
7 tration, the Office of the Inspector General
8 of the Department of Health and Human
9 Services, or other Federal or State agen-
10 cies.

11 “(3) ADMINISTRATIVE DISPUTE RESOLUTION
12 PROCESS.—From amounts appropriated under sub-
13 section (f), the Secretary may establish and imple-
14 ment an administrative process for the resolution of
15 the following:

16 “(A) Claims by covered entities that manu-
17 facturers have violated the terms of their agree-
18 ment with the Secretary under subsection
19 (a)(1).

20 “(B) Claims by manufacturers that cov-
21 ered entities have violated subsection (a)(4)(A)
22 or (a)(4)(B).

23 “(e) AUDIT AND SANCTIONS.—

24 “(1) AUDIT.—From amounts appropriated
25 under subsection (f), the Inspector General of the

1 Department of Health and Human Services (re-
2 ferred to in this subsection as the ‘Inspector Gen-
3 eral’) shall audit covered entities under this section
4 to verify compliance with criteria for eligibility and
5 participation under this section, including the
6 antidiversion prohibitions under subsection
7 (a)(4)(B), and take enforcement action or provide
8 information to the Secretary who shall take action to
9 ensure program compliance, as appropriate. A cov-
10 ered entity shall provide to the Inspector General,
11 upon request, records relevant to such audits.

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

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

19 “(B) the effectiveness of antidiversion pro-
20 hibitions; and

21 “(C) the effectiveness of restrictions on in-
22 patient dispensing and administration.

23 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated to carry out this section

1 such sums as may be necessary for fiscal year 2011 and
2 each succeeding fiscal year.”.

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

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

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

24 (1) in subsection (a)—

1 (A) in paragraph (1), in the first sentence,
2 by striking “and paragraph (6)” and inserting
3 “, paragraph (6), and paragraph (8)”; and

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

6 “(8) LIMITATION ON PRICES OF DRUGS PUR-
7 CHASED BY 340B–1-COVERED ENTITIES.—

8 “(A) AGREEMENT WITH SECRETARY.—A
9 manufacturer meets the requirements of this
10 paragraph if the manufacturer has entered into
11 an agreement with the Secretary that meets the
12 requirements of section 340B–1 of the Public
13 Health Service Act with respect to covered in-
14 patient drugs (as defined in such section) pur-
15 chased by a 340B–1-covered entity on or after
16 January 1, 2011.

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

22 (2) in subsection (c)(1)(C)(i)(I)—

23 (A) by striking “or” before “a covered en-
24 tity”; and

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

6 (e) CLARIFICATION OF EFFECTIVE DATE.—The
 7 amendments made by paragraphs (1) through (3) of sec-
 8 tion 2302 of Public Law 111–152 shall be effective as if
 9 included in the enactment of Public Law 111–148.

10 **SEC. 507. CONTINUED INCLUSION OF ORPHAN DRUGS IN**
 11 **DEFINITION OF COVERED OUTPATIENT**
 12 **DRUGS WITH RESPECT TO CHILDREN’S HOS-**
 13 **PITALS UNDER THE 340B DRUG DISCOUNT**
 14 **PROGRAM.**

15 (a) DEFINITION OF COVERED OUTPATIENT DRUG.—

16 (1) AMENDMENT.—Subsection (e) of section
 17 340B of the Public Health Service Act (42 U.S.C.
 18 256b) is amended by striking “covered entities de-
 19 scribed in subparagraph (M)”and inserting “covered
 20 entities described in subparagraph (M) (other than
 21 a children’s hospital described in subparagraph
 22 (M))”.

23 (2) EFFECTIVE DATE.—The amendment made
 24 by paragraph (1) shall take effect as if included in
 25 the enactment of section 2302 of the Health Care

1 and Education Reconciliation Act of 2010 (Public
2 Law 111–152).

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

8 **SEC. 508. CONFORMING AMENDMENT RELATED TO WAIVER**
9 **OF COINSURANCE FOR PREVENTIVE SERV-**
10 **ICES.**

11 Effective as if included in section 10501(i)(2)(A) of
12 Public Law 111–148, section 1833(a)(3)(A) of the Social
13 Security Act (42 U.S.C. 1395l(a)(3)(A)) is amended by
14 striking “section 1861(s)(10)(A)” and inserting “section
15 1861(ddd)(3)”.

16 **SEC. 509. CLARIFICATION OF EFFECTIVE DATE OF PART B**
17 **SPECIAL ENROLLMENT PERIOD FOR DIS-**
18 **ABLED TRICARE BENEFICIARIES.**

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

22 “(2) EFFECTIVE DATE.—The amendment made
23 by paragraph (1) shall apply to elections made after
24 the date of the enactment of this Act.”.

1 **SEC. 510. ADJUSTMENT TO MEDICARE PAYMENT LOCAL-**
2 **ITIES.**

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

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

8 “(A) IN GENERAL.—

9 “(i) REVISION.—Subject to clause (ii)
10 and notwithstanding the previous provi-
11 sions of this subsection, for services fur-
12 nished on or after January 1, 2012, the
13 Secretary shall revise the fee schedule
14 areas used for payment under this section
15 applicable to the State of California using
16 the Metropolitan Statistical Area (MSA)
17 iterative Geographic Adjustment Factor
18 methodology as follows:

19 “(I) The Secretary shall con-
20 figure the physician fee schedule areas
21 using the Metropolitan Statistical
22 Areas (each in this paragraph referred
23 to as an ‘MSA’), as defined by the Di-
24 rector of the Office of Management
25 and Budget as of the date of the en-

1 actment of this paragraph, as the
2 basis for the fee schedule areas.

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

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

15 “(IV) In the first iteration, the
16 Secretary shall compare the GAF of
17 the highest cost MSA in the State to
18 the weighted-average GAF of all the
19 remaining MSAs in the State. If the
20 ratio of the GAF of the highest cost
21 MSA to the weighted-average of the
22 GAF of remaining lower cost MSAs is
23 1.05 or greater, the highest cost MSA
24 shall be a separate fee schedule area.

1 “(V) In the next iteration, the
2 Secretary shall compare the GAF of
3 the MSA with the second-highest
4 GAF to the weighted-average GAF of
5 the all the remaining MSAs (excluding
6 MSAs that become separate fee sched-
7 ule areas). If the ratio of the second-
8 highest MSA’s GAF to the weighted-
9 average of the remaining lower cost
10 MSAs is 1.05 or greater, the second-
11 highest MSA shall be a separate fee
12 schedule area.

13 “(VI) The iterative process shall
14 continue until the ratio of the GAF of
15 the MSA with highest remaining GAF
16 to the weighted-average of the remain-
17 ing MSAs with lower GAFs is less
18 than 1.05, and the remaining group of
19 MSAs with lower GAFs shall be treat-
20 ed as a single rest-of-State fee sched-
21 ule area.

22 “(VII) For purposes of the
23 iterative process described in this
24 clause, if two MSAs have identical
25 GAFs, they shall be combined.

1 “(ii) TRANSITION.—For services fur-
2 nished on or after January 1, 2012, and
3 before January 1, 2017, in the State of
4 California, after calculating the work, prac-
5 tice expense, and malpractice geographic
6 indices that would otherwise be determined
7 under clauses (i), (ii), and (iii) of para-
8 graph (1)(A) for a fee schedule area deter-
9 mined under clause (i), if the index for a
10 county within a fee schedule area is less
11 than the index that would otherwise be in
12 effect for such county, the Secretary shall
13 instead apply the index that would other-
14 wise be in effect for such county.

15 “(B) SUBSEQUENT REVISIONS.—After the
16 transition described in subparagraph (A)(ii),
17 not less than every 3 years the Secretary shall
18 review and update the fee schedule areas using
19 the methodology described in subparagraph
20 (A)(i) and any updated MSAs as defined by the
21 Director of the Office of Management and
22 Budget. The Secretary shall review and make
23 any changes pursuant to such reviews concu-
24 rent with the application of the periodic review

1 of the adjustment factors required under para-
2 graph (1)(C) for California.

3 “(C) REFERENCES TO FEE SCHEDULE
4 AREAS.—Effective for services furnished on or
5 after January 1, 2012, for the State of Cali-
6 fornia, any reference in this section to a fee
7 schedule area shall be deemed a reference to a
8 fee schedule area established in accordance with
9 this paragraph.”.

10 (b) CONFORMING AMENDMENT TO DEFINITION OF
11 FEE SCHEDULE AREA.—Section 1848(j)(2) of the Social
12 Security Act (42 U.S.C. 1395w(j)(2)) is amended by strik-
13 ing “The term” and inserting “Except as provided in sub-
14 section (e)(6)(C), the term”.

15 **SEC. 511. CLARIFICATION FOR AFFILIATED HOSPITALS FOR**
16 **DISTRIBUTION OF ADDITIONAL RESIDENCY**
17 **POSITIONS.**

18 Effective as if included in the enactment of section
19 5503(a) of Public Law 111–148, section 1886(h)(8) of the
20 Social Security Act (42 U.S.C. 1395ww(h)(8)), as added
21 by such section 5503(a), is amended by adding at the end
22 the following new subparagraph:

23 “(I) AFFILIATION.—The provisions of this
24 paragraph shall be applied to hospitals which
25 are members of the same affiliated group (as

1 defined by the Secretary under paragraph
2 (4)(H)(ii)) and the reference resident level for
3 each such hospital shall be the reference resi-
4 dent level with respect to the cost reporting pe-
5 riod that results in the smallest difference be-
6 tween the reference resident level and the other-
7 wise applicable resident limit.”.

8 **TITLE VI—OTHER PROVISIONS**
9 **Subtitle A—General Provisions**

10 **SEC. 601. ALLOCATION OF GEOTHERMAL RECEIPTS.**

11 Notwithstanding any other provision of law, for fiscal
12 year 2010 only, all funds received from sales, bonuses,
13 royalties, and rentals under the Geothermal Steam Act of
14 1970 (30 U.S.C. 1001 et seq.) shall be deposited in the
15 Treasury, of which—

16 (1) 50 percent shall be used by the Secretary
17 of the Treasury to make payments to States within
18 the boundaries of which the leased land and geo-
19 thermal resources are located;

20 (2) 25 percent shall be used by the Secretary
21 of the Treasury to make payments to the counties
22 within the boundaries of which the leased land or
23 geothermal resources are located; and

24 (3) 25 percent shall be deposited in miscella-
25 neous receipts.

1 SEC. 602. EMPLOYMENT FOR YOUTH.

2 There is appropriated, out of any funds in the Treas-
3 ury not otherwise appropriated, for an additional amount
4 for “Department of Labor—Employment and Training
5 Administration—Training and Employment Services” for
6 activities under the Workforce Investment Act of 1998
7 (“WIA”), \$1,000,000,000 shall be available for obligation
8 on the date of enactment of this Act for grants to States
9 for youth activities, including summer employment for
10 youth: *Provided*, That no portion of such funds shall be
11 reserved to carry out section 127(b)(1)(A) of the WIA:
12 *Provided further*, That for purposes of section
13 127(b)(1)(C)(iv) of the WIA, funds available for youth ac-
14 tivities shall be allotted as if the total amount available
15 for youth activities in the fiscal year does not exceed
16 \$1,000,000,000: *Provided further*, That with respect to the
17 youth activities provided with such funds, section
18 101(13)(A) of the WIA shall be applied by substituting
19 “age 24” for “age 21”: *Provided further*, That the work
20 readiness performance indicator described in section
21 136(b)(2)(A)(ii)(I) of the WIA shall be the only measure
22 of performance used to assess the effectiveness of summer
23 employment for youth provided with such funds: *Provided*
24 *further*, That an amount that is not more than 1 percent
25 of such amount may be used for the administration, man-
26 agement, and oversight of the programs, activities, and

1 grants carried out with such funds, including the evalua-
2 tion of the use of such funds: *Provided further*, That funds
3 available under the preceding proviso, together with funds
4 described in section 801(a) of division A of the American
5 Recovery and reinvestment Act of 2009 (Public Law 111–
6 5), and funds provided in such Act under the heading
7 “Department of Labor–Departmental Management–Sala-
8 ries and Expenses”, shall remain available for obligation
9 through September 30, 2011.

10 **SEC. 603. HOUSING TRUST FUND.**

11 (a) FUNDING.—There is hereby appropriated for the
12 Housing Trust Fund established pursuant to section 1338
13 of the Federal Housing Enterprises Financial Safety and
14 Soundness Act of 1992 (12 U.S.C. 4568),
15 \$1,065,000,000, for use under such section: *Provided*,
16 That of the total amount provided under this heading,
17 \$65,000,000 shall be available to the Secretary of Housing
18 and Urban Development only for incremental project-
19 based voucher assistance to be allocated to States to be
20 used solely in conjunction with grant funds awarded under
21 such section 1338, pursuant to the formula established
22 under section 1338 and taking into account different per
23 unit subsidy needs among states, as determined by the
24 Secretary.

1 (b) AMENDMENTS.—Section 1338 of the Federal
2 Housing Enterprises Financial Safety and Soundness Act
3 of 1992 (12 U.S.C. 4568) is amended—

4 (1) in subsection (c)—

5 (A) in paragraph (4)(A) by inserting after
6 the period at the end the following: “Notwith-
7 standing any other provision of law, for the fis-
8 cal year following enactment of this sentence
9 and thereafter, the Secretary may make such
10 notice available only on the Internet at the ap-
11 propriate government website or websites or
12 through other electronic media, as determined
13 by the Secretary.”;

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

16 (C) in paragraph (7)(A)—

17 (i) by striking “section
18 1335(a)(2)(B)” and inserting “section
19 1335(a)(1)(B)”; and

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

22 (2) by adding at the end the following new sub-
23 section:

24 “(k) ENVIRONMENTAL REVIEW.—For the purpose of
25 environmental compliance review, funds awarded under

1 this section shall be subject to section 288 of the HOME
2 Investment Partnerships Act (12 U.S.C. 12838) and shall
3 be treated as funds under the program established by such
4 Act.”.

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

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

10 (b) **DEFINITIONS.**—In this section:

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

14 (2) **LAND CONSOLIDATION PROGRAM.**—The
15 term “Land Consolidation Program” means a pro-
16 gram conducted in accordance with the Settlement
17 and the Indian Land Consolidation Act (25 U.S.C.
18 2201 et seq.) under which the Secretary may pur-
19 chase fractional interests in trust or restricted land.

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

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

1 (5) SECRETARY.—The term “Secretary” means
2 the Secretary of the Interior.

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

7 (7) TRUST ADMINISTRATION CLASS.—The term
8 “Trust Administration Class” means the Trust Ad-
9 ministration Class as defined in the Settlement.

10 (c) PURPOSE.—The purpose of this section is to au-
11 thorize the Settlement.

12 (d) AUTHORIZATION.—The Settlement is authorized,
13 ratified, and confirmed.

14 (e) JURISDICTIONAL PROVISIONS.—

15 (1) IN GENERAL.—Notwithstanding the limita-
16 tion of jurisdiction of district courts contained in
17 section 1346(a)(2) of title 28, United States Code,
18 the United States District Court for the District of
19 Columbia shall have jurisdiction over the claims as-
20 serted in the Amended Complaint for purposes of
21 the Settlement.

22 (2) CERTIFICATION OF TRUST ADMINISTRATION
23 CLASS.—

24 (A) IN GENERAL.—Notwithstanding the
25 requirements of the Federal Rules of Civil Pro-

1 cedure, the court overseeing the Litigation may
2 certify the Trust Administration Class.

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

8 (f) TRUST LAND CONSOLIDATION.—

9 (1) TRUST LAND CONSOLIDATION FUND.—

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

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

20 (i) to conduct the Land Consolidation
21 Program; and

22 (ii) for other costs specified in the
23 Settlement.

24 (C) DEPOSITS.—

1 (i) IN GENERAL.—On final approval
2 (as defined in the Settlement) of the Set-
3 tlement, the Secretary of the Treasury
4 shall deposit in the Trust Land Consolida-
5 tion Fund \$2,000,000,000 of the amounts
6 appropriated by section 1304 of title 31,
7 United States Code.

8 (ii) CONDITIONS MET.—The condi-
9 tions described in section 1304 of title 31,
10 United States Code, shall be considered to
11 be met for purposes of clause (i).

12 (D) TRANSFERS.—In a manner designed
13 to encourage participation in the Land Consoli-
14 dation Program, the Secretary may transfer, at
15 the discretion of the Secretary, not more than
16 \$60,000,000 of amounts in the Trust Land
17 Consolidation Fund to the Indian Education
18 Scholarship Holding Fund established under
19 paragraph 2.

20 (2) INDIAN EDUCATION SCHOLARSHIP HOLDING
21 FUND.—

22 (A) ESTABLISHMENT.—On the final ap-
23 proval (as defined in the Settlement) of the Set-
24 tlement, there shall be established in the Treas-
25 ury of the United States a fund, to be known

1 as the “Indian Education Scholarship Holding
2 Fund”.

3 (B) AVAILABILITY.—Notwithstanding any
4 other provision of law governing competition,
5 public notification, or Federal procurement or
6 assistance, amounts in the Indian Education
7 Scholarship Holding Fund shall be made avail-
8 able, without further appropriation, to the Sec-
9 retary to contribute to an Indian Education
10 Scholarship Fund, as described in the Settle-
11 ment, to provide scholarships for Native Ameri-
12 cans.

13 (3) ACQUISITION OF TRUST OR RESTRICTED
14 LAND.—The Secretary may acquire, at the discre-
15 tion of the Secretary and in accordance with the
16 Land Consolidation Program, any fractional interest
17 in trust or restricted land.

18 (4) TREATMENT OF UNLOCATABLE PLAIN-
19 TIFFS.—A Plaintiff the whereabouts of whom are
20 unknown and who, after reasonable efforts by the
21 Secretary, cannot be located during the 5 year pe-
22 riod beginning on the date of final approval (as de-
23 fined in the Settlement) of the Settlement shall be
24 considered to have accepted an offer made pursuant
25 to the Land Consolidation Program.

1 (g) TAXATION AND OTHER BENEFITS.—

2 (1) INTERNAL REVENUE CODE.—For purposes
3 of the Internal Revenue Code of 1986, amounts re-
4 ceived by an individual Indian as a lump sum or a
5 periodic payment pursuant to the Settlement—

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

8 (B) shall not be taken into consideration
9 for purposes of applying any provision of the
10 Internal Revenue Code of 1986 that takes into
11 account excludable income in computing ad-
12 justed gross income or modified adjusted gross
13 income, including section 86 of that Code (re-
14 lating to Social Security and tier 1 railroad re-
15 tirement benefits).

16 (2) OTHER BENEFITS.—Notwithstanding any
17 other provision of law, for purposes of determining
18 initial eligibility, ongoing eligibility, or level of bene-
19 fits under any Federal or federally assisted program,
20 amounts received by an individual Indian as a lump
21 sum or a periodic payment pursuant to the Settle-
22 ment shall not be treated for any household member,
23 during the 1-year period beginning on the date of re-
24 ceipt—

1 (A) as income for the month during which
2 the amounts were received; or

3 (B) as a resource.

4 **SEC. 605. APPROPRIATION OF FUNDS FOR FINAL SETTLE-**
5 **MENT OF CLAIMS FROM IN RE BLACK FARM-**
6 **ERS DISCRIMINATION LITIGATION.**

7 (a) DEFINITIONS.—In this section:

8 (1) SETTLEMENT AGREEMENT.—The term
9 “Settlement Agreement” means the settlement
10 agreement dated February 18, 2010 (including any
11 modifications agreed to by the parties and approved
12 by the court under that agreement) between certain
13 plaintiffs, by and through their counsel, and the Sec-
14 retary of Agriculture to resolve, fully and forever,
15 the claims raised or that could have been raised in
16 the cases consolidated in *In re Black Farmers Dis-*
17 *crimination Litigation*, No. 08–511 (D.D.C.), in-
18 cluding Pigford claims asserted under section 14012
19 of the Food, Conservation, and Energy Act of 2008
20 (Public Law 110–246; 122 Stat. 2209).

21 (2) PIGFORD CLAIM.—The term “Pigford
22 claim” has the meaning given that term in section
23 14012(a)(3) of the Food, Conservation, and Energy
24 Act of 2008 (Public Law 110–246; 122 Stat. 2210).

1 (b) APPROPRIATION OF FUNDS.—There is hereby ap-
2 propriated to the Secretary of Agriculture
3 \$1,150,000,000, to remain available until expended, to
4 carry out the terms of the Settlement Agreement if the
5 Settlement Agreement is approved by a court order that
6 is or becomes final and nonappealable. The funds appro-
7 priated by this subsection are in addition to the
8 \$100,000,000 of funds of the Commodity Credit Corpora-
9 tion made available by section 14012(i) of the Food, Con-
10 servation, and Energy Act of 2008 (Public Law 110–246;
11 122 Stat. 2212) and shall be available for obligation only
12 after those Commodity Credit Corporation funds are fully
13 obligated. If the Settlement Agreement is not approved as
14 provided in this subsection, the \$100,000,000 of funds of
15 the Commodity Credit Corporation made available by sec-
16 tion 14012(i) of the Food, Conservation, and Energy Act
17 of 2008 shall be the sole funding available for Pigford
18 claims.

19 (c) USE OF FUNDS.—The use of the funds appro-
20 priated by subsection (b) shall be subject to the express
21 terms of the Settlement Agreement.

22 (d) TREATMENT OF REMAINING FUNDS.—If any of
23 the funds appropriated by subsection (b) are not obligated
24 and expended to carry out the Settlement Agreement, the
25 Secretary of Agriculture shall return the unused funds to

1 the Treasury and may not make the unused funds avail-
2 able for any purpose related to section 14012 of the Food,
3 Conservation, and Energy Act of 2008, for any other set-
4 tlement agreement executed in *In re Black Farmers Dis-*
5 *crimination Litigation*, No. 08–511 (D.D.C.), or for any
6 other purpose.

7 (e) RULES OF CONSTRUCTION.—Nothing in this sec-
8 tion shall be construed as requiring the United States, any
9 of its officers or agencies, or any other party to enter into
10 the Settlement Agreement or any other settlement agree-
11 ment. Nothing in this section shall be construed as cre-
12 ating the basis for a Pigford claim.

13 (f) CONFORMING AMENDMENTS.—Section 14012 of
14 the Food, Conservation, and Energy Act of 2008 (Public
15 Law 110–246; 122 Stat. 2209) is amended—

16 (1) in subsection (c)(1)—

17 (A) by striking “subsection (h)” and in-
18 serting “subsection (g)”; and

19 (B) by striking “subsection (i)” and insert-
20 ing “subsection (h)”;

21 (2) by striking subsection (e);

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

24 (4) in subsection (i)—

1 (A) by striking “(1) IN GENERAL.—Of the
2 funds” and inserting “Of the funds”; and

3 (B) by striking paragraph (2);

4 (5) by striking subsection (j); and

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

8 **SEC. 606. EXPANSION OF ELIGIBILITY FOR CONCURRENT**
9 **RECEIPT OF MILITARY RETIRED PAY AND**
10 **VETERANS’ DISABILITY COMPENSATION TO**
11 **INCLUDE ALL CHAPTER 61 DISABILITY RE-**
12 **TIREES REGARDLESS OF DISABILITY RATING**
13 **PERCENTAGE OR YEARS OF SERVICE.**

14 (a) PHASED EXPANSION CONCURRENT RECEIPT.—
15 Subsection (a) of section 1414 of title 10, United States
16 Code, is amended to read as follows:

17 “(a) PAYMENT OF BOTH RETIRED PAY AND DIS-
18 ABILITY COMPENSATION.—

19 “(1) PAYMENT OF BOTH REQUIRED.—

20 “(A) IN GENERAL.—Subject to subsection
21 (b), a member or former member of the uni-
22 formed services who is entitled for any month
23 to retired pay and who is also entitled for that
24 month to veterans’ disability compensation for a
25 qualifying service-connected disability (in this

1 section referred to as a ‘qualified retiree’) is en-
2 titled to be paid both for that month without
3 regard to sections 5304 and 5305 of title 38.

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

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

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

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

24 “(D) TEMPORARY PHASE-IN EXCEPTION
25 FOR CERTAIN CHAPTER 61 DISABILITY RETIR-

1 EES; TERMINATION.—Subject to subsection (b),
2 during the period beginning on January 1,
3 2011, and ending on September 30, 2012, sub-
4 section (c) shall not apply to a qualified retiree
5 described in subparagraph (B) or (C) of para-
6 graph (2).

7 “(2) QUALIFYING SERVICE-CONNECTED DIS-
8 ABILITY DEFINED.—In this section:

9 “(A) 50 PERCENT RATING THRESHOLD.—
10 In the case of a member or former member re-
11 ceiving retired pay under any provision of law
12 other than chapter 61 of this title, or under
13 chapter 61 with 20 years or more of service
14 otherwise creditable under section 1405 or com-
15 puted under section 12732 of this title, the
16 term ‘qualifying service-connected disability’
17 means a service-connected disability or com-
18 bination of service-connected disabilities that is
19 rated as not less than 50 percent disabling by
20 the Secretary of Veterans Affairs. However,
21 during the period specified in paragraph (1)(D),
22 members or former members receiving retired
23 pay under chapter 61 with 20 years or more of
24 creditable service computed under section
25 12732 of this title, but not otherwise entitled to

1 retired pay under any other provision of this
2 title, shall qualify in accordance with subpara-
3 graphs (B) and (C).

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

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

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

24 “(iii) January 1, 2013, rated 60 per-
25 cent or 50 percent.

1 “(C) ELIMINATION OF RATING THRESH-
2 OLD.—In the case of a member or former mem-
3 ber receiving retired pay under chapter 61 re-
4 gardless of being otherwise eligible for retire-
5 ment, the term ‘qualifying service-connected
6 disability’ means a service-connected disability
7 or combination of service-connected disabilities
8 that is rated by the Secretary of Veterans Af-
9 fairs at the disabling level specified in one of
10 the following clauses (which, subject to para-
11 graph (3), is effective on or after the date speci-
12 fied in the applicable clause):

13 “(i) January 1, 2014, rated 40 per-
14 cent or 30 percent.

15 “(ii) January 1, 2015, any rating.

16 “(3) LIMITED DURATION.—Notwithstanding
17 the effective date specified in each clause of subpara-
18 graphs (B) and (C) of paragraph (2), the clause—

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

23 “(B) shall not apply beyond the termi-
24 nation date specified in paragraph (1)(D).”.

1 (b) CONFORMING AMENDMENT TO SPECIAL RULES
2 FOR CHAPTER 61 DISABILITY RETIREES.—Subsection (b)
3 of such section is amended to read as follows:

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

7 “(1) GENERAL REDUCTION RULE.—The retired
8 pay of a member retired under chapter 61 of this
9 title is subject to reduction under sections 5304 and
10 5305 of title 38, but only to the extent that the
11 amount of the members retired pay under chapter
12 61 of this title exceeds the amount of retired pay to
13 which the member would have been entitled under
14 any other provision of law based upon the member’s
15 service in the uniformed services if the member had
16 not been retired under chapter 61 of this title.

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

19 “(A) BEFORE TERMINATION DATE.—If a
20 member with a qualifying service-connected dis-
21 ability (as defined in subsection (a)(2)) is re-
22 tired under chapter 61 of this title, but is not
23 otherwise entitled to retired pay under any
24 other provision of this title, and the termination
25 date specified in subsection (a)(1)(D) has not

1 occurred, the retired pay of the member is sub-
2 ject to reduction under sections 5304 and 5305
3 of title 38, but only to the extent that the
4 amount of the member's retired pay under
5 chapter 61 of this title exceeds the amount
6 equal to 2½ percent of the member's years of
7 creditable service multiplied by the member's
8 retired pay base under section 1406(b)(1) or
9 1407 of this title, whichever is applicable to the
10 member.

11 “(B) AFTER TERMINATION DATE.—Sub-
12 section (a) does not apply to a member de-
13 scribed in subparagraph (A) if the termination
14 date specified in subsection (a)(1)(D) has oc-
15 curred.”.

16 (c) CONFORMING AMENDMENT TO FULL CONCUR-
17 RENT RECEIPT PHASE-IN.—Subsection (c) of such section
18 is amended by striking “the second sentence of”.

19 (d) CLERICAL AMENDMENTS.—

20 (1) SECTION HEADING.—The heading of such
21 section is amended to read as follows:

22 “§ 1414. **Concurrent receipt of retired pay and vet-**
23 **erans' disability compensation”.**

24 (2) TABLE OF SECTIONS.—The table of sections
25 at the beginning of chapter 71 of such title is

1 amended by striking the item related to section 1414
 2 and inserting the following new item:

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

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

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

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

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

14 “(a) IN GENERAL.—Notwithstanding any other pro-
 15 vision of law, any refund (or advance payment with respect
 16 to a refundable credit) made to any individual under this
 17 title shall not be taken into account as income, and shall
 18 not be taken into account as resources for a period of 12
 19 months from receipt, for purposes of determining the eligi-
 20 bility of such individual (or any other individual) for bene-
 21 fits or assistance (or the amount or extent of benefits or
 22 assistance) under any Federal program or under any State
 23 or local program financed in whole or in part with Federal
 24 funds.

1 “(b) **TERMINATION.**—Subsection (a) shall not apply
2 to any amount received after December 31, 2010.”.

3 (b) **CLERICAL AMENDMENT.**—The table of sections
4 for such subchapter is amended by adding at the end the
5 following new item:

“Sec. 6409. Refunds disregarded in the administration of Federal programs
and federally assisted programs.”.

6 (c) **EFFECTIVE DATE.**—The amendments made by
7 this section shall apply to amounts received after Decem-
8 ber 31, 2009.

9 **SEC. 608. QUALIFYING TIMBER CONTRACT OPTIONS.**

10 (a) **DEFINITIONS.**—In this section:

11 (1) **QUALIFYING CONTRACT.**—The term “quali-
12 fying contract” means a contract that has not been
13 terminated by the Bureau of Land Management for
14 the sale of timber on lands administered by the Bu-
15 reau of Land Management that meets all of the fol-
16 lowing criteria:

17 (A) The contract was awarded during the
18 period beginning on January 1, 2005, and end-
19 ing on December 31, 2008.

20 (B) There is unharvested volume remain-
21 ing for the contract.

22 (C) The contract is not a salvage sale.

23 (D) The Secretary determined there is not
24 an urgent need to harvest under the contract

1 due to deteriorating timber conditions that de-
2 veloped after the award of the contract.

3 (2) SECRETARY.—The term “Secretary” means
4 the Secretary of the Interior, acting through the Di-
5 rector of Bureau of Land Management.

6 (3) TIMBER PURCHASER.—The term “timber
7 purchaser” means the party to the qualifying con-
8 tract for the sale of timber from lands administered
9 by the Bureau of Land Management.

10 (b) MARKET-RELATED CONTRACT EXTENSION OP-
11 TION.—Upon a timber purchaser’s written request, the
12 Secretary may make a one-time modification to the quali-
13 fying contract to add 3 years to the contract expiration
14 date if the written request—

15 (1) is received by the Secretary not later than
16 90 days after the date of enactment of this Act; and

17 (2) contains a provision releasing the United
18 States from all liability, including further consider-
19 ation or compensation, resulting from the modifica-
20 tion under this subsection of the term of a qualifying
21 contract.

22 (c) REPORTING.—Not later than 6 months after the
23 date of the enactment of this Act, the Secretary shall sub-
24 mit to Congress a report detailing a plan and timeline to
25 promulgate new regulations authorizing the Bureau of

1 Land Management to extend timber contracts due to
2 changes in market conditions.

3 (d) REGULATIONS.—Not later than 2 years after the
4 date of the enactment of this Act, the Secretary shall pro-
5 mulgate new regulations authorizing the Bureau of Land
6 Management to extend timber contracts due to changes
7 in market conditions.

8 (e) NO SURRENDER OF CLAIMS.—This section shall
9 not have the effect of surrendering any claim by the
10 United States against any timber purchaser that arose
11 under a timber sale contract, including a qualifying con-
12 tract, before the date on which the Secretary adjusts the
13 contract term under subsection (b).

14 **SEC. 609. EXTENSION AND FLEXIBILITY FOR CERTAIN AL-**
15 **LOCATED SURFACE TRANSPORTATION PRO-**
16 **GRAMS.**

17 (a) MODIFICATION OF ALLOCATION RULES.—Section
18 411(d) of the Surface Transportation Extension Act of
19 2010 (Public Law 111–147; 124 Stat. 80) is amended—

20 (1) in paragraph (1)—

21 (A) in the matter preceding subparagraph

22 (A)—

23 (i) by striking “1301, 1302,”; and

24 (ii) by striking “1198, 1204,”; and

25 (B) in subparagraph (A)—

1 (i) in the matter preceding clause (i)
2 by striking “apportioned under sections
3 104(b) and 144 of title 23, United States
4 Code,” and inserting “specified in section
5 105(a)(2) of title 23, United States Code
6 (except the high priority projects pro-
7 gram),”; and

8 (ii) in clause (ii) by striking “appor-
9 tioned under such sections of such Code”
10 and inserting “specified in such section
11 105(a)(2) (except the high priority projects
12 program)”; and

13 (2) in paragraph (2)—

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

16 (i) by striking “1301, 1302,”; and

17 (ii) by striking “1198, 1204,”; and

18 (B) in subparagraph (A)—

19 (i) in the matter preceding clause (i)
20 by striking “apportioned under sections
21 104(b) and 144 of title 23, United States
22 Code,” and inserting “specified in section
23 105(a)(2) of title 23, United States Code
24 (except the high priority projects pro-
25 gram),”; and

1 (ii) in clause (ii) by striking “appor-
2 tioned under such sections of such Code”
3 and inserting “specified in such section
4 105(a)(2) (except the high priority projects
5 program)”; and

6 (3) by adding at the end the following:

7 “(5) PROJECTS OF NATIONAL AND REGIONAL
8 SIGNIFICANCE AND NATIONAL CORRIDOR INFRA-
9 STRUCTURE IMPROVEMENT PROGRAMS.—

10 “(A) REDISTRIBUTION AMONG STATES.—

11 Notwithstanding sections 1301(m) and 1302(e)
12 of SAFETEA-LU (119 Stat. 1202 and 1205),
13 the Secretary shall apportion funds authorized
14 to be appropriated under subsection (b) for the
15 projects of national and regional significance
16 program and the national corridor infrastruc-
17 ture improvement program among all States
18 such that each State’s share of the funds so ap-
19 portioned is equal to the State’s share for fiscal
20 year 2009 of funds apportioned or allocated for
21 the programs specified in section 105(a)(2) of
22 title 23, United States Code.

23 “(B) DISTRIBUTION AMONG PROGRAMS.—

24 Funds apportioned to a State pursuant to sub-
25 paragraph (A) shall be—

1 “(i) made available to the State for
2 the programs specified in section 105(a)(2)
3 of title 23, United States Code (except the
4 high priority projects program), and in the
5 same proportion for each such program
6 that—

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

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

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

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

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall take effect upon the date of enactment
24 of the Surface Transportation Extension Act of 2010
25 (Public Law 111–147; 124 Stat. 78 et seq.) and shall be

1 treated as being included in that Act at the time of the
2 enactment of that Act.

3 (d) SAVINGS CLAUSE.—

4 (1) IN GENERAL.—For fiscal year 2010 and for
5 the period beginning on October 1, 2010, and ending
6 on December 31, 2010, the amount of funds appor-
7 tioned to each State under section 411(d) of the
8 Surface Transportation Extension Act of 2010
9 (Public Law 111–147) that is determined by the
10 amount that the State received or was authorized to
11 receive for fiscal year 2009 to carry out the projects
12 of national and regional significance program and
13 national corridor infrastructure improvement pro-
14 gram shall be the greater of—

15 (A) the amount that the State was author-
16 ized to receive under section 411(d) of the Sur-
17 face Transportation Extension Act of 2010 with
18 respect to each such program according to the
19 provisions of that Act, as in effect on the day
20 before the date of enactment of this Act; or

21 (B) the amount that the State is author-
22 ized to receive under section 411(d) of the Sur-
23 face Transportation Extension Act of 2010 with
24 respect to each such program pursuant to the

1 provisions of that Act, as amended by the
2 amendments made by this section.

3 (2) OBLIGATION AUTHORITY.—For fiscal year
4 2010, the amount of obligation authority distributed
5 to each State shall be the greater of—

6 (A) the amount that the State was author-
7 ized to receive pursuant to section 120(a)(4)(A)
8 (as it pertains to the Appalachian Development
9 Highway System program) of title I of division
10 A of the Consolidated Appropriations Act, 2010
11 (Public Law 111–117) and sections
12 120(a)(4)(B) and 120(a)(6) of such title, as of
13 the day before the date of enactment of this
14 Act; or

15 (B) the amount that the State is author-
16 ized to receive pursuant to section 120(a)(4)(A)
17 (as it pertains to the Appalachian Development
18 Highway System program) of title I of division
19 A of the Consolidated Appropriations Act, 2010
20 (Public Law 111–117) and sections
21 120(a)(4)(B) and 120(a)(6) of such title, as of
22 the date of enactment of this Act.

23 (3) AUTHORIZATION OF APPROPRIATIONS.—
24 There is authorized to be appropriated out of the
25 Highway Trust Fund (other than the Mass Transit

1 Account) such sums as may be necessary to carry
2 out this subsection.

3 (4) INCREASE IN OBLIGATION LIMITATION.—
4 The limitation under the heading “Federal-aid High-
5 ways (Limitation on Obligations) (Highway Trust
6 Fund)” in Public Law 111–117 is increased by such
7 sums as may be necessary to carry out this sub-
8 section.

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

14 (6) AMOUNTS.—The dollar amount specified in
15 section 105(d)(1) of title 23, United States Code,
16 the dollar amount specified in section 120(a)(4)(B)
17 of title I of division A of the Consolidated Appro-
18 priations Act, 2010 (Public Law 111–117), and the
19 dollar amount specified in section 120(b)(10) of
20 such title shall each be increased as necessary to
21 carry out this subsection.

1 **SEC. 610. COMMUNITY COLLEGE AND CAREER TRAINING**
2 **GRANT PROGRAM.**

3 (a) IN GENERAL.—Section 278(a) of the Trade Act
4 of 1974 (19 U.S.C. 2372(a)) is amended by adding at the
5 end the following:

6 “(3) RULE OF CONSTRUCTION.—For purposes
7 of this section, any reference to ‘workers’, ‘workers
8 eligible for training under section 236’, or any other
9 reference to workers under this section shall be
10 deemed to include individuals who are, or are likely
11 to become, eligible for unemployment compensation
12 as defined in section 85(b) of the Internal Revenue
13 Code of 1986, or who remain unemployed after ex-
14 hausting all rights to such compensation.”.

15 (b) DEFINITION OF ELIGIBLE INSTITUTION.—Sec-
16 tion 278(b)(1) of the Trade Act of 1974 (19 U.S.C.
17 2372(b)(1)) is amended—

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

20 (2) by striking “1002” and inserting
21 “1001(a)”.

22 (c) AUTHORIZATION OF APPROPRIATIONS.—Section
23 279 of the Trade Act of 1974 (19 U.S.C. 2372a) is
24 amended—

25 (1) in subsection (a), by striking the last sen-
26 tence; and

1 (2) by adding at the end the following:

2 “(c) ADMINISTRATIVE AND RELATED COSTS.—The
3 Secretary may retain not more than 5 percent of the funds
4 appropriated under subsection (b) for each fiscal year to
5 administer, evaluate, and establish reporting systems for
6 the Community College and Career Training Grant pro-
7 gram under section 278.

8 “(d) SUPPLEMENT NOT SUPPLANT.—Funds appro-
9 priated under subsection (b) shall be used to supplement
10 and not supplant other Federal, State, and local public
11 funds expended to support community college and career
12 training programs.

13 “(e) AVAILABILITY.—Funds appropriated under sub-
14 section (b) shall remain available for the fiscal year for
15 which the funds are appropriated and the subsequent fis-
16 cal year.”.

17 **SEC. 611. EXTENSIONS OF DUTY SUSPENSIONS ON COTTON**
18 **SHIRTING FABRICS AND RELATED PROVI-**
19 **SIONS.**

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

24 (1) Heading 9902.52.08 (relating to woven fab-
25 rics of cotton).

- 1 (2) Heading 9902.52.09 (relating to woven fab-
2 rics of cotton).
- 3 (3) Heading 9902.52.10 (relating to woven fab-
4 rics of cotton).
- 5 (4) Heading 9902.52.11 (relating to woven fab-
6 rics of cotton).
- 7 (5) Heading 9902.52.12 (relating to woven fab-
8 rics of cotton).
- 9 (6) Heading 9902.52.13 (relating to woven fab-
10 rics of cotton).
- 11 (7) Heading 9902.52.14 (relating to woven fab-
12 rics of cotton).
- 13 (8) Heading 9902.52.15 (relating to woven fab-
14 rics of cotton).
- 15 (9) Heading 9902.52.16 (relating to woven fab-
16 rics of cotton).
- 17 (10) Heading 9902.52.17 (relating to woven
18 fabrics of cotton).
- 19 (11) Heading 9902.52.18 (relating to woven
20 fabrics of cotton).
- 21 (12) Heading 9902.52.19 (relating to woven
22 fabrics of cotton).
- 23 (13) Heading 9902.52.20 (relating to woven
24 fabrics of cotton).

1 (14) Heading 9902.52.21 (relating to woven
2 fabrics of cotton).

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

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

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

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

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

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

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

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

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

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

23 (b) EXTENSION OF DUTY REFUNDS AND PIMA COT-
24 TON TRUST FUND; MODIFICATION OF AFFIDAVIT RE-
25 QUIREMENTS.—Section 407 of title IV of division C of the

1 Tax Relief and Health Care Act of 2006 (Public Law 109–
2 432; 120 Stat. 3060) is amended—

3 (1) in subsection (b)—

4 (A) in paragraph (1), by striking
5 “amounts determined by the Secretary” and all
6 that follows through “5208.59.80” and insert-
7 ing “amounts received in the general fund that
8 are attributable to duties received since Janu-
9 ary 1, 2004, on articles classified under heading
10 5208”; and

11 (B) in paragraph (2), by striking “October
12 1, 2008” and inserting “December 31, 2013”;
13 (2) in subsection (d)—

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

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

19 (3) in subsection (f)—

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

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

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

5 **SEC. 612. MODIFICATION OF WOOL APPAREL MANUFAC-**
6 **TURERS TRUST FUND.**

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

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

13 (1) TRANSFER OF AMOUNTS.—

14 (A) IN GENERAL.—Not later than 30 days
15 after the date of the enactment of this Act, the
16 Secretary of the Treasury shall transfer to the
17 Wool Apparel Manufacturers Trust Fund, out
18 of the general fund of the Treasury of the
19 United States, amounts determined by the Sec-
20 retary of the Treasury to be equivalent to
21 amounts received in the general fund that are
22 attributable to the duty received on articles
23 classified under chapter 62 of the Harmonized
24 Tariff Schedule of the United States, subject to
25 the limitation in subparagraph (B).

1 (B) LIMITATION.—The Secretary of the
2 Treasury shall not transfer more than the
3 amount determined by the Secretary to be nec-
4 essary for—

5 (i) U.S. Customs and Border Protec-
6 tion to make payments to eligible manufac-
7 turers under section 4002(c)(3) of the Mis-
8 cellaneous Trade and Technical Correc-
9 tions Act of 2004 so that the amount of
10 such payments, when added to any other
11 payments made to eligible manufacturers
12 under section 4002(c)(3) of such Act for
13 calendar year 2010, equal the total amount
14 of payments authorized to be provided to
15 eligible manufacturers under section
16 4002(c)(3) of such Act for calendar year
17 2010; and

18 (ii) the Secretary of Commerce to pro-
19 vide grants to eligible manufacturers under
20 section 4002(c)(6) of the Miscellaneous
21 Trade and Technical Corrections Act of
22 2004 so that the amounts of such grants,
23 when added to any other grants made to
24 eligible manufacturers under section
25 4002(c)(6) of such Act for calendar year

1 2010, equal the total amount of grants au-
2 thorized to be provided to eligible manufac-
3 turers under section 4002(c)(6) of such
4 Act for calendar year 2010.

5 (2) PAYMENT OF AMOUNTS.—U.S. Customs
6 and Border Protection shall make payments de-
7 scribed in paragraph (1) to eligible manufacturers
8 not later than 30 days after such transfer of
9 amounts from the general fund of the Treasury of
10 the United States to the Wool Apparel Manufactur-
11 ers Trust Fund. The Secretary of Commerce shall
12 promptly provide grants described in paragraph (1)
13 to eligible manufacturers after such transfer of
14 amounts from the general fund of the Treasury of
15 the United States to the Wool Apparel Manufactur-
16 ers Trust Fund.

17 (c) RULE OF CONSTRUCTION.—The amendment
18 made by subsection (a) shall not be construed to affect
19 the availability of amounts transferred to the Wool Ap-
20 parel Manufacturers Trust Fund before the date of the
21 enactment of this Act.

22 **SEC. 613. DEPARTMENT OF COMMERCE STUDY.**

23 Not later than 180 days after the date of enactment
24 of this Act, the Secretary of Commerce shall report to
25 Congress detailing—

1 (1) the pattern of job loss in the New England,
2 Mid-Atlantic, and Midwest States over the past 20
3 years;

4 (2) the role of the off-shoring of manufacturing
5 jobs in overall job loss in the regions; and

6 (3) recommendations to attract industries and
7 bring jobs to the region.

8 **SEC. 614. ARRA PLANNING AND REPORTING.**

9 Section 1512 of the American Recovery and Reinvest-
10 ment Act of 2009 (Public Law 111–5; 123 Stat. 287) is
11 amended—

12 (1) in subsection (d)—

13 (A) in the subsection heading, by inserting
14 “PLANS AND” after “AGENCY”;

15 (B) by striking “Not later than” and in-
16 serting the following:

17 “(1) DEFINITION.—In this subsection, the term
18 ‘covered program’ means a program for which funds
19 are appropriated under this division—

20 “(A) in an amount that is—

21 “(i) more than \$2,000,000,000; and

22 “(ii) more than 150 percent of the
23 funds appropriated for the program for fis-
24 cal year 2008; or

1 “(B) that did not exist before the date of
2 enactment of this Act.

3 “(2) PLANS.—Not later than July 1, 2010, the
4 head of each agency that distributes recovery funds
5 shall submit to Congress and make available on the
6 website of the agency a plan for each covered pro-
7 gram, which shall, at a minimum, contain—

8 “(A) a description of the goals for the cov-
9 ered program using recovery funds;

10 “(B) a discussion of how the goals de-
11 scribed in subparagraph (A) relate to the goals
12 for ongoing activities of the covered program, if
13 applicable;

14 “(C) a description of the activities that the
15 agency will undertake to achieve the goals de-
16 scribed in subparagraph (A);

17 “(D) a description of the total recovery
18 funding for the covered program and the recov-
19 ery funding for each activity under the covered
20 program, including identifying whether the ac-
21 tivity will be carried out using grants, con-
22 tracts, or other types of funding mechanisms;

23 “(E) a schedule of milestones for major
24 phases of the activities under the covered pro-
25 gram, with planned delivery dates;

1 “(F) performance measures the agency will
2 use to track the progress of each of the activi-
3 ties under the covered program in meeting the
4 goals described in subparagraph (A), including
5 performance targets, the frequency of measure-
6 ment, and a description of the methodology for
7 each measure;

8 “(G) a description of the process of the
9 agency for the periodic review of the progress of
10 the covered program towards meeting the goals
11 described in subparagraph (A); and

12 “(H) a description of how the agency will
13 hold program managers accountable for achiev-
14 ing the goals described in subparagraph (A).

15 “(3) REPORTS.—

16 “(A) IN GENERAL.—Not later than”;
17 (C) by adding at the end the following:

18 “(B) REPORTS ON PLANS.—Not later than
19 30 days after the end of the calendar quarter
20 ending September 30, 2010, and every calendar
21 quarter thereafter during which the agency obli-
22 gates or expends recovery funds, the head of
23 each agency that developed a plan for a covered
24 program under paragraph (2) shall submit to
25 Congress and make available on a website of

1 the agency a report for each covered program
2 that—

3 “(i) discusses the progress of the
4 agency in implementing the plan;

5 “(ii) describes the progress towards
6 achieving the goals described in paragraph
7 (2)(A) for the covered program;

8 “(iii) discusses the status of each ac-
9 tivity carried out under the covered pro-
10 gram, including whether the activity is
11 completed;

12 “(iv) details the unobligated and un-
13 expired balances and total obligations and
14 outlays under the covered program;

15 “(v) discusses—

16 “(I) whether the covered program
17 has met the milestones for the covered
18 program described in paragraph
19 (2)(E);

20 “(II) if the covered program has
21 failed to meet the milestones, the rea-
22 sons why; and

23 “(III) any changes in the mile-
24 stones for the covered program, in-
25 cluding the reasons for the change;

1 “(vi) discusses the performance of the
2 covered program, including—

3 “(I) whether the covered program
4 has met the performance measures for
5 the covered program described in
6 paragraph (2)(F);

7 “(II) if the covered program has
8 failed to meet the performance meas-
9 ures, the reasons why; and

10 “(III) any trends in information
11 relating to the performance of the cov-
12 ered program; and

13 “(vii) evaluates the ability of the cov-
14 ered program to meet the goals of the cov-
15 ered program given the performance of the
16 covered program.”;

17 (2) in subsection (f)—

18 (A) by striking “Within 180 days” and in-
19 serting the following:

20 “(1) IN GENERAL.—Within 180 days”; and

21 (B) by adding at the end the following:

22 “(2) PENALTIES.—

23 “(A) IN GENERAL.—Subject to subpara-
24 graphs (B), (C), and (D), the Attorney General
25 may bring a civil action in an appropriate

1 United States district court against a recipient
2 of recovery funds from an agency that does not
3 provide the information required under sub-
4 section (c) or knowingly provides information
5 under subsection (c) that contains a material
6 omission or misstatement. In a civil action
7 under this paragraph, the court may impose a
8 civil penalty on a recipient of recovery funds in
9 an amount not more than \$250,000. Any
10 amounts received from a civil penalty under this
11 paragraph shall be deposited in the general
12 fund of the Treasury.

13 “(B) NOTIFICATION.—

14 “(i) IN GENERAL.—The head of an
15 agency shall provide a written notification
16 to a recipient of recovery funds from the
17 agency that fails to provide the informa-
18 tion required under subsection (c). A noti-
19 fication under this subparagraph shall pro-
20 vide the recipient with information on how
21 to comply with the necessary reporting re-
22 quirements and notice of the penalties for
23 failing to do so.

24 “(ii) LIMITATION.—A court may not
25 impose a civil penalty under subparagraph

1 (A) relating to the failure to provide infor-
2 mation required under subsection (c) if,
3 not later than 31 days after the date of the
4 notification under clause (i), the recipient
5 of the recovery funds provides the informa-
6 tion.

7 “(C) CONSIDERATIONS.—In determining
8 the amount of a penalty under this paragraph
9 for a recipient of recovery funds, a court shall
10 consider—

11 “(i) the number of times the recipient
12 has failed to provide the information re-
13 quired under subsection (c);

14 “(ii) the amount of recovery funds
15 provided to the recipient;

16 “(iii) whether the recipient is a gov-
17 ernment, nonprofit entity, or educational
18 institution; and

19 “(iv) whether the recipient is a small
20 business concern (as defined under section
21 3 of the Small Business Act (15 U.S.C.
22 632)), with particular consideration given
23 to businesses with not more than 50 em-
24 ployees.

1 “(D) APPLICABILITY.—This paragraph
2 shall apply to any report required to be sub-
3 mitted on or after the date of enactment of this
4 paragraph.

5 “(E) NONEXCLUSIVITY.—The imposition
6 of a civil penalty under this subsection shall not
7 preclude any other criminal, civil, or adminis-
8 trative remedy available to the United States or
9 any other person under Federal or State law.

10 “(3) TECHNICAL ASSISTANCE.—Each agency
11 distributing recovery funds shall provide technical
12 assistance, as necessary, to assist recipients of recov-
13 ery funds in complying with the requirements to pro-
14 vide information under subsection (c), which shall
15 include providing recipients with a reminder regard-
16 ing each reporting requirement.

17 “(4) PUBLIC LISTING.—

18 “(A) IN GENERAL.—Not later than 45
19 days after the end of each calendar quarter,
20 and subject to the notification requirements
21 under paragraph (2)(B), the Board shall make
22 available on the website established under sec-
23 tion 1526 a list of all recipients of recovery
24 funds that did not provide the information re-

1 required under subsection (c) for the calendar
2 quarter.

3 “(B) CONTENTS.—A list made available
4 under subparagraph (A) shall, for each recipi-
5 ent of recovery funds on the list, include the
6 name and address of the recipient, the identi-
7 fication number for the award, the amount of
8 recovery funds awarded to the recipient, a de-
9 scription of the activity for which the recovery
10 funds were provided, and, to the extent known
11 by the Board, the reason for noncompliance.

12 “(5) REGULATIONS AND REPORTING.—

13 “(A) REGULATIONS.—Not later than 90
14 days after the date of enactment of this para-
15 graph, the Attorney General, in consultation
16 with the Director of the Office of Management
17 and Budget and the Chairperson, shall promul-
18 gate regulations regarding implementation of
19 this section.

20 “(B) REPORTING.—

21 “(i) IN GENERAL.—Not later than
22 July 1, 2010, and every 3 months there-
23 after, the Director of the Office of Man-
24 agement and Budget, in consultation with
25 the Chairperson, shall submit to Congress

1 a report on the extent of noncompliance by
2 recipients of recovery funds with the re-
3 porting requirements under this section.

4 “(ii) CONTENTS.—Each report sub-
5 mitted under clause (i) shall include—

6 “(I) information, for the quarter
7 and in total, regarding the number
8 and amount of civil penalties imposed
9 and collected under this subsection,
10 sorted by agency and program;

11 “(II) information on the steps
12 taken by the Federal Government to
13 reduce the level of noncompliance; and

14 “(III) any other information de-
15 termined appropriate by the Direc-
16 tor.”; and

17 (3) by adding at the end the following:

18 “(i) TERMINATION.—The reporting requirements
19 under this section shall terminate on September 30,
20 2013.”.

21 **SEC. 615. SURETY BONDS.**

22 Section 508(f) of division A of the American Recovery
23 and Reinvestment Act of 2009 (15 U.S.C. 694a note) is
24 repealed.

1 **SEC. 616. FUNDING FOR DEPLOYMENT OF RENEWABLE EN-**
2 **ERGY, ENERGY EFFICIENCY, AND ELECTRIC**
3 **POWER TRANSMISSION PROJECTS.**

4 Section 1703 of the Energy Policy Act of 2005 (42
5 U.S.C. 16513) is amended—

6 (1) in paragraph (1) by striking “The Sec-
7 retary” and inserting “Except as provided in sub-
8 section (f), the Secretary”;

9 “(2) by adding at the end the following:

10 “(f) AUTHORIZATION FOR CREDIT SUBSIDY.—

11 “(1) IN GENERAL.—The Secretary may make
12 guarantees under this section for the following cat-
13 egories of projects:

14 “(A) Renewable energy systems, including
15 incremental hydropower, that generate elec-
16 tricity or thermal energy.

17 “(B) Electric power transmission systems,
18 including upgrading and reconductoring
19 projects.

20 “(C) Leading edge biofuel projects that
21 will use technologies performing at the pilot- or
22 demonstration-scale that the Secretary deter-
23 mines are likely to become commercial tech-
24 nologies and will produce transportation fuels
25 that substantially reduce life-cycle greenhouse

1 gas emissions compared to other transportation
2 fuels.

3 “(D) Energy efficiency projects, including
4 projects to retrofit residential, commercial, and
5 industrial buildings, facilities, and equipment.

6 “(E) Facilities that manufacture compo-
7 nents related to the categories of projects in
8 subparagraphs (A) through (D).

9 “(2) MULTIPLE APPLICATIONS.—Notwith-
10 standing any other provision of law (including under
11 part 609.3(a) of title 10, Code of Federal Regula-
12 tions, or successor regulations), a project applicant
13 or sponsor of an eligible project may submit an ap-
14 plication for more than 1 eligible project under this
15 subsection.

16 “(3) FUNDING.—From amounts in the Treas-
17 ury not otherwise appropriated, there is appro-
18 priated for the cost of guaranteed loans authorized
19 by this subsection \$1,500,000,000, to remain avail-
20 able until expended.”.

21 **Subtitle B—Extension of Trade**
22 **Adjustment Assistance**

23 **SEC. 621. SHORT TITLE.**

24 This subtitle may be cited as the “Trade Adjustment
25 Assistance Extension Act of 2010”.

1 **SEC. 622. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE.**

2 (a) IN GENERAL.—Section 1893 of the Trade and
3 Globalization Adjustment Assistance Act of 2009 (Public
4 Law 111–5; 123 Stat. 422) is amended by striking
5 “2011” each place it appears and inserting “2012”.

6 (b) CONFORMING AMENDMENTS.—

7 (1) Section 236(a)(2)(A) of the Trade Act of
8 1974 (19 U.S.C. 2296(a)(2)(A)) is amended—

9 (A) in clause (i), by striking “2009 and
10 2010” and inserting “2010 and 2011”; and

11 (B) in clause (ii)—

12 (i) by striking “2009 and 2010” and
13 inserting “2010 and 2011”; and

14 (ii) by striking “October 1, 2010, and
15 ending December 31, 2010” and inserting
16 “October 1, 2011, and ending December
17 31, 2011”.

18 (2) Section 245(a) of the Trade Act of 1974
19 (19 U.S.C. 2317(a)) is amended by striking “2010”
20 and inserting “2011”.

21 (3) Section 246(b)(1) of the Trade Act of 1974
22 (19 U.S.C. 2318(b)(1)) is amended by striking
23 “2010” and inserting “2011”.

24 (4) Section 255(a) of the Trade Act of 1974
25 (19 U.S.C. 2345(a)) is amended to read as follows:

1 “(a) IN GENERAL.—There are authorized to be ap-
2 propriated to the Secretary \$50,000,000 for each of the
3 fiscal years 2010 through 2011, and \$12,501,000 for the
4 period beginning October 1, 2011, and ending December
5 31, 2011, to carry out the provisions of this chapter.
6 Amounts appropriated pursuant to this subsection shall
7 remain available until expended.”.

8 (5) Section 275(f) of the Trade Act of 1974 (19
9 U.S.C. 2371d(f)) is amended by striking “2011”
10 and inserting “2012”.

11 (6) Section 276(c)(2) of the Trade Act of 1974
12 (19 U.S.C. 2371e(c)(2)) is amended—

13 (A) by striking “2009 and 2010” and in-
14 serting “2010 and 2011”; and

15 (B) by striking “October 1, 2010, and end-
16 ing December 31, 2010” and inserting “Octo-
17 ber 1, 2011, and ending December 31, 2011”.

18 (7) Section 277(c) of the Trade Act of 1974
19 (19 U.S.C. 2371f(c)) is amended—

20 (A) in paragraph (1)—

21 (i) by striking “2009 and 2010” and
22 inserting “2010 and 2011”; and

23 (ii) by striking “October 1, 2010, and
24 ending December 31, 2010” and inserting

1 “October 1, 2011, and ending December
2 31, 2011”; and

3 (B) by striking paragraph (2) and redesignating
4 paragraph (3) as paragraph (2).

5 (8) Section 278(e) of the Trade Act of 1974
6 (19 U.S.C. 2372(e)) is amended by striking “2011”
7 and inserting “2012”.

8 (9) Section 279A(h)(2) of the Trade Act of
9 1974 (19 U.S.C. 2373(h)(2)) is amended by striking
10 “2011” and inserting “2012”.

11 (10) Section 279B(a) of the Trade Act of 1974
12 (19 U.S.C. 2373a(a)) is amended—

13 (A) by striking “2009 and 2010” and inserting
14 “2010 and 2011”; and

15 (B) by striking “October 1, 2010, and ending
16 December 31, 2010” and inserting “October
17 1, 2011, and ending December 31, 2011”.

18 (11) Section 285 of the Trade Act of 1974 (19
19 U.S.C. 2271 note) is amended by striking “2010”
20 each place it appears and inserting “2011”.

21 (12) Section 298(a) of the Trade Act of 1974
22 (19 U.S.C. 2401g(a)) is amended—

23 (A) by striking “2009 and 2010” and inserting
24 “2010 and 2011”; and

1 (B) by striking “October 1, 2010, and end-
2 ing December 31, 2010” and inserting “Octo-
3 ber 1, 2011, and ending December 31, 2011”.

4 (13) The table of contents for the Trade Act of
5 1974 is amended by striking the item relating to
6 section 235 and inserting the following:

“Sec. 235. Employment and case management services.”.

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

9 **Subtitle C—Extension of Health**
10 **Coverage Improvement**

11 **SEC. 631. IMPROVEMENT OF THE AFFORDABILITY OF THE**
12 **CREDIT.**

13 (a) IN GENERAL.—Section 35(a) of the Internal Rev-
14 enue Code of 1986 is amended by striking “January 1,
15 2011” and inserting “January 1, 2012”.

16 (b) CONFORMING AMENDMENT.—Section 7527(b) of
17 such Code is amended by striking “January 1, 2011” and
18 inserting “January 1, 2012”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to coverage months beginning after
21 the date of the enactment of this Act.

1 **SEC. 632. PAYMENT FOR THE MONTHLY PREMIUMS PAID**
2 **PRIOR TO COMMENCEMENT OF THE AD-**
3 **VANCE PAYMENTS OF CREDIT.**

4 (a) IN GENERAL.—Section 7527(e) of the Internal
5 Revenue Code of 1986 is amended by striking “January
6 1, 2011” and inserting “January 1, 2012”.

7 (b) EFFECTIVE DATE.—The amendment made by
8 this section shall apply to coverage months beginning after
9 the date of the enactment of this Act.

10 **SEC. 633. TAA RECIPIENTS NOT ENROLLED IN TRAINING**
11 **PROGRAMS ELIGIBLE FOR CREDIT.**

12 (a) IN GENERAL.—Section 35(c)(2)(B) of the Inter-
13 nal Revenue Code of 1986 is amended by striking “Janu-
14 ary 1, 2011” and inserting “January 1, 2012”.

15 (b) EFFECTIVE DATE.—The amendment made by
16 this section shall apply to coverage months beginning after
17 the date of the enactment of this Act.

18 **SEC. 634. TAA PRE-CERTIFICATION PERIOD RULE FOR PUR-**
19 **POSES OF DETERMINING WHETHER THERE IS**
20 **A 63-DAY LAPSE IN CREDITABLE COVERAGE.**

21 (a) IRC AMENDMENT.—Section 9801(c)(2)(D) of the
22 Internal Revenue Code of 1986 is amended by striking
23 “January 1, 2011” and inserting “January 1, 2012”.

24 (b) ERISA AMENDMENT.—Section 701(c)(2)(C) of
25 the Employee Retirement Income Security Act of 1974

1 (29 U.S.C. 1181(c)(2)(C)) is amended by striking “Janu-
2 ary 1, 2011” and inserting “January 1, 2012”.

3 (c) PHSA AMENDMENT.—Section 2701(c)(2)(C) of
4 the Public Health Service Act (42 U.S.C. 300gg(c)(2)(C))
5 is amended by striking “January 1, 2011” and inserting
6 “January 1, 2012”.

7 (d) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to plan years beginning after the
9 date of the enactment of this Act.

10 **SEC. 635. CONTINUED QUALIFICATION OF FAMILY MEM-**
11 **BERS AFTER CERTAIN EVENTS.**

12 (a) IN GENERAL.—Section 35(g)(9) of the Internal
13 Revenue Code of 1986 is amended by striking “January
14 1, 2011” and inserting “January 1, 2012”.

15 (b) CONFORMING AMENDMENT.—Section 173(f)(8)
16 of the Workforce Investment Act of 1998 (29 U.S.C.
17 2918(f)(8)) is amended by striking “January 1, 2011”
18 and inserting “January 1, 2012”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to months beginning after the date
21 of the enactment of this Act.

22 **SEC. 636. EXTENSION OF COBRA BENEFITS FOR CERTAIN**
23 **TAA-ELIGIBLE INDIVIDUALS AND PBGC RE-**
24 **CIPIENTS.**

25 (a) ERISA AMENDMENTS.—

1 (1) PBGC RECIPIENTS.—Section 602(2)(A)(v)
2 of the Employee Retirement Income Security Act of
3 1974 (29 U.S.C. 1162(2)(A)(v)) is amended by
4 striking “December 31, 2010” and inserting “De-
5 cember 31, 2011”.

6 (2) TAA-ELIGIBLE INDIVIDUALS.—Section
7 602(2)(A)(vi) of such Act (29 U.S.C.
8 1162(2)(A)(vi)) is amended by striking “December
9 31, 2010” and inserting “December 31, 2011”.

10 (b) IRC AMENDMENTS.—

11 (1) PBGC RECIPIENTS.—Section
12 4980B(f)(2)(B)(i)(V) of the Internal Revenue Code
13 of 1986 is amended by striking “December 31,
14 2010” and inserting “December 31, 2011”.

15 (2) TAA-ELIGIBLE INDIVIDUALS.—Section
16 4980B(f)(2)(B)(i)(VI) of such Code is amended by
17 striking “December 31, 2010” and inserting “De-
18 cember 31, 2011”.

19 (c) PHSA AMENDMENTS.—Section 2202(2)(A)(iv) of
20 the Public Health Service Act (42 U.S.C. 300bb-
21 2(2)(A)(iv)) is amended by striking “December 31, 2010”
22 and inserting “December 31, 2011”.

23 (d) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to periods of coverage which would

1 (without regard to the amendments made by this section)
2 end on or after December 31, 2010.

3 **SEC. 637. ADDITION OF COVERAGE THROUGH VOLUNTARY**
4 **EMPLOYEES' BENEFICIARY ASSOCIATIONS.**

5 (a) IN GENERAL.—Section 35(e)(1)(K) of the Inter-
6 nal Revenue Code of 1986 is amended by striking “Janu-
7 ary 1, 2011” and inserting “January 1, 2012”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall apply to coverage months beginning after
10 the date of the enactment of this Act.

11 **SEC. 638. NOTICE REQUIREMENTS.**

12 (a) IN GENERAL.—Section 7527(d)(2) of the Inter-
13 nal Revenue Code of 1986 is amended by striking “Janu-
14 ary 1, 2011” and inserting “January 1, 2012”.

15 (b) EFFECTIVE DATE.—The amendment made by
16 this section shall apply to certificates issued after the date
17 of the enactment of this Act.

18 **Subtitle D—TANF Provisions**

19 **SEC. 641. EXTENSION OF TEMPORARY ASSISTANCE FOR**
20 **NEEDY FAMILIES AND RELATED PROGRAMS.**

21 (a) IN GENERAL.—Activities authorized by part A of
22 title IV and section 1108(b) of the Social Security Act
23 (other than the Emergency Contingency Fund for State
24 Temporary Assistance for Needy Families Programs es-
25 tablished under subsection (c) of section 403 of such Act)

1 shall continue through September 30, 2011, in the manner
2 authorized for fiscal year 2010, and out of any money in
3 the Treasury of the United States not otherwise appro-
4 priated, there are hereby appropriated such sums as may
5 be necessary for such purpose. In the case of the activities
6 authorized by section 403(b) of such Act, the preceding
7 sentence shall be applied by substituting “September 30,
8 2012” for “September 30, 2011”. Grants and payments
9 may be made pursuant to this authority on a quarterly
10 basis through fiscal year 2011 at the level provided for
11 such activities for the corresponding quarter of fiscal year
12 2010, except that—

13 (1) in the case of healthy marriage promotion
14 and responsible fatherhood grants under section
15 403(a)(2) of such Act, such grants and payments
16 shall be made in accordance with the amendments
17 made by subsection (b) of this section;

18 (2) in the case of supplemental grants under
19 section 403(a)(3) of such Act, the total amount ap-
20 propriated for fiscal year 2011 shall not exceed
21 \$319,450,000; and

22 (3) in the case of the Contingency Fund for
23 State Welfare Programs established under sub-
24 section (b) of section 403 of such Act, grants and

1 payments may be made pursuant to this authority
2 on a quarterly basis through fiscal year 2012, and—

3 (A) the total amount appropriated for fis-
4 cal year 2011 shall not exceed \$292,550,000,
5 and

6 (B) the total amount appropriated for fis-
7 cal year 2012 shall not exceed \$612,000,000.

8 (b) HEALTHY MARRIAGE PROMOTION AND RESPON-
9 SIBLE FATHERHOOD GRANTS.—Section 403(a)(2) of the
10 Social Security Act (42 U.S.C. 603(a)(2)) is amended—

11 (1) in subparagraph (A)(iii),

12 (A) by striking subclause (III) and insert-
13 ing the following:

14 “(III) Marriage education, mar-
15 riage skills, and relationship improve-
16 ment programs, that may include
17 components designed to improve par-
18 enting skills, address or prevent sub-
19 stance abuse, address or prevent do-
20 mestic violence, improve financial
21 management, improve conflict resolu-
22 tion, or improve employment out-
23 comes, including job and career ad-
24 vancement.”; and

25 (B) by adding at the end the following:

1 “(IX) Such other activities as the
2 Secretary determines are reasonably
3 calculated to improve outcomes for
4 needy children and needy communities
5 through the promotion of healthy
6 marriages, if offered in conjunction
7 with any activity described in this
8 subparagraph.”;

9 (2) in subparagraph (C)(i), by striking
10 “\$50,000,000” and inserting “\$75,000,000”;

11 (3) by striking subparagraph (D) and inserting
12 the following:

13 “(D) APPROPRIATION.—Out of any money
14 in the Treasury of the United States not other-
15 wise appropriated, there are appropriated for
16 fiscal year 2011 for expenditure in accordance
17 with this paragraph—

18 “(i) \$75,000,000 for awarding funds
19 for the purpose of carrying out healthy
20 marriage promotion activities; and

21 “(ii) \$75,000,000 for awarding funds
22 for the purpose of carrying out activities
23 promoting responsible fatherhood.”; and

24 (4) in subparagraph (A)(ii), in the matter pre-
25 ceding subclause (I), by inserting “(or, in the case

1 of an entity seeking funding for carrying out both
2 healthy marriage promotion activities and activities
3 promoting responsible fatherhood, a combined appli-
4 cation)” after “an application”.

5 (c) CONFORMING AMENDMENTS.—

6 (1) Section 403(a)(3)(H)(ii) of the Social Secu-
7 rity Act (42 U.S.C. 603(a)(3)(H)(ii)) is amended by
8 striking “2010” and inserting “2011”.

9 (2) Section 403(b)(3)(C)(ii) of the Social Secu-
10 rity Act (42 U.S.C. 603(b)(3)(C)(ii)) is amended by
11 striking “2010” and inserting “2011”.

12 (3) Section 409(a)(7) of the Social Security Act
13 (42 U.S.C. 609(a)(7)) is amended—

14 (A) in subparagraph (A), by striking “or
15 2011” and inserting “2011, or 2012”; and

16 (B) in subparagraph (B)(ii), by striking
17 “2010” and inserting “2011”.

18 (d) NATIONAL RANDOM SAMPLE STUDY OF CHILD
19 WELFARE.—Activities authorized by section 429 of the
20 Social Security Act shall continue through September 30,
21 2011, in the manner authorized for fiscal year 2010, and
22 out of any money in the Treasury of the United States
23 not otherwise appropriated, there are hereby appropriated
24 such sums as may be necessary for such purpose. Grants
25 and payments may be made pursuant to this authority on

1 a quarterly basis through fiscal year 2011 at the level pro-
2 vided for such activities for the corresponding quarter of
3 fiscal year 2010.

4 (e) EFFECTIVE DATE.—This section and the amend-
5 ments made by this section take effect on October 1, 2010.

6 **SEC. 642. REINSTATEMENT OF FEDERAL MATCHING OF**
7 **STATE SPENDING OF CHILD SUPPORT INCEN-**
8 **TIVE PAYMENTS.**

9 (a) IN GENERAL.—Effective October 1, 2010, section
10 455(a)(1) of the Social Security Act (42 U.S.C. 655(a)(1))
11 is amended by striking “from amounts paid to the State
12 under section 458 or”.

13 (b) SUNSET.—Effective October 1, 2011, section
14 455(a)(1) of the Social Security Act (42 U.S.C. 655(a)(1))
15 is amended by inserting “from amounts paid to the State
16 under section 458 or” before “to carry out an agreement
17 which it has entered into pursuant to section 463”.

18 **SEC. 643. EXTENSION AND MODIFICATION OF THE TANF**
19 **EMERGENCY FUND.**

20 (a) EXTENSION.—

21 (1) IN GENERAL.—Section 403(c) of the Social
22 Security Act (42 U.S.C. 603(c)) is amended—

23 (A) in paragraph (2)(A), by inserting “,
24 and for fiscal year 2011, \$1,500,000,000” be-
25 fore “for payment”;

1 (B) by striking paragraph (2)(B) and in-
2 serting the following:

3 “(B) AVAILABILITY AND USE OF FUNDS.—

4 “(i) FISCAL YEARS 2009 AND 2010.—

5 The amounts appropriated to the Emer-
6 gency Fund under subparagraph (A) for
7 fiscal year 2009 shall remain available
8 through fiscal year 2010 and shall be used
9 to make grants to States in each of fiscal
10 years 2009 and 2010 in accordance with
11 paragraph (3), except that the amounts
12 shall remain available through fiscal year
13 2011 to make grants and payments to
14 States in accordance with paragraph
15 (3)(C) to cover expenditures to subsidize
16 employment positions held by individuals
17 placed in the positions before fiscal year
18 2011.

19 “(ii) FISCAL YEAR 2011.—Subject to
20 clause (iii), the amounts appropriated to
21 the Emergency Fund under subparagraph
22 (A) for fiscal year 2011 shall remain avail-
23 able through fiscal year 2012 and shall be
24 used to make grants to States based on ex-
25 penditures in fiscal year 2011 for benefits

1 and services provided in fiscal year 2011 in
2 accordance with the requirements of para-
3 graph (3).

4 “(iii) RESERVATION OF FUNDS.—Of
5 the amounts appropriated to the Emer-
6 gency Fund under subparagraph (A) for
7 fiscal year 2011, \$500,000 shall be placed
8 in reserve for use in fiscal year 2012, and
9 shall be used to award grants for any ex-
10 penditures described in this subsection in-
11 curred by States after September 30,
12 2011.”;

13 (C) in paragraph (2)(C), by striking
14 “2010” and inserting “2012”;

15 (D) in paragraph (3)—

16 (i) in clause (i) of each of subpara-
17 graphs (A), (B), and (C)—

18 (I) by striking “year 2009 or
19 2010” and inserting “years 2009
20 through 2011”;

21 (II) by striking “and” at the end
22 of subclause (I);

23 (III) by striking the period at the
24 end of subclause (II) and inserting “;
25 and”;

1 (IV) by adding at the end the fol-
2 lowing:

3 “(III) if the quarter is in fiscal
4 year 2011, has provided the Secretary
5 with such information as the Sec-
6 retary may find necessary in order to
7 make the determinations, or take any
8 other action, described in paragraph
9 (5)(C).”; and

10 (ii) in subparagraph (C), by adding at
11 the end the following:

12 “(iv) LIMITATION ON EXPENDITURES
13 FOR SUBSIDIZED EMPLOYMENT.—An ex-
14 penditure for subsidized employment shall
15 be taken into account under clause (ii)
16 only if the expenditure is used to subsidize
17 employment for—

18 “(I) a member of a needy family
19 (without regard to whether the family
20 is receiving assistance under the State
21 program funded under this part); or

22 “(II) an individual who has ex-
23 hausted (or, within 60 days, will ex-
24 haust) all rights to receive unemploy-
25 ment compensation under Federal and

1 State law, and who is a member of a
2 needy family.”;

3 (E) by striking paragraph (5) and insert-
4 ing the following:

5 “(5) LIMITATIONS ON PAYMENTS; ADJUSTMENT
6 AUTHORITY.—

7 “(A) FISCAL YEARS 2009 AND 2010.—The
8 total amount payable to a single State under
9 subsection (b) and this subsection for fiscal
10 years 2009 and 2010 combined shall not exceed
11 50 percent of the annual State family assist-
12 ance grant.

13 “(B) FISCAL YEAR 2011.—Subject to sub-
14 paragraph (C), the total amount payable to a
15 single State under subsection (b) and this sub-
16 section for fiscal year 2011 shall not exceed 30
17 percent of the annual State family assistance
18 grant.

19 “(C) ADJUSTMENT AUTHORITY.—If the
20 Secretary determines that the Emergency Fund
21 is at risk of being depleted before September
22 30, 2011, or that funds are available to accom-
23 modate additional State requests under this
24 subsection, the Secretary may, through program
25 instructions issued without regard to the re-

1 requirements of section 553 of title 5, United
2 States Code—

3 “(i) specify priority criteria for award-
4 ing grants to States during fiscal year
5 2011; and

6 “(ii) adjust the percentage limitation
7 applicable under subparagraph (B) with
8 respect to the total amount payable to a
9 single State for fiscal year 2011.”; and

10 (F) in paragraph (6), by inserting “or for
11 expenditures described in paragraph (3)(C)(iv)”
12 before the period.

13 (2) CONFORMING AMENDMENTS.—Section 2101
14 of division B of the American Recovery and Rein-
15 vestment Act of 2009 (Public Law 111–5) is amend-
16 ed—

17 (A) in subsection (a)(2)—

18 (i) by striking “2010” and inserting
19 “2011”; and

20 (ii) by striking all that follows “re-
21 pealed” and inserting a period; and

22 (B) in subsection (d)(1), by striking
23 “2010” and inserting “2011”.

24 (b) MODIFICATION OF GRANT REQUIREMENTS.—

1 (1) IN GENERAL.—Effective October 1, 2010,
2 section 403(c) of the Social Security Act (42 U.S.C.
3 603(c)), as amended by subsection (a), is amend-
4 ed—

5 (A) in paragraph (3)(A)—

6 (i) by striking “RELATED TO CASE-
7 LOAD INCREASES” in the heading and in-
8 serting “RELATED TO INCREASED EXPEND-
9 ITURES”;

10 (ii) by striking clause (ii) and redesignig-
11 nating clause (iii) as clause (ii); and

12 (iii) by striking “each State that” and
13 all that follows in clause (i) and inserting
14 “each State that requests a grant under
15 this subparagraph for the quarter, to the
16 extent provided in clause (ii)”;

17 (B) in paragraph (4), by striking “the
18 caseload of a State and”; and

19 (C) in paragraph (9)—

20 (i) by striking subparagraph (A) and
21 redesignating subparagraphs (B) and (C)
22 as subparagraphs (A) and (B), respec-
23 tively; and

24 (ii) by striking “The average monthly
25 assistance caseload of the State.” in clause

1 (ii)(I) and inserting “The average quar-
2 terly total expenditures of the State for
3 basic assistance (as defined by the Sec-
4 retary under paragraph (3)(A)(ii)).”.

5 (2) CONFORMING AMENDMENTS.—Effective Oc-
6 tober 1, 2010, section 407(b)(3) of the Social Secu-
7 rity Act (42 U.S.C. 607(b)(3)) is amended—

8 (A) by striking “(within the meaning of
9 section 403(c)(9))” in subparagraph (A)(i); and

10 (B) by adding at the end the following new
11 subparagraph:

12 “(C) AVERAGE MONTHLY ASSISTANCE
13 CASELOAD.—For purposes of this paragraph,
14 the term ‘average monthly assistance caseload’
15 means, with respect to a State and a quarter,
16 the number of families receiving assistance dur-
17 ing the quarter under the State program fund-
18 ed under this part or as qualified State expendi-
19 tures, subject to adjustment by the Secretary as
20 permitted by section 403(c)(4).”.

21 (c) PROGRAM GUIDANCE.—The Secretary of Health
22 and Human Services shall issue program guidance, with-
23 out regard to the requirements of section 553 of title 5,
24 United States Code, which ensures that the funds provided
25 under the amendments made by this section to a jurisdic-

1 tion for subsidized employment do not support any sub-
 2 sidized employment position the annual salary of which
 3 is greater than, at State option—

4 (1) 200 percent of the poverty line (within the
 5 meaning of section 673(2) of the Omnibus Budget
 6 Reconciliation Act of 1981, including any revision
 7 required by such section 673(2)) for a family of 4;
 8 or

9 (2) the median wage in the jurisdiction.

10 **SEC. 644. MODIFICATIONS TO TANF DATA REPORTING.**

11 (a) MEASUREMENT OF WORK ACTIVITIES.—Section
 12 407(i)(1)A(i) of the Social Security Act (42 U.S.C.
 13 607(i)(1)(A)(i)) is amended—

14 (1) by striking “and” at the end of subclause
 15 (III);

16 (2) by striking the period at the end of sub-
 17 clause (IV) and inserting “; and”; and

18 (3) by adding at the end the following new sub-
 19 clause:

20 “(V) any other activities of a re-
 21 cipient of assistance that are carried
 22 out in the course of participation in
 23 State programs but do not qualify as
 24 a work activity under subsection (d).”.

1 (b) MEASUREMENT OF TANF SPENDING ON BENE-
2 FITS AND SERVICES.—The Secretary of Health and
3 Human Services shall amend the Form ACF-196 expendi-
4 ture categories to improve data collection and provide in-
5 creased detail on the types of expenditures made by States
6 from Federal funds under section 403 of the Social Secu-
7 rity Act and State funds expended to meet the require-
8 ments of section 409(a)(7) of such Act.

9 (c) ADDITIONAL REPORTS BY STATES.—Section 411
10 of the Social Security Act (42 U.S.C. 611) is amended—

11 (1) by redesignating subsection (b) as sub-
12 section (c); and

13 (2) by inserting after subsection (a) the fol-
14 lowing:

15 “(b) ANNUAL REPORTS ON PROGRAM CHARACTERIS-
16 TICS.—Not later than 90 days after the end of fiscal year
17 2010 and each succeeding fiscal year, each eligible State
18 shall submit to the Secretary a report on the characteris-
19 ties of State programs funded under this part and other
20 State programs funded with qualified State expenditures
21 (as defined in section 409(a)(7)(B)(i)). The report shall
22 include, with respect to each such program, the program
23 name, a description of program activities, the program
24 purpose, the program eligibility criteria, the sources of

1 program funding, the number of program beneficiaries,
2 sanction policies, and any program work requirements.”.

3 (d) DESCRIPTION OF STATE ASSISTANCE PRO-
4 GRAMS.—Section 402(a)(1)(B) (42 U.S.C. 602(a)(1)(B))
5 is amended by adding at the end the following new clause:

6 “(v) The document shall include, to
7 the extent applicable with respect to each
8 program that provides assistance that will
9 be funded under this part or with qualified
10 State expenditures (as defined in section
11 409(a)(7)(B)(i)), a description of—

12 “(I) the applicable financial and
13 nonfinancial eligibility rules for assist-
14 ance provided under the program, in-
15 cluding income eligibility thresholds,
16 the treatment of earnings, asset eligi-
17 bility rules, and excluded forms of in-
18 come;

19 “(II) the amount of assistance
20 provided to needy families, and the
21 methodology for determining assist-
22 ance amounts; and

23 “(III) the applicable time limit
24 policies, including the length of the
25 time limit, exemption and extension

1 policies, and procedures for providing
2 services to families reaching the time
3 limit and who have lost assistance due
4 to time limits.”.

5 **SEC. 645. STATE COURT IMPROVEMENT PROGRAM.**

6 (a) IN GENERAL.—Section 438 of the Social Security
7 Act (42 U.S.C. 629h) is amended—

8 (1) by striking “2010” in subsection (c)(2)(A)
9 and inserting “2011”;

10 (2) by adding at the end of subsection (e) the
11 following flush sentence: “For fiscal year 2011, out
12 of the amount reserved pursuant to section
13 436(b)(2) for such fiscal year, there are available
14 \$10,000,000 for grants referred to in subsection
15 (b)(2)(B), and \$10,000,000 for grants referred to in
16 subsection (b)(2)(C).”.

17 (b) APPROPRIATIONS.—Effective October 1, 2011,
18 section 436 of the Social Security Act (42 U.S.C. 629f)
19 is amended—

20 (1) in subsection (a)—

21 (A) by striking “2011” and inserting
22 “2010”; and

23 (B) by inserting before the period the fol-
24 lowing: “, and \$365,000,000 for fiscal year
25 2011”; and

1 (2) by striking “\$10,000,000” in subsection
2 (b)(2) and inserting “\$30,000,000”.

3 **Subtitle E—Unemployment**
4 **Compensation Program Integrity**

5 **SEC. 651. PERMISSIBLE USES OF UNEMPLOYMENT FUND**
6 **MONEYS FOR PROGRAM INTEGRITY PUR-**
7 **POSES.**

8 (a) WITHDRAWAL STANDARD IN THE INTERNAL
9 REVENUE CODE.—Section 3304(a)(4) of the Internal
10 Revenue Code of 1986 is amended—

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

13 (2) by inserting after subparagraph (G) the fol-
14 lowing new subparagraphs:

15 “(H) of those payments of benefits from a
16 State’s unemployment fund that are determined
17 to have been made in error and are subse-
18 quently recovered by the State, the State may,
19 immediately following receipt of such recovered
20 amount, deposit a percent of such recovered
21 amount, as specified in State law (but not to
22 exceed 5 percent), in a fund from which moneys
23 may be withdrawn for—

1 “(i) the payment of costs of deterring,
2 detecting, and collecting erroneous pay-
3 ments to individuals;

4 “(ii) purposes relating to the
5 misclassification of employees as inde-
6 pendent contractors, implementation of
7 provisions of State law implementing sec-
8 tion 303(k) of the Social Security Act, or
9 other provisions of State law relating to
10 employer fraud or evasion of contributions;
11 or

12 “(iii) payment to the Secretary of the
13 Treasury to the credit of the State’s ac-
14 count in the Unemployment Trust Fund;
15 and

16 “(I) of those payments of contributions (or
17 payments in lieu of contributions) that are col-
18 lected as a result of an investigation and assess-
19 ment by the State agency, the State may, im-
20 mediately following receipt of such payments,
21 deposit a percentage of such payments, as spec-
22 ified in State law (but not to exceed 5 percent),
23 in a fund (which may be the same fund de-
24 scribed in subparagraph (H)) from which mon-
25 eys may be withdrawn for the purposes de-

1 scribed in clauses (i) through (iii) of subpara-
2 graph (H);”.

3 (b) DEFINITION OF UNEMPLOYMENT FUND.—Sec-
4 tion 3306(f) of the Internal Revenue Code of 1986 is
5 amended by striking all that follows “(exclusive of ex-
6 penses of administration)” and inserting “, except as oth-
7 erwise provided in section 3304(a)(4) of the Social Secu-
8 rity Act or any other provision of Federal law.”.

9 (c) WITHDRAWAL STANDARD IN SOCIAL SECURITY
10 ACT.—Section 303(a)(5) of the Social Security Act (42
11 U.S.C. 503(a)(5)) is amended by striking all that follows
12 “payment of unemployment compensation, exclusive of ex-
13 penses of administration,” and inserting “except as other-
14 wise provided in this section, section 3304(a)(4) of the In-
15 ternal Revenue Code of 1986, or any other provision of
16 Federal law; and”.

17 (d) IMMEDIATE DEPOSIT REQUIREMENTS.—

18 (1) INTERNAL REVENUE CODE REQUIRE-
19 MENT.—Paragraph (3) of section 3304(a) of the In-
20 ternal Revenue Code of 1986 is amended to read as
21 follows:

22 “(3) all money received in the unemployment
23 fund of the State shall immediately upon such re-
24 ceipt be paid over to the Secretary of the Treasury
25 to the credit of the Unemployment Trust Fund es-

1 established by section 904 of the Social Security Act
2 (42 U.S.C. 1104), except for—

3 “(A) refunds of sums erroneously paid into
4 the unemployment fund of the State;

5 “(B) refunds paid in accordance with the
6 provisions of section 3305(b); and

7 “(C) amounts deposited in a State fund
8 pursuant to subparagraph (H) or (I) of para-
9 graph (4);”.

10 (2) SOCIAL SECURITY ACT REQUIREMENT.—

11 Section 303(a)(4) of the Social Security Act (42
12 U.S.C. 503(a)(4)) is amended by striking “(except
13 for refunds” and all that follows through “Federal
14 Unemployment Tax Act” and inserting “(except as
15 otherwise provided in this section, section
16 3304(a)(3) of the Internal Revenue Code of 1986, or
17 any other provision of Federal law)”.

18 (e) APPLICATION TO FEDERAL PAYMENTS.—

19 (1) IN GENERAL.—As a condition for admin-
20 istering any unemployment compensation program of
21 the United States (as defined in paragraph (2)) as
22 an agent of the United States, a State shall, with re-
23 spect to erroneous payments made under such pro-
24 grams by the State, use the authority provided
25 under subparagraph (H) of section 3304(a)(4) of

1 the Internal Revenue Code of 1986, as added by
2 subsection (a), in the same manner as such author-
3 ity is used with respect to erroneous payments made
4 under the State unemployment compensation law.
5 With respect to erroneous Federal payments recov-
6 ered consistent with the authority under such sub-
7 paragraph (H), the State shall immediately deposit
8 the same percentage of the recovered payments into
9 the same State fund as provided in the State law
10 implementing such section 3304(a)(4).

11 (2) DEFINITION.—For purposes of this sub-
12 section, the term “unemployment compensation pro-
13 gram of the United States” means—

14 (A) unemployment compensation for Fed-
15 eral civilian employees under subchapter I of
16 chapter 85 of title 5, United States Code;

17 (B) unemployment compensation for ex-
18 servicemembers under subchapter II of chapter
19 85 of title 5, United States Code;

20 (C) trade readjustment allowances under
21 sections 231 through 234 of the Trade Act of
22 1974 (19 U.S.C. 2291-2294);

23 (D) disaster unemployment assistance
24 under section 410(a) of the Robert T. Stafford

1 Disaster Relief and Emergency Assistance Act
2 (42 U.S.C. 5177(a));

3 (E) any Federal temporary extension of
4 unemployment compensation;

5 (F) any Federal program which increases
6 the weekly amount of unemployment compensa-
7 tion payable to individuals; and

8 (G) any other Federal program providing
9 for the payment of unemployment compensa-
10 tion.

11 **SEC. 652. MANDATORY PENALTY ASSESSMENT ON FRAUD**
12 **CLAIMS.**

13 (a) IN GENERAL.—Section 303(a) of the Social Secu-
14 rity Act (42 U.S.C. 503(a)) is amended—

15 (1) in paragraph (10), by striking the period at
16 the end of subparagraph (B) and inserting “; and”;
17 and

18 (2) by adding at the end the following new
19 paragraph:

20 “(11)(A) At the time the State agency deter-
21 mines an erroneous payment from its unemployment
22 fund was made to an individual due to fraud com-
23 mitted by such individual, the assessment of a pen-
24 alty on the individual in an amount of not less than

1 15 percent of the amount of the erroneous payment;
2 and

3 “(B) The immediate deposit of all assessments
4 paid pursuant to subparagraph (A) in a fund in the
5 State from which moneys may be withdrawn for the
6 purposes described in clauses (i) through (iii) of sub-
7 paragraph (H) of section 3304(a)(4) of the Internal
8 Revenue Code of 1986, which may be the same fund
9 as the fund established under subparagraphs (H) or
10 (I) of such section 3304(a)(4).”.

11 (b) APPLICATION TO FEDERAL PAYMENTS.—As a
12 condition for administering any unemployment compensa-
13 tion program of the United States (as defined in section
14 651(e)(2)) as an agent of the United States, if the State
15 determines that an erroneous payment was made by the
16 State to an individual under any such program due to
17 fraud committed by such individual, the State shall assess
18 a penalty on such individual and deposit any such penalty
19 received in the same manner as the State assesses and
20 deposits such penalties under provisions of State law im-
21 plementing section 303(a)(11) of the Social Security Act,
22 as added by subsection (a).

23 (c) EFFECTIVE DATE.—

24 (1) IN GENERAL.—Except as provided in para-
25 graph (2), the amendments made by this section

1 shall apply to erroneous payments established after
 2 the end of the 2-year period beginning on the date
 3 of the enactment of this Act.

4 (2) **AUTHORITY.**—A State may amend its State
 5 law to apply such amendments to erroneous pay-
 6 ments established prior to the end of the period de-
 7 scribed in paragraph (1).

8 **SEC. 653. PROHIBITION ON NONCHARGING DUE TO EM-**
 9 **PLOYER FAULT.**

10 (a) **IN GENERAL.**—Section 3303 of the Internal Rev-
 11 enue Code is amended—

12 (1) by striking subsections (f) and (g); and

13 (2) by inserting after subsection (e) the fol-
 14 lowing new subsection:

15 “(f) **PROHIBITION ON NONCHARGING DUE TO EM-**
 16 **PLOYER FAULT.**—A State law shall be treated as meeting
 17 the requirements of subsection (a)(1) only if such law pro-
 18 vides that an employer’s account shall not be relieved of
 19 charges relating to a payment from the State unemploy-
 20 ment fund if—

21 “(1) the State agency determines that the pay-
 22 ment was made because the employer, or an agent
 23 of the employer, was at fault for failing to respond
 24 timely or adequately to the request of the agency for

1 information relating to the claim for compensation;
2 and

3 “(2) the State agency determines that the em-
4 ployer or agent has established a pattern of failing
5 to respond timely or adequately to such requests.”.

6 (b) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to erroneous payments established
8 after the end of the 2-year period beginning on the date
9 of the enactment of this Act.

10 **SEC. 654. COLLECTION OF PAST-DUE, LEGALLY ENFORCE-**
11 **ABLE STATE DEBTS.**

12 (a) UNEMPLOYMENT COMPENSATION DEBTS.—Sec-
13 tion 6402(f) of the Internal Revenue Code is amended—

14 (1) in the heading, by striking “RESULTING
15 FROM FRAUD”;

16 (2) by striking paragraphs (3) and (8) and re-
17 designating paragraphs (4) through (7) as para-
18 graphs (3) through (6), respectively;

19 (3) in paragraph (3), as so redesignated—

20 (A) in subparagraph (A), by striking “by
21 certified mail with return receipt”;

22 (B) in subparagraph (B), by striking “due
23 to fraud” and inserting “is not a covered unem-
24 ployment compensation debt”;

1 (C) in subparagraph (C), by striking “due
2 to fraud” and inserting “ is not a covered un-
3 employment compensation debt”; and

4 (4) in paragraph (4), as so redesignated—

5 (A) in subparagraph (A)—

6 (i) by inserting “or the person’s fail-
7 ure to report earnings” after “due to
8 fraud”; and

9 (ii) by striking “for not more than 10
10 years”; and

11 (B) in subparagraph (B)—

12 (i) by striking “due to fraud”; and

13 (ii) by striking “for not more than 10
14 years”.

15 (b) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to refunds payable under section
17 6402 of the Internal Revenue Code of 1986 on or after
18 the date of the enactment of this Act.

19 **SEC. 655. TREATMENT OF SHORT-TIME COMPENSATION**
20 **PROGRAMS.**

21 (a) DEFINITION.—Section 3306 of the Internal Rev-
22 enue Code of 1986 is amended by adding at the end the
23 following new subsection:

24 (1) IN GENERAL.—

1 “(v) SHORT-TIME COMPENSATION PROGRAM.—For
2 purposes of this chapter, the term ‘short-time compensa-
3 tion program’ means a program under which—

4 “(1) the participation of an employer is vol-
5 untary;

6 “(2) an employer reduces the number of hours
7 worked by employees in lieu of temporary layoffs;

8 “(3) such employees whose workweeks have
9 been reduced by at least 10 percent, and by not
10 more than the percentage, if any, that is determined
11 by the State to be appropriate, are eligible for unem-
12 ployment compensation;

13 “(4) the amount of unemployment compensa-
14 tion payable to any such employee is a pro rata por-
15 tion of the unemployment compensation which would
16 be payable to the employee if such employee were to-
17 tally unemployed;

18 “(5) such employees are not required to meet
19 the availability for work or work search test require-
20 ments while collecting short-time compensation bene-
21 fits, but are required to be available for their normal
22 workweek;

23 “(6) eligible employees may participate in an
24 employer-sponsored training program to enhance job

1 skills if such program has been approved by the
2 State agency;

3 “(7) the State agency shall require an employer
4 to certify that the employer will continue to provide
5 health benefits, and retirement benefits under a de-
6 fined benefit plan (as defined in section 414(j)) and
7 contributions under a defined contribution plan (as
8 defined in section 414(i)) to any employee whose
9 workweek is reduced under the program under the
10 same terms and conditions as though the workweek
11 of such employee had not been reduced;

12 “(8) the State agency shall require an employer
13 (or an employers’ association which is party to a col-
14 lective bargaining agreement) to submit a written
15 plan describing the manner in which the require-
16 ments of this subsection will be implemented and
17 containing such other information as the Secretary
18 of Labor determines is appropriate;

19 “(9) in the case of employees represented by a
20 union, the appropriate official of the union has
21 agreed to the terms of the written plan submitted by
22 the employer and implementation is consistent with
23 employer obligations under the National Labor Rela-
24 tions Act; and

1 “(10) only such other provisions are included in
2 the State law as the Secretary of Labor determines
3 appropriate for purposes of a short-term compensa-
4 tion program.”.

5 (2) EFFECTIVE DATE.—

6 (A) IN GENERAL.—Except as provided in
7 subparagraph (B), the amendment made by
8 paragraph (1) shall take effect on the date of
9 the enactment of this Act.

10 (B) DELAY PERMITTED.—In the case of a
11 State that is administering a short-time com-
12 pensation program as of the date of the enact-
13 ment of this Act and the State law cannot be
14 administered consistent with the amendment
15 made by paragraph (1), such amendment shall
16 take effect on the earlier of—

17 (i) the date the State changes its
18 State law in order to be consistent with
19 such amendment; or

20 (ii) the date that is 2 years after the
21 date of the enactment of this Act.

22 (b) CONFORMING AMENDMENTS.—

23 (1) INTERNAL REVENUE CODE OF 1986.—Sub-
24 paragraph (E) of section 3304(a)(4) of the Internal

1 Revenue Code of 1986 is amended to read as fol-
2 lows:

3 “(E) amounts may be withdrawn for the
4 payment of short-time compensation under a
5 short-time compensation program (as defined in
6 section 3306(v));”.

7 (2) UNEMPLOYMENT COMPENSATION AMEND-
8 MENTS OF 1992.—Subsections (b) through (d) of sec-
9 tion 401 of the Unemployment Compensation
10 Amendments of 1992 (26 U.S.C. 3304 note) are re-
11 pealed.

12 **SEC. 656. STATE USE OF COMPENSATING BALANCES AND**
13 **INTEREST EARNED ON CLEARING ACCOUNT**
14 **TO PAY ASSOCIATED BANKING COSTS.**

15 (a) IMMEDIATE DEPOSIT REQUIREMENT.—Section
16 3304(a)(3) of the Internal Revenue Code of 1986, as
17 amended by section 651(d)(1), is amended—

18 (1) in subparagraph (B), by striking “and” at
19 the end;

20 (2) in subparagraph (C), by inserting “and”
21 after the semicolon at the end; and

22 (3) by adding at the end the following new sub-
23 paragraph:

24 “(D) such portion of the money as may be
25 necessary to generate earnings credit or actual

1 interest earnings sufficient to pay reasonable
2 charges for banking services related to such
3 money and for services provided by a bank in
4 connection with the receipt and processing of
5 direct remittances from employers;”.

6 (b) WITHDRAWAL STANDARD.—Section 3304(a)(4)
7 of the Internal Revenue Code of 1986, as amended by sec-
8 tion 651(a), is amended—

9 (1) in subparagraph (H)(iii), by striking “and”
10 at the end;

11 (2) in subparagraph (I), by inserting “and”
12 after the semicolon at the end; and

13 (3) by adding at the end the following new sub-
14 paragraph:

15 “(J) earnings credit or actual interest
16 earnings on money not immediately paid over to
17 the Secretary of the Treasury pursuant to para-
18 graph (3) may be used to pay reasonable
19 charges for banking services related to money
20 received in the unemployment fund and for
21 services provided by a bank in connection with
22 the receipt and processing of direct remittances
23 from employers;”.

1 (c) CONFORMING AMENDMENT.—Section 1201(a)(3)
2 of the Social Security Act (42 U.S.C. 1321(a)(3)) is
3 amended—

4 (1) in subparagraph (B), by striking “and” at
5 the end;

6 (2) in subparagraph (C), by striking the period
7 at the end and inserting “, and”; and

8 (3) by adding at the end the following new sub-
9 paragraph:

10 “(D) any amounts set aside to pay reason-
11 able charges for banking services consistent
12 with paragraphs (3) and (4) of section 3304(a)
13 of the Internal Revenue Code of 1986 shall not
14 be taken into account for purposes of subpara-
15 graph (B).”.

16 **SEC. 657. REPORTING OF FIRST DAY OF EARNINGS TO DI-**
17 **RECTORY OF NEW HIRES.**

18 (a) ADDITION OF REQUIREMENT.—Section
19 453A(b)(1)(A) of the Social Security Act (42 U.S.C.
20 653a(b)(1)(A)) is amended by inserting “the date services
21 for remuneration were first performed by the employee,”
22 after “of the employee,”.

23 (b) CONFORMING AMENDMENT; REPORTING FORMAT
24 AND METHOD.—Section 453A(c) of the Social Security
25 Act (42 U.S.C. 653a(c)) is amended by inserting “, to the

1 extent practicable,” after “Each report required by sub-
2 section (b) shall”.

3 (c) EFFECTIVE DATE.—

4 (1) IN GENERAL.—Subject to paragraph (2),
5 the amendments made by this section shall take ef-
6 fect 6 months after the date of the enactment of this
7 Act.

8 (2) COMPLIANCE TRANSITION PERIOD.—If the
9 Secretary of Health and Human Services determines
10 that State legislation (other than legislation appro-
11 priating funds) is required in order for a State plan
12 under part D of title IV of the Social Security Act
13 to meet the additional requirements imposed by the
14 amendment made by subsection (a), the plan shall
15 not be regarded as failing to meet such requirements
16 before the first day of the second calendar quarter
17 beginning after the close of the first regular session
18 of the State legislature that begins after the effective
19 date of such amendment. If the State has a 2-year
20 legislative session, each year of the session is deemed
21 to be a separate regular session of the State legisla-
22 ture.

1 **SEC. 658. DEDUCTION OF OBLIGATIONS FOR CUSTODIAL**
2 **PARENTS.**

3 (a) AUTHORIZATION TO DEDUCT SUPPORT FOR CUS-
4 TODIAL PARENTS FROM UNEMPLOYMENT COMPENSA-
5 TION.—

6 (1) IN GENERAL.—Section 303(e) of the Social
7 Security Act (42 U.S.C. 503(e)) is amended—

8 (A) by striking “child support obligations”
9 each place it appears and inserting “support
10 obligations”; and

11 (B) in paragraph (1), in the matter fol-
12 lowing subparagraph (B), by striking “only in-
13 cludes obligations” and inserting “is limited to
14 obligations established with respect to a child or
15 a custodial parent of such child”.

16 (2) TECHNICAL AMENDMENT.—Section
17 303(e)(2)(A)(iii)(III) of the Social Security Act (42
18 U.S.C. 503(e)(2)(A)(iii)(III)) is amended by striking
19 “section 462(e)” and inserting “section 459(i)(5)”.

20 (b) EFFECTIVE DATE.—

21 (1) IN GENERAL.—Except as provided in para-
22 graph (2), the amendments made by this section
23 shall apply to weeks of unemployment beginning
24 after the end of the 2-year period beginning on the
25 date of the enactment of this Act.

1 (2) **AUTHORITY.**—A State may amend its State
2 law to provide for deducting and withholding
3 amounts from unemployment compensation in ac-
4 cordance with the amendments made by this section
5 prior to end of the period described in paragraph
6 (1).

7 **SEC. 659. ADVISORY COUNCIL ON UNEMPLOYMENT COM-**
8 **PENSATION.**

9 (a) **IN GENERAL.**—Section 908 of the Social Security
10 Act (42 U.S.C. 1108) is amended by striking subsections
11 (a), (b), and (c) and inserting the following new sub-
12 sections:

13 “(a) **ESTABLISHMENT.**—The Secretary of Labor may
14 periodically establish an advisory council to be known as
15 the Advisory Council on Unemployment Compensation (re-
16 ferred to in this section as the ‘Council’).

17 “(b) **FUNCTION.**—Each Council shall, to the extent
18 directed by the Secretary of Labor, evaluate specific as-
19 pects of the unemployment compensation program, which
20 may include the purpose, goals, effects on economic sta-
21 bilization (including countercyclical effects), coverage,
22 trust fund solvency, administrative performance, payment
23 integrity and any other aspects of the program as the Sec-
24 retary of Labor deems necessary.

25 “(c) **MEMBERS.**—

1 “(1) PRESIDENTIAL APPOINTMENTS.—Each
2 Council shall consist of 9 members appointed by the
3 President.

4 “(2) VACANCY.—A vacancy in any Council shall
5 be filled by appointment in accordance with para-
6 graph (1).

7 “(3) CHAIRMAN.—The President shall des-
8 ignate a member of the Council to serve as its
9 Chairman.”.

10 (b) REPORT.—Subsection (f) of section 908 of the
11 Social Security Act (42 U.S.C. 1108 (f)) is amended to
12 read as follows:

13 “(f) REPORT.—The Council shall submit, at such
14 times as the Secretary of Labor may specify, to the Presi-
15 dent through the Secretary of Labor reports setting forth
16 the findings of the Council together with and any rec-
17 ommendations the Council determines are appropriate.”.

18 **SEC. 660. AMENDMENT TO THE FEDERAL-STATE EXTENDED**

19 **BENEFITS PROGRAM.**

20 (a) IN GENERAL.—Section 202(a)(3)(E) of the Fed-
21 eral-State Extended Unemployment Compensation Act of
22 1970 (26 U.S.C. 3304 note) is amended by striking clause
23 (ii) and inserting the following:

1 “(ii) the individual maintains tangible
2 evidence that he has engaged in such an
3 effort during such week; and

4 “(iii) the individual provides such tan-
5 gible evidence to the State agency upon re-
6 quest.

7 The Secretary shall prescribe requirements for
8 State agencies to randomly audit a minimum
9 number of claims each week to determine com-
10 pliance with this subparagraph”.

11 (b) EFFECTIVE DATE.—

12 (1) IN GENERAL.—Except as provided in para-
13 graph (2), the amendment made by this section shall
14 apply to weeks of unemployment beginning after the
15 end of the 2-year period beginning on the date of the
16 enactment of this Act.

17 (2) AUTHORITY.—A State may amend its State
18 law to provide for the administration of the Federal-
19 State extended benefits program in accordance with
20 the amendment made by this section prior to the
21 end of the period described in paragraph (1).

22 **SEC. 661. OPERATING INSTRUCTIONS AND REGULATIONS.**

23 The Secretary of Labor may prescribe any operating
24 instructions or regulations necessary to carry out the pro-
25 visions of, and amendments made by, this subtitle to the

1 extent that responsibility for the administration of such
2 provision or amendment is vested in the Secretary of
3 Labor.

4 **Subtitle F—Custom User Fees**

5 **SEC. 665. CUSTOMS USER FEES.**

6 Section 13031(j)(3) of the Consolidated Omnibus
7 Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3))
8 is amended—

9 (1) in subparagraph (A), by striking “December
10 10, 2018” and inserting “December 31, 2019”; and

11 (2) in subparagraph (B)(i), by striking “No-
12 vember 30, 2018” and inserting “September 30,
13 2019”.

14 **TITLE VII—TRANSPARENCY RE-** 15 **QUIREMENTS FOR FOREIGN-** 16 **HELD DEBT**

17 **SEC. 701. SHORT TITLE.**

18 This title may be cited as the “Foreign-Held Debt
19 Transparency and Threat Assessment Act”.

20 **SEC. 702. DEFINITIONS.**

21 In this title:

22 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**
23 **TEES.**—The term “appropriate congressional com-
24 mittees” means the following:

1 (A) The Committee on Armed Services, the
2 Committee on Foreign Relations, the Com-
3 mittee on Finance, and the Committee on the
4 Budget of the Senate.

5 (B) The Committee on Armed Services,
6 the Committee on Foreign Affairs, the Com-
7 mittee on Ways and Means, and the Committee
8 on the Budget of the House of Representatives.

9 (2) DEBT INSTRUMENTS OF THE UNITED
10 STATES.—The term “debt instruments of the United
11 States” means all bills, notes, and bonds issued or
12 guaranteed by the United States or by an entity of
13 the United States Government, including any Gov-
14 ernment-sponsored enterprise.

15 **SEC. 703. SENSE OF CONGRESS.**

16 It is the sense of Congress that—

17 (1) the growing Federal debt of the United
18 States has the potential to jeopardize the national
19 security and economic stability of the United States;

20 (2) the increasing dependence of the United
21 States on foreign creditors has the potential to make
22 the United States vulnerable to undue influence by
23 certain foreign creditors in national security and
24 economic policymaking;

1 (3) the People’s Republic of China is the largest
2 foreign creditor of the United States, in terms of its
3 overall holdings of debt instruments of the United
4 States;

5 (4) the current level of transparency in the
6 scope and extent of foreign holdings of debt instru-
7 ments of the United States is inadequate and needs
8 to be improved, particularly regarding the holdings
9 of the People’s Republic of China;

10 (5) through the People’s Republic of China’s
11 large holdings of debt instruments of the United
12 States, China has become a super creditor of the
13 United States;

14 (6) under certain circumstances, the holdings of
15 the People’s Republic of China could give China a
16 tool with which China can try to manipulate the do-
17 mestic and foreign policymaking of the United
18 States, including the United States relationship with
19 Taiwan;

20 (7) under certain circumstances, if the People’s
21 Republic of China were to be displeased with a given
22 United States policy or action, China could attempt
23 to destabilize the United States economy by rapidly
24 divesting large portions of China’s holdings of debt
25 instruments of the United States; and

1 (8) the People’s Republic of China’s expansive
2 holdings of such debt instruments of the United
3 States could potentially pose a direct threat to the
4 United States economy and to United States na-
5 tional security. This potential threat is a significant
6 issue that warrants further analysis and evaluation.

7 **SEC. 704. QUARTERLY REPORT ON RISKS POSED BY FOR-**
8 **EIGN HOLDINGS OF DEBT INSTRUMENTS OF**
9 **THE UNITED STATES.**

10 (a) QUARTERLY REPORT.—Not later than March 31,
11 June 30, September 30, and December 31 of each year,
12 the President shall submit to the appropriate congres-
13 sional committees a report on the risks posed by foreign
14 holdings of debt instruments of the United States, in both
15 classified and unclassified form.

16 (b) MATTERS TO BE INCLUDED.—Each report sub-
17 mitted under this section shall include the following:

18 (1) The most recent data available on foreign
19 holdings of debt instruments of the United States,
20 which data shall not be older than the date that is
21 7 months preceding the date of the report.

22 (2) The country of domicile of all foreign credi-
23 tors who hold debt instruments of the United States.

24 (3) The total amount of debt instruments of the
25 United States that are held by the foreign creditors,

1 broken out by the creditors' country of domicile and
2 by public, quasi-public, and private creditors.

3 (4) For each foreign country listed in para-
4 graph (3)—

5 (A) an analysis of the country's purpose in
6 holding debt instruments of the United States
7 and long-term intentions with regard to such
8 debt instruments;

9 (B) an analysis of the current and foresee-
10 able risks to the long-term national security and
11 economic stability of the United States posed by
12 each country's holdings of debt instruments of
13 the United States; and

14 (C) a specific determination of whether the
15 level of risk identified under subparagraph (B)
16 is acceptable or unacceptable.

17 (c) PUBLIC AVAILABILITY.—The President shall
18 make each report required by subsection (a) available, in
19 its unclassified form, to the public by posting it on the
20 Internet in a conspicuous manner and location.

21 **SEC. 705. ANNUAL REPORT ON RISKS POSED BY THE FED-**
22 **ERAL DEBT OF THE UNITED STATES.**

23 (a) IN GENERAL.—Not later than December 31 of
24 each year, the Comptroller General of the United States
25 shall submit to the appropriate congressional committees

1 a report on the risks to the United States posed by the
2 Federal debt of the United States.

3 (b) CONTENT OF REPORT.—Each report submitted
4 under this section shall include the following:

5 (1) An analysis of the current and foreseeable
6 risks to the long-term national security and eco-
7 nomic stability of the United States posed by the
8 Federal debt of the United States.

9 (2) A specific determination of whether the lev-
10 els of risk identified under paragraph (1) are sus-
11 tainable.

12 (3) If the determination under paragraph (2) is
13 that the levels of risk are unsustainable, specific rec-
14 ommendations for reducing the levels of risk to sus-
15 tainable levels, in a manner that results in a reduc-
16 tion in Federal spending.

17 **SEC. 706. CORRECTIVE ACTION TO ADDRESS UNACCEPT-**
18 **ABLE AND UNSUSTAINABLE RISKS TO**
19 **UNITED STATES NATIONAL SECURITY AND**
20 **ECONOMIC STABILITY.**

21 In any case in which the President determines under
22 section 704(b)(4)(C) that a foreign country's holdings of
23 debt instruments of the United States pose an unaccept-
24 able risk to the long-term national security or economic

1 stability of the United States, the President shall, within
2 30 days of the determination—

3 (1) formulate a plan of action to reduce the risk
4 level to an acceptable and sustainable level, in a
5 manner that results in a reduction in Federal spend-
6 ing;

7 (2) submit to the appropriate congressional
8 committees a report on the plan of action that in-
9 cludes a timeline for the implementation of the plan
10 and recommendations for any legislative action that
11 would be required to fully implement the plan; and

12 (3) move expeditiously to implement the plan in
13 order to protect the long-term national security and
14 economic stability of the United States.

15 **TITLE VIII—TRANSPARENCY RE-**
16 **QUIREMENTS FOR FOREIGN-**
17 **HELD DEBT**

18 **SEC. 801. SHORT TITLE.**

19 This title may be cited as the “Foreign-Held Debt
20 Transparency and Threat Assessment Act”.

21 **SEC. 802. DEFINITIONS.**

22 In this title:

23 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**
24 **TEES.**—The term “appropriate congressional com-
25 mittees” means the following:

1 (A) The Committee on Armed Services, the
2 Committee on Foreign Relations, the Com-
3 mittee on Finance, the Committee on Banking,
4 Housing, and Urban Affairs, and the Com-
5 mittee on the Budget of the Senate.

6 (B) The Committee on Armed Services,
7 the Committee on Foreign Affairs, the Com-
8 mittee on Ways and Means, the Committee on
9 Financial Services, and the Committee on the
10 Budget of the House of Representatives.

11 (2) DEBT INSTRUMENTS OF THE UNITED
12 STATES.—The term “debt instruments of the United
13 States” means all bills, notes, and bonds held by the
14 public and issued or guaranteed by the United
15 States or by an entity of the United States Govern-
16 ment.

17 **SEC. 803. SENSE OF CONGRESS.**

18 It is the sense of Congress that—

19 (1) the growing Federal debt of the United
20 States has the potential to jeopardize the national
21 security and economic stability of the United States;

22 (2) large foreign holdings of debt instruments
23 of the United States have the potential to make the
24 United States vulnerable to undue influence by for-

1 eign creditors in national security and economic pol-
2 icymaking;

3 (3) the People's Republic of China, Japan, and
4 the United Kingdom are the 3 largest foreign hold-
5 ers of debt instruments of the United States; and

6 (4) the current level of transparency in the
7 scope and extent of foreign holdings of debt instru-
8 ments of the United States is inadequate and needs
9 to be improved.

10 **SEC. 804. ANNUAL REPORT ON RISKS POSED BY FOREIGN**
11 **HOLDINGS OF DEBT INSTRUMENTS OF THE**
12 **UNITED STATES.**

13 (a) ANNUAL REPORT.—Not later than March 31 of
14 each year, the Secretary of the Treasury shall submit to
15 the appropriate congressional committees a report on the
16 risks posed by foreign holdings of debt instruments of the
17 United States, in both classified and unclassified form.

18 (b) MATTERS TO BE INCLUDED.—Each report sub-
19 mitted under this section shall include the following:

20 (1) The most recent data available on foreign
21 holdings of debt instruments of the United States,
22 which data shall not be older than the date that is
23 9 months preceding the date of the report.

24 (2) The total amount of debt instruments of the
25 United States that are held by foreign residents,

1 broken out by the residents' country of domicile and
2 by public and private residents.

3 (3) An analysis of the current and foreseeable
4 risks to the long-term national security and eco-
5 nomic stability of the United States posed by foreign
6 holdings of debt instruments of the United States.

7 (c) PUBLIC AVAILABILITY.—The Secretary of the
8 Treasury shall make each report required by subsection
9 (a) available, in its unclassified form, to the public by post-
10 ing it on the Internet in a conspicuous manner and loca-
11 tion.

12 **SEC. 805. ANNUAL REPORT ON RISKS POSED BY THE FED-**
13 **ERAL DEBT OF THE UNITED STATES.**

14 (a) IN GENERAL.—Not later than March 31 of each
15 year, the Comptroller General of the United States shall
16 submit to the appropriate congressional committees a re-
17 port on the risks to the United States posed by the Fed-
18 eral debt of the United States.

19 (b) CONTENT OF REPORT.—Each report submitted
20 under this section shall include the following:

21 (1) An analysis of the current and foreseeable
22 risks to the long-term national security and eco-
23 nomic stability of the United States posed by the
24 Federal debt of the United States.

1 (2) Specific recommendations for reducing the
2 levels of risk resulting from the Federal debt.

3 **SEC. 806. CORRECTIVE ACTION TO ADDRESS UNACCEPT-**
4 **ABLE RISKS TO UNITED STATES NATIONAL**
5 **SECURITY AND ECONOMIC STABILITY.**

6 If the President determines that foreign holdings of
7 debt instruments of the United States pose an unaccept-
8 able risk to the long-term national security or economic
9 stability of the United States, the President shall, within
10 30 days of the determination—

11 (1) formulate a plan of action to reduce such
12 risk;

13 (2) submit to the appropriate congressional
14 committees a report on the plan of action that in-
15 cludes a timeline for the implementation of the plan
16 and recommendations for any legislative action that
17 would be required to fully implement the plan; and

18 (3) move expeditiously to implement the plan in
19 order to protect the long-term national security and
20 economic stability of the United States.

21 **TITLE IX—OFFICE OF THE**
22 **HOMEOWNER ADVOCATE**

23 **SEC. 901. OFFICE OF THE HOMEOWNER ADVOCATE.**

24 (a) ESTABLISHMENT.—There is established in the
25 Department of the Treasury an office to be known as the

1 “Office of the Homeowner Advocate” (in this title referred
2 to as the “Office”).

3 (b) DIRECTOR.—

4 (1) IN GENERAL.—The Director of the Office of
5 the Homeowner Advocate (in this title referred to as
6 the “Director”) shall report directly to the Assistant
7 Secretary of the Treasury for Financial Stability,
8 and shall be entitled to compensation at the same
9 rate as the highest rate of basic pay established for
10 the Senior Executive Service under section 5382 of
11 title 5, United States Code.

12 (2) APPOINTMENT.—The Director shall be ap-
13 pointed by the Secretary, after consultation with the
14 Secretary of the Department of Housing and Urban
15 Development, and without regard to the provisions
16 of title 5, United States Code, relating to appoint-
17 ments in the competitive service or the Senior Exec-
18 utive Service.

19 (3) QUALIFICATIONS.—An individual appointed
20 under paragraph (2) shall have—

21 (A) experience as an advocate for home-
22 owners; and

23 (B) experience dealing with mortgage
24 servicers.

1 (4) RESTRICTION ON EMPLOYMENT.—An indi-
2 vidual may be appointed as Director only if such in-
3 dividual was not an officer or employee of either a
4 mortgage servicer or the Department of the Treas-
5 ury during the 4-year period preceding the date of
6 such appointment.

7 (5) HIRING AUTHORITY.—The Director shall
8 have the authority to hire staff, obtain support by
9 contract, and manage the budget of the Office of the
10 Homeowner Advocate.

11 **SEC. 902. FUNCTIONS OF THE OFFICE.**

12 (a) IN GENERAL.—It shall be the function of the Of-
13 fice—

14 (1) to assist homeowners, housing counselors,
15 and housing lawyers in resolving problems with the
16 Home Affordable Modification Program of the Mak-
17 ing Home Affordable initiative of the Secretary, au-
18 thorized under the Emergency Economic Stabiliza-
19 tion Act of 2008 (in this title referred to as the
20 “Home Affordable Modification Program”)

21 (2) to identify areas, both individual and sys-
22 tematic, in which homeowners, housing counselors,
23 and housing lawyers have problems in dealings with
24 the Home Affordable Modification Program;

1 (3) to the extent possible, to propose changes in
2 the administrative practices of the Home Affordable
3 Modification Program, to mitigate problems identi-
4 fied under paragraph (2);

5 (4) to identify potential legislative changes
6 which may be appropriate to mitigate such problems;
7 and

8 (5) to implement other programs and initiatives
9 that the Director deems important to assisting
10 homeowners, housing counselors, and housing law-
11 yers in resolving problems with the Home Affordable
12 Modification Program, which may include—

13 (A) running a triage hotline for home-
14 owners at risk of foreclosure;

15 (B) providing homeowners with access to
16 housing counseling programs of the Department
17 of Housing and Urban Development at no cost
18 to the homeowner;

19 (C) developing Internet tools related to the
20 Home Affordable Modification Program; and

21 (D) developing training and educational
22 materials.

23 (b) AUTHORITY.—

24 (1) IN GENERAL.—Staff designated by the Di-
25 rector shall have the authority to implement servicer

1 remedies, on a case-by-case basis, subject to the ap-
2 proval of the Assistant Secretary of the Treasury for
3 Financial Stability.

4 (2) RESOLUTION OF HOMEOWNER CON-
5 CERNS.—The Office shall, to the extent possible, re-
6 solve all homeowner concerns not later than 30 days
7 after the opening of a case with such homeowner.

8 (c) COMMENCEMENT OF OPERATIONS.—The Office
9 shall commence its operations, as required by this title,
10 not later than 3 months after the date of enactment of
11 this Act.

12 (d) SUNSET.—The Office shall cease operations as of
13 the date on which the Home Affordable Modification Pro-
14 gram ceases to operate.

15 **SEC. 903. RELATIONSHIP WITH EXISTING ENTITIES.**

16 (a) TRANSFER.—The Office shall coordinate and cen-
17 tralize all complaint escalations relating to the Home Af-
18 fordable Modification Program.

19 (b) HOTLINE.—The HOPE hotline (or any successor
20 triage hotline) shall reroute all complaints relating to the
21 Home Affordable Modification Program to the Office.

22 (c) COORDINATION.—The Office shall coordinate
23 with the compliance office of the Office of Financial Sta-
24 bility of the Department of the Treasury and the Home-

1 ownership Preservation Office of the Department of the
2 Treasury.

3 **SEC. 904. RULE OF CONSTRUCTION.**

4 Nothing in this section shall prohibit a mortgage
5 servicer from evaluating a homeowner for eligibility under
6 the Home Affordable Foreclosure Alternatives Program
7 while a case is still open with the Office of the Homeowner
8 Advocate. Nothing in this section may be construed to re-
9 lieve any loan services from otherwise applicable rules, di-
10 rectives, or similar guidance under the Home Affordable
11 Modification Program relating to the continuation or com-
12 pletion of foreclosure proceedings.

13 **SEC. 905. REPORTS TO CONGRESS.**

14 (a) TESTIMONY.—The Director shall be available to
15 testify before the Committee on Banking, Housing, and
16 Urban Affairs of the Senate and the Committee on Finan-
17 cial Services of the House of Representatives, not less fre-
18 quently than 4 times a year, or at any time at the request
19 of the Chairs of either committee.

20 (b) REPORTS.—Once annually, the Director shall
21 provide a detailed report to Congress on the Home Afford-
22 able Modification Program. Such report shall contain full
23 and substantive analysis, in addition to statistical informa-
24 tion, including, at a minimum—

1 (1) data and analysis of the types and volume
2 of complaints received from homeowners, housing
3 counselors, and housing lawyers, broken down by
4 category of servicer, except that servicers may not be
5 identified by name in the report;

6 (2) a summary of not fewer than 20 of the
7 most serious problems encountered by Home Afford-
8 able Modification Program participants, including a
9 description of the nature of such problems;

10 (3) to the extent known, identification of the 10
11 most litigated issues for Home Affordable Modifica-
12 tion Program participants, including recommenda-
13 tions for mitigating such disputes;

14 (4) data and analysis on the resolutions of the
15 complaints received from homeowners, housing coun-
16 selors, and housing lawyers;

17 (5) identification of any programs or initiatives
18 that the Office has taken to improve the Home Af-
19 fordable Modification Program;

20 (6) recommendations for such administrative
21 and legislative action as may be appropriate to re-
22 solve problems encountered by Home Affordable
23 Modification Program participants; and

24 (7) such other information as the Director may
25 deem advisable.

1 **SEC. 906. FUNDING.**

2 Amounts made available for the costs of administra-
3 tion of the Home Affordable Modification Program that
4 are not otherwise obligated shall be available to carry out
5 the duties of the Office. Funding shall be maintained at
6 levels adequate to reasonably carry out the functions of
7 the Office.

8 **SEC. 907. PROHIBITION ON PARTICIPATION IN MAKING**
9 **HOME AFFORDABLE FOR BORROWERS WHO**
10 **STRATEGICALLY DEFAULT.**

11 No mortgage may be modified under the Making
12 Home Affordable Program, or with any funds from the
13 Troubled Asset Relief Program, unless the servicer of the
14 mortgage loan has determined, in accordance with stand-
15 ards and requirements established by the Secretary of the
16 Treasury, that the mortgagor cannot afford to make pay-
17 ments under the terms of the existing mortgage loan. The
18 Secretary of the Treasury, in consultation with the Sec-
19 retary of Housing and Urban Development, shall issue
20 rules to carry out this section not later than 90 days after
21 the date of enactment of this Act. This section shall not
22 apply to any refinancing or modifications made under the
23 “FHA Program Adjustments to Support Refinancings for
24 Underwater Homeowners,” announced by the Department
25 of the Treasury and the Department of Housing and
26 Urban Development on March 26, 2010, as long as the

1 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.

8 **SEC. 908. PUBLIC AVAILABILITY OF INFORMATION.**

9 (a) PUBLIC AVAILABILITY OF DATA.—The Secretary
10 of the Treasury shall revise the guidelines for the Home
11 Affordable Modification Program of the Making Home Af-
12 fordable initiative of the Secretary of the Treasury, au-
13 thorized under the Emergency Economic Stabilization Act
14 of 2008 (Public Law 110–343), to establish that the data
15 collected by the Secretary of the Treasury from each mort-
16 gage servicer and lender participating in the Program is
17 made public in accordance with subsection (b).

18 (b) CONTENT.—Not more than 60 days after each
19 monthly deadline for submission of data by mortgage
20 servicers and lender participating in the program, the
21 Treasury shall make all data tables available to the public
22 at the individual record level. This data shall include but
23 not be limited to—

1 (1) higher risk loans, including loans made in
2 connection with any program to provide expanded
3 loan approvals, shall be reported separately;

4 (2) disclose—

5 (A) the rate or pace at which such mort-
6 gages are becoming seriously delinquent;

7 (B) whether such rate or pace is increasing
8 or decreasing;

9 (C) if there are certain subsets within the
10 loans covered by this section that have greater
11 or lesser rates or paces of delinquency; and

12 (D) if such subsets exist, the characteris-
13 tics of such subset of mortgages;

14 (3) with respect to the loss mitigation efforts of
15 the loan—

16 (A) the processes and practices that the re-
17 porter has in effect to minimize losses on mort-
18 gages covered by this section; and

19 (B) the manner and methods by which
20 such processes and practices are being mon-
21 itored for effectiveness;

22 (4) disclose, with respect to loans that are or
23 become 60 or more days past due, (provided that for
24 purposes of disclosure under this paragraph that
25 each loan should have a unique number that is not

1 the same as any loan number the borrower, origi-
2 nator, or servicer uses), the following attributes—

3 (A) the original loan amount;

4 (B) the current loan amount;

5 (C) the loan-to-value ratio and combined
6 loan-to-value ratio, both at origination and cur-
7 rently, and the number of liens on the property;

8 (D) the property valuation at the time of
9 origination of the loan, and all subsequent prop-
10 erty valuations and the date of each valuation;

11 (E) each relevant credit score of each bor-
12 rower obtained at any time in connection with
13 the loan, with the date of the credit score, to
14 the extent allowed by existing law;

15 (F) whether the loan has any mortgage or
16 other credit insurance or guarantee;

17 (G) the current interest rate on such loan;

18 (H) any rate caps and floors if the loan is
19 an adjustable rate mortgage loan;

20 (I) the adjustable rate mortgage index or
21 indices for such loan;

22 (J) whether the loan is currently past due,
23 and if so how many days such loan is past due;

24 (K) the total number of days the loan has
25 been past due at any time;

1 (L) whether the loan is subject to a balloon
2 payment;

3 (M) the date of each modification of the
4 loan;

5 (N) whether any amounts of loan principal
6 has been deferred or written off, and if so, the
7 date and amount of each deferral and the date
8 and amount of each writedown;

9 (O) whether the interest rate was changed
10 from a rate that could adjust to a fixed rate,
11 and if so, the period of time for which the rate
12 will be fixed;

13 (P) the amount by which the interest rate
14 on the loan was reduced, and for what period
15 of time it was reduced;

16 (Q) if the interest rate was reduced or
17 fixed for a period of time less than the remain-
18 ing loan term, on what dates, and to what
19 rates, could the rate potentially increase in the
20 future;

21 (R) whether the loan term was modified,
22 and if so, whether it was extended or shortened,
23 and by what amount of time;

1 (S) whether the loan is in the process of
2 foreclosure or similar procedure, whether judi-
3 cial or otherwise; and

4 (T) whether a foreclosure or similar proce-
5 dure, whether judicial or otherwise, has been
6 completed.

7 (c) GUIDELINES AND REGULATIONS.—The Secretary
8 of the Treasury shall establish guidelines and regulations
9 necessary—

10 (1) to ensure that the privacy of individual con-
11 sumers is appropriately protected in the reports
12 under this section;

13 (2) to make the data reported under this sub-
14 section available on a public website with no cost to
15 access the data, in a consistent format;

16 (3) to update the data no less frequently than
17 monthly;

18 (4) to establish procedures for disclosing such
19 data to the public on a public website with no cost
20 to access the data; and

21 (5) to allow the Secretary to make such dele-
22 tions as the Secretary may determine to be appro-
23 priate to protect any privacy interest of any loan
24 modification applicant, including the deletion or al-

1 teration of the applicant’s name and identification
2 number.

3 (d) EXCEPTION.—No data shall have to be disclosed
4 if it voids or violates existing contracts between the Sec-
5 retary of Treasury and mortgage servicers as part of the
6 Making Home Affordable Program.

7 **TITLE X—BUDGETARY**
8 **PROVISIONS**

9 **SEC. 1001. DETERMINATION OF BUDGETARY EFFECTS.**

10 The budgetary effects of this Act, for the purpose of
11 complying with the Statutory Pay-As-You-Go Act of 2010,
12 shall be determined by reference to the latest statement
13 titled ‘Budgetary Effects of PAYGO Legislation’ for this
14 Act, jointly submitted for printing in the Congressional
15 Record by the Chairmen of the Senate Budget Committee,
16 provided that such statement has been submitted prior to
17 the vote on passage.

Calendar No. 572

11TH CONGRESS
2^D Session
S. 3793

A BILL

To extend expiring provisions and for other purposes.

SEPTEMBER 20, 2010

Read the second time and placed on the calendar