

Summary of the Baucus Job Creation and Tax Cuts Act *
September 16, 2010

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**All scores in this document are preliminary and subject to change.*

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I. PROMOTING AMERICAN JOBS

A. INFRASTRUCTURE INVESTMENTS

Build America Bonds (“BABs”). To date, the Build America Bonds program has been used by State and local governments to make \$97 billion of infrastructure investments nationwide. The bill would extend this program for one year through 2011. For direct-pay Build America Bonds issued in 2011, the amount of the direct payment would be reduced from 35% to 32% of the coupon interest. The bill would also allow issuers to issue Build America Bonds to effect a current refunding of outstanding Build America Bonds; as a result, issuers and the Federal government could save money if interest rates fall in the future. *This provision is estimated to cost \$2.76 billion over 10 years.*

Recovery Zone Bonds (“RZBs”). The *American Recovery and Reinvestment Act* authorized \$10 billion in Recovery Zone economic development bonds and \$15 billion in Recovery Zone facility bonds. These bonds could be issued during 2009 and 2010. Each state received a share of the national allocation based on that state’s job losses in 2008 as a percentage of national job losses in 2008, with each state receiving a minimum allocation of these bonds. These allocations were then sub-allocated to local municipalities. Municipalities receiving an allocation of these bonds would be permitted to use these bonds to invest in infrastructure, job training, education, and economic development in areas within the boundaries of the State, city or county (as the case may be) that has significant poverty, unemployment or home foreclosures. Because the formula that was used in the *American Recovery and Reinvestment Act* looked to net job losses instead of unemployment, some areas of the country with significant numbers of unemployed individuals did not receive any allocation of Recovery Zone bonds. The bill would make an additional allocation of Recovery Zone bonds to ensure that each local municipality receives a minimum allocation equal to at least its share of national unemployment in December 2009. The bill would also extend the authorization for issuing Recovery Zone bonds through 2011. *This provision is estimated to cost \$2.385 billion over 10 years.*

Water and sewer exempt-facility bonds excluded from state volume caps. Under current law, State agencies are generally subject to a cap with respect to the volume of private activity bonds they may issue. Certain bonds are not subject to these state volume caps. For example, bonds to finance airports, docks and wharves are excluded from state volume caps. Furthermore, qualified veterans’ mortgage bonds and qualified 501(c)(3) bonds are also excluded from state volume caps. The bill would exclude bonds financing facilities that furnish water and sewage facilities from state volume caps. The bill would also exclude bonds financing facilities that furnish water and sewage facilities from certain limitations on tribal government issuances. *This provision is estimated to cost \$354 million over 10 years.*

Eliminate costs imposed on state and local governments by the alternative minimum tax.

The alternative minimum tax (AMT) can increase the cost to state and local governments of issuing tax-exempt private activity bonds. In general, interest on tax-exempt private activity bonds is generally subject to the AMT. This limits the marketability of these bonds and, therefore, forces State and local governments to issue these bonds at higher interest rates. The *American Recovery and Reinvestment Act* excluded private activity bonds from the AMT if the bond was issued in 2009 or 2010, and allowed AMT relief for current refunding of private activity bonds issued after 2003 and refunded during 2009 and 2010. The bill would extend both of these *American Recovery and Reinvestment Act* provisions for one year (i.e., exempt from AMT tax-exempt private activity bonds issued in 2011 and current refunding of private activity bonds issued after 2003 and refunded during 2011). *This provision is estimated to cost \$224 million over 10 years.*

Direct payment in-lieu-of low-income housing credit for 2010. The bill would extend for one year (through 2010) the program that was enacted as part of the *American Recovery and Reinvestment Act* that allows state housing agencies to elect to receive a payment in lieu of a portion of the State's allocation of low-income housing tax credits. *This proposal is estimated to cost \$11 million over 10 years.*

Extension of tax-exempt eligibility for loans guaranteed by Federal Home Loan Banks.

State and local governments currently face significant costs when issuing tax-exempt municipal bonds to finance state and local projects. The *Housing and Economic Recovery Act of 2008* helped these municipalities by temporarily allowing bonds that are guaranteed by Federal home loan banks to be eligible for treatment as tax-exempt bonds regardless of whether the bonds are used to finance housing programs. Allowing these bonds to be guaranteed by Federal home loan banks has helped state and local governments obtain financing for necessary projects (e.g., constructing roads, repairing bridges, building and renovating schools and hospitals, funding college loans, etc) at a lower cost. The bill would extend this benefit for bonds issued through 2011. *This proposal is estimated to cost \$148 million over 10 years.*

Extension of temporary small issuer rules for allocation of tax-exempt interest expense.

Under current law, financial institutions are not allowed to take a deduction for the portion of their interest expense that is allocable to such institution's investments in tax-exempt municipal bonds. For purposes of this interest disallowance rule, bonds that are issued by a "qualified small issuers" are not taken into account as investments in tax-exempt municipal bonds. Under current law, a "qualified small issuer" is defined as any issuer that reasonably anticipates that the amount of its tax-exempt obligations (other than certain private activity bonds) will not exceed \$10,000,000. The *American Recovery and Reinvestment Act* increased this dollar threshold to \$30,000,000 when determining whether a tax-exempt obligation issued in 2009 and 2010 qualifies for this small issuer exception. The small issuer exception would also apply to an issue if all of the ultimate borrowers in such issue would separately qualify for the exception. For these purposes, the issuer of a qualified 501(c)(3) bond shall be deemed to be the ultimate borrower on whose behalf a bond was issued. The bill would extend this benefit for bonds issued through 2011. *This proposal is estimated to cost \$254 million over 10 years.*

Extension of expensing of “brownfields” environmental remediation costs. The bill would extend for one year (through 2010) the provision that allows for the expensing of costs associated with cleaning up hazardous “brownfield” sites. *This proposal is estimated to cost \$158 million over 10 years.*

Extension of exclusion of gain on the sale or exchange of certain “brownfield” sites from unrelated business taxable income. The bill would extend for one year (through 2010) the provision that excludes any gain or loss from the qualified sale, exchange, or other disposition of any qualified brownfield property from unrelated business taxable income. *This proposal is estimated to cost \$54 million over 10 years.*

Modifications to the Surface Transportation Extension Act of 2010. The bill would make two changes to Title IV, the “Surface Transportation Extension Act of 2010,” of the *Hiring Incentives to Restore Employment (HIRE) Act*. First, the bill would distribute the Projects of National and Regional Significance (PNRS) and National Corridor Infrastructure Improvement (National Corridor) program funding so that each state receives a share equal to the greater of either (1) the amount of PNRS and National Corridor program funding that the State received under the HIRE Act or (2) the amount of PNRS and National Corridor funding that the State receives under this Act. The provision authorizes such sums as may be necessary from the Highway Trust Fund to provide these amounts. Second, the bill would distribute “additional” highway formula funds (which the bill makes available in lieu of additional Congressionally-designated projects) among all of the highway formula programs rather than among just six formula programs. *This provision is estimated to cost \$100 million over ten years.*

B. BUSINESS TAX RELIEF

GENERAL BUSINESS RELIEF

R&D credit. The bill would reinstate for one year (through 2010) the research credit. *This proposal is estimated to cost \$6.650 billion over 10 years.*

Refundable AMT credits for corporations making domestic investments. Under current law, corporations are allowed to take a credit against their regular tax liability for previously paid alternative minimum taxes (AMT). However, in order to claim these tax credits, the corporation must be subject to the regular tax instead of the AMT. Many corporations are subject to the AMT for substantial periods of time. As a result, these corporations accumulate substantial AMT credits. The bill would allow corporations to receive a refund of a portion of their AMT credits if they invest during 2010 in capital equipment for use in the United States. *This proposal is estimated to cost \$2.337 billion over 10 years.*

Tax benefits for certain real estate developments. The bill would extend for one year (through 2010) the special 15-year cost recovery period for certain leasehold improvements, restaurant buildings and improvements, and retail improvements. *This proposal is estimated to cost \$4.851 billion over 10 years.*

Active financing exception. The bill would extend for one year (through 2010) the active financing exception from Subpart F of the tax code. *This proposal is estimated to cost \$3.923 billion over 10 years.*

Look-through treatment of payments between related controlled foreign corporations. The bill would extend for one year (through 2010) the current law look-through treatment of payments between related controlled foreign corporations. *This proposal is estimated to cost \$574 million over 10 years.*

Employer wage credit for activated military reservists. The bill would extend for one year (through 2010) the provision that provides eligible small business employers with a credit against the taxpayer's income tax liability for a taxable year in an amount equal to 20 percent of the sum of differential wage payments to activated military reservists. *This proposal is estimated to cost \$4 million over 10 years.*

Five year depreciation for farming business machinery and equipment. The bill would extend for one year (through 2010) the provision that provides a five-year recovery period for certain machinery and equipment which is used in a farming business. *This proposal is revenue neutral over 10 years.*

Treatment of certain dividends of Regulated Investment Companies (RICs). The bill extends a provision allowing a RIC, under certain circumstances, to designate all or a portion of a dividend as an "interest-related dividend," by written notice mailed to its shareholders not later than 60 days after the close of its taxable year. In addition, an interest-related dividend received by a foreign person generally is exempt from U.S. gross-basis tax under sections 871(a), 881, 1441 and 1442 of the Code. The proposal extends the treatment of interest-related dividends and short-term capital gain dividends received by a RIC to taxable years of the RIC beginning before January 1, 2011. The proposal is effective for dividends with respect to taxable years of RICs beginning after December 31, 2009. *This proposal is estimated to cost \$84 million over 10 years.*

Treatment of RIC investments as "Qualified Investment Entities" under FIRPTA. The bill extends the inclusion of a RIC within the definition of a "qualified investment entity" under section 897 of the Tax Code through December 31, 2010. *This proposal is estimated to cost \$10 million over 10 years.*

Look-thru of certain regulated investment company stock in determining gross estate of nonresidents. The bill extends a provision allowing a RIC, under certain circumstances, to designate all or a portion of a dividend as an "interest-related dividend," by written notice mailed to its shareholders not later than 60 days after the close of its taxable year. In addition, an interest-related dividend received by a foreign person generally is exempt from U.S. gross-basis tax under sections 871(a), 881, 1441 and 1442 of the Code. The proposal extends the treatment of interest-related dividends and short-term capital gain dividends received by a RIC to taxable years of the RIC beginning before January 1, 2011. The proposal is effective for dividends with respect to taxable years of RICs beginning after December 31, 2009. *This proposal has no revenue effect.*

TAX RELIEF FOR BUSINESSES IN ECONOMICALLY-DEPRESSED AREAS

New Markets Tax Credit. Through the New Markets Tax Credit (NMTC) program, the federal government is able to leverage federal tax credits to encourage significant private investment in businesses in low-income communities. For each dollar of qualified private investment, the NMTC program provides investors with either five cents or six cents of federal tax credits (depending on the amount of time that has passed since the original investment was made). The value of these tax credits depends on a taxpayer's ability to use these credits to offset tax liability. The NMTC program will not encourage investors to make investments in low-income communities if these investors are unable to use these credits to offset tax liability. Taxpayers that are subject to the alternative minimum tax (AMT) are unable to use NMTC to offset their AMT tax liability. The bill would extend for one year (through 2010) the new markets tax credit, permitting a maximum annual amount of qualified equity investments of \$5 billion. In order to ensure that the NMTC encourages AMT taxpayers to make qualifying investments, the bill would also allow NMTC to be claimed against the AMT with respect to qualified investments made between March 15, 2010 and January 1, 2012. *This provision is estimated to cost \$1.347 billion over 10 years.*

Empowerment Zones. The bill would extend for one year (through 2010) the designation of certain economically depressed census tracts as Empowerment Zones. Businesses and individual residents within Empowerment Zones are eligible for special tax incentives. *This proposal is estimated to cost \$304 million over 10 years.*

Renewal Communities. The bill would extend for one year (through 2010) the designation of certain economically depressed census tracts as Renewal Communities. Businesses and individual residents within Renewal Communities are eligible for special tax incentives. *This proposal is estimated to cost \$621 million over 10 years.*

District of Columbia Enterprise Zone. The bill would extend for one year (through 2010) the designation of certain economically depressed census tracts within the District of Columbia as the District of Columbia Enterprise Zone. Businesses and individual residents within this enterprise zone are eligible for special tax incentives. The bill would also extend for one year (through 2010) the \$5,000 first-time homebuyer credit for the District of Columbia. *This proposal is estimated to cost \$85 million over 10 years.*

TAX RELIEF FOR TRIBAL BUSINESSES

Indian employment credit. The bill would extend for one year (through 2010) the business tax credit for employers of qualified employees that work and live on or near an Indian reservation. The amount of the credit is 20 percent of the excess of wages and health insurance costs paid to qualified employees (up to \$20,000 per employee) in the current year over the amount paid in 1993. *This proposal is estimated to cost \$49 million over 10 years.*

Accelerated depreciation for business property on an Indian reservation. The bill would extend for one year (through 2010) the placed-in-service date for the special depreciation recovery period for qualified Indian reservation property. In general, qualified Indian reservation property is property used predominantly in the active conduct of a trade or business within an Indian reservation, which is not used outside the reservation on a regular basis and was not acquired from a related person. *This proposal is estimated to cost \$62 million over 10 years.*

TAX RELIEF FOR BUSINESSES IN TERRITORIES AND POSSESSIONS

Deduction allowable with respect to income attributable to domestic production activities in Puerto Rico. The bill would extend for one year (through 2010) the provision extending the section 199 domestic production activities deduction to activities in Puerto Rico. *This proposal is estimated to cost \$185 million over 10 years.*

American Samoa economic development support. Existing possessions credit corporations with active business operations in American Samoa were allowed an economic development tax credit to offset their U.S. tax liability on income earned in American Samoa from active business operations. This credit was based on the corporation's employment and capital investment in American Samoa. As a result of the economic downturn, those domestic corporations have been unable to utilize the economic development credit. The bill would provide a payment to the American Samoa Government for stimulating economic development in American Samoa in an amount equal to the cost of the economic development credit. *This proposal is estimated to cost \$18 million over 10 years.*

C. YOUTH JOBS

Youth jobs. The bill would support over 350,000 jobs for youth ages 14 to 24 through youth employment programs. This age group has some of the highest unemployment levels – 25% unemployment for those aged 16 to 19. This funding will allow local Workforce Investment Boards to expand successful youth jobs programs that were funded in the *American Recovery and Reinvestment Act*. *This provision is estimated to cost \$1 billion over 10 years.*

D. TRADE PROVISIONS

Trade Adjustment Assistance for Communities – Community College and Career Training Grant Program. Under current law, this Trade Adjustment Assistance (TAA) program provides grants to educational institutions to develop, offer and improve education and career training programs for workers eligible for TAA. In the 2010 Reconciliation, the program received \$500 million a year in mandatory funding for FY2011, FY2012, FY2013 and FY2014. The provisions included in the bill would expand the program by authorizing such grants to also benefit individuals who are eligible for unemployment insurance, who are likely to be eligible for unemployment insurance or who have exhausted their unemployment insurance. Additionally, the provisions would: (1) clarify that only public and non-profit educational institutions are eligible for grants; (2) authorize the Department of Labor to spend up to five percent of program funds to administer, evaluate and establish reporting systems for the program; and (3) give the Department of Labor more flexibility by allowing it to obligate grant funds in the year that they are appropriated as well as the subsequent fiscal year. *These have no revenue effect.*

Trade Adjustment Assistance Extension. The American Recovery and Reinvestment Act of 2009 (ARRA) expanded and reformed all Trade Adjustment Assistance (TAA) programs, including the TAA for Workers, Firms, Farmers and Communities programs. The expansion included coverage of service workers and workers whose jobs shift to non-Free Trade Agreement partner countries, boosted training funds and increased the level of the Health Coverage Tax Credit to 80 percent. The bill authorizes a one-year extension of these programs so that they will sunset after December 31, 2011. *This provision is estimated to cost \$1 billion over 10 years.*

Wool Trust Fund. In 2000, Congress enacted a grant and tariff relief program for the U.S. wool industry. The legislation created a “wool trust fund,” which provides payments to U.S. suit makers to compensate for the competitive damage to the U.S. suit industry caused by an inverted tariff. (Inverted tariffs occur when the duty on a finished product (e.g., a suit) is lower than the duty on the inputs (e.g., fabric) used to make the finished product.) The wool trust fund also makes payments to U.S. wool fabric and yarn producers, as well as sheep growers, to encourage more U.S. production of wool fabrics. The trust fund is funded through the revenue collected from tariffs on wool textile imports (primarily yarns and fabrics). The wool trust fund and tariff relief package was reauthorized in 2008. In 2008 and 2009, the revenue generated through wool fabric/yarn tariffs shrank considerably, resulting in much lower payments to U.S. wool suit producers and other recipients under the program. To address the immediate shortfall, the provision in the bill would use revenue generated from tariffs on other apparel products to fund the wool trust fund at the level authorized in 2004. *This provision, which has no revenue effect, would ensure that thousands of textile and apparel workers remain employed.*

Cotton Trust Fund. In 2006, as part of the last miscellaneous tariff bill, Congress enacted a program for U.S. cotton shirt manufacturers to respond to a commercial disadvantage caused by an inverted tariff. The legislation created a “cotton trust fund,” which provides payments to U.S. shirt makers and U.S. cotton fabric and yarn producers, and created a pima cotton promotion program. The trust fund is funded through the revenue collected from tariffs on cotton textiles imports (primarily yarns and fabrics). The legislation also includes duty suspensions and reductions on high-end cotton fabrics and yarns, subject to quantitative limitations. The authority to transfer tariff revenue to the trust fund expired on October 1, 2008, and the duty suspensions expired on December 31, 2009. The provision included in the bill would reauthorize the program until December 31, 2013. *The provision is estimated to cost \$53 million over three years and would ensure that more than 800 textile and apparel workers remain employed.*

II. RELIEF FOR WORKING FAMILIES

A. INDIVIDUAL TAX CUTS

Deduction of State and local general sales taxes. The bill would extend for one year (through 2010) the election to take an itemized deduction for State and local general sales taxes in lieu of the itemized deduction permitted for State and local income taxes. *This proposal is estimated to cost \$1.800 billion over 10 years.*

Additional standard deduction for real property taxes. The bill would extend for one year (through 2010) the additional standard deduction for State and local real property taxes. *This proposal is estimated to cost \$1.551 billion over 10 years.*

Above-the-line deduction for qualified tuition and related expenses. The bill would extend for one year (through 2010) the above-the-line tax deduction for qualified education expenses. *This proposal is estimated to cost \$693 million over 10 years.*

Above-the-line deduction for certain expenses of elementary and secondary school teachers. The bill would extend for one year (through 2010) the \$250 above-the-line tax deduction for teachers and other school professionals for expenses paid or incurred for books, supplies (other than non-athletic supplies for courses of instruction in health or physical education), computer equipment (including related software and service), other equipment, and supplementary materials used by the educator in the classroom. *This proposal is estimated to cost \$215 million over 10 years.*

B. TANF, JOBS, AND RELATED PROGRAMS

Extension of TANF jobs and emergency fund. The *American Recovery and Reinvestment Act* created an Emergency Contingency Fund (ECF) within the Temporary Assistance for Needy Families (TANF) program to help States with increasing expenditures on: basic assistance for families in the TANF program; short-term, one-time aid for needy families; and subsidized employment programs (such programs temporarily pay for all or part of the wages of a worker in a public or private job). This emergency fund is now scheduled to expire on September 30, 2010. The bill would provide \$1.5 billion to extend this fund through FY 2011. *This provision is estimated to cost \$1.5 billion over 10 years.*

TANF Block Grant. The TANF block grant funds a wide range of benefits and services for low-income families with children. TANF was created in the 1996 welfare reform law and was reauthorized through FY 2010 by the Deficit Reduction Act. The funding level for TANF block grant is \$16.5 billion per year which expires on September 30, 2010. *The TANF block grant is a part of the CBO baseline, so if TANF is extended prior to the expiration date there is no score for the extension.*

TANF Supplemental Grants. TANF provides supplemental grants to 17 states that met historical criteria of low federal grants for welfare per poor person and/or high population growth. The supplemental grants expire on September 30, 2010. *This proposal is estimated to cost \$319 million for FY 2011.*

TANF “Regular” Contingency Fund. The “regular” Contingency Fund has been included in TANF since the program’s 1996 inception. The fund received a one-time \$2 billion appropriation. The “regular” Fund was designed as a resource to states; states’ ability to access is based on recession-related triggers. Until recently, very few states accessed this fund. The “regular” Fund ran out of money in December 2009, and no further funding is available from it. The fund is maintained by the proposal at \$293 million for FY 2011 which is already included CBO’s baseline. *Changes to the contingency fund raises \$319 million for FY 2011*

National Study of Child Welfare. This provision would provide funds to continue the longitudinal random sample study of children who are at risk for child abuse and neglect or are determined to have been abused or neglected. The funds for the study expire on September 30, 2010. *The cost of continuing the study is \$6 million per year.*

Child Support Enforcement (CSE) - Incentive Funds. This provision was included in the Recovery Act and allows CSE-Incentive Payments received by the states and reinvested in the child support program to be used to draw down federal matching funds. These CSE-Incentive fund dollars pay for program activities like collections and the establishment of paternity. The CSE-incentive funds expire on September 30, 2010. *This provision is estimated to cost \$500 million per year.*

C. VETERANS CONCURRENT RECEIPT

Veterans concurrent receipt. The bill would allow for two years concurrent receipt of both DOD military retirement pay and VA military disability pay. No other federal employees are required to offset their federal retirement benefits if they also receive VA disability compensation. Disability is to compensate for the impact on quality of life, an issue that military retired pay does not address. *This provision is estimated to cost \$686 million over 10 years.*

D. NATIONAL HOUSING TRUST FUND

National Housing Trust Fund. The bill would provide a one-time capitalization of the National Housing Trust Fund (NHTF), which will provide communities with funds to build, preserve, and rehabilitate rental homes that are affordable for very low income households. These homes will help address the serious shortage of affordable housing for lowest income families, including people who are unemployed or employed in the low wage work force, veterans, and elderly and disabled people on fixed incomes. It is estimated that an infusion of \$1 billion in capital funds into the NHTF and \$65 million for project-based vouchers to couple with NHTF capital grants will support the immediate production of 10,000 rental homes, creating 15,000 new construction jobs and 4,000 new jobs in ongoing operations. *This provision is estimated to cost \$1.065 billion over 10 years.*

E. HOLD HARMLESS PROVISIONS FOR LOW-INCOME FAMILIES

Uniform tax disregard for federally-funded programs. The legislation would exclude federal tax refunds from income in the month received and from resources for FY2010 for the purpose of determining eligibility for federal or federally-assisted programs. This single standard would replace the various disregards that now apply to certain tax credits. *This provision is estimated to cost \$2 million over 10 years.*

III. DISASTER RESPONSE

A. OIL SPILL RESPONSE

Increase Oil Spill Liability Trust Fund liability cap. Analysts estimate that the cost of the oil spill in the Gulf of Mexico could exceed \$14 billion. The companies that caused this oil spill are responsible for all of the costs of cleanup and up to \$75 million of additional damages. These companies are responsible for all additional damages if they are found to be grossly negligent, to have engaged in willful misconduct, or to have violated an applicable Federal safety, construction or operating regulation. To the extent that costs are not borne by the parties responsible for the spill, up to \$1 billion of additional damage costs (including up to \$500 million of natural resource damage assessments) associated with an oil spill can be offset by funds in the Oil Spill Liability Trust Fund. The Oil Spill Liability Trust Fund is an insurance fund that is financed by a per-barrel tax imposed on the oil industry. In order to ensure that individuals, businesses and communities that suffer damages as a result of oil spills are not left uncompensated, the bill would increase the \$1 billion liability cap on the Oil Spill Liability Trust fund to \$5 billion (including up to \$2.5 billion of natural resource damage assessments). *The cost of this proposal is included in the estimate below.*

Increase Oil Spill Liability Trust Fund solvency. The Oil Spill Liability Trust fund is financed by an 8-cent-per-barrel tax on the oil industry. There is approximately \$1.5 billion available in this trust fund. The nonpartisan Congressional Research Service has stated, “a major spill, particularly one in a sensitive environment, could threaten the viability of the fund.” To ensure the continued solvency of the Oil Spill Liability Trust Fund, the bill would increase the per-barrel amount that oil companies are required to pay into the fund to 78 cents. *This proposal is estimated to raise \$31.4 billion over 10 years.*

B. MINE SAFETY

Mine rescue team training credit. The bill would extend for one year (through 2010) the credit for training mine rescue team members and would allow this credit to be claimed against the AMT. *This proposal is estimated to cost \$7 million over 10 years.*

Election to expense advanced mine safety equipment. The bill would extend for one year (through 2010) the provision that provides businesses with 50 percent bonus depreciation for certain qualified underground mine safety equipment. *This provision has no revenue effect.*

C. FEDERALLY-DECLARED DISASTER AREAS

Expanded and enhanced casualty loss deductions relating to federal disasters. The bill would extend for one year (through 2010) the provision that allows taxpayers who have suffered loss as a result of a Federally-declared disaster to claim a deduction for casualty losses (i.e., both itemizers and non-itemizers) and would allow these taxpayers to calculate their casualty loss deduction without regard to their adjusted gross income. The bill would also extend for one year (through 2010) the current law \$500 per loss threshold. *This proposal is estimated to cost \$728 million over 10 years.*

Expensing of qualified disaster expenses. The bill would extend for one year (through 2010) the provision that allows businesses that have been affected by a Federally-declared disaster to currently deduct demolition, repair, clean-up, and environmental remediation expenses (“Qualified Disaster Expenses”). *This proposal is estimated to cost \$31 million over 10 years.*

Five-year carry-back period for certain losses relating to federal disasters. The bill would extend for one year (through 2010) the provision that allows businesses to carry back to the previous five years the following losses: (1) casualty losses that are attributable to a Federally-declared disaster; and (2) Qualified Disaster Expenses. *This proposal is estimated to cost \$120 million over 10 years.*

Relaxed mortgage revenue bond limitations for federal disasters. The bill would extend for one year (through 2010) the provision that allows states to waive certain rules that limit their ability to use tax-exempt housing bonds to provide loans to taxpayers that wish to acquire residences in Federally-declared disaster areas. The bill would also extend for one year (through 2010) the provision that allows states to use their tax-exempt housing bonds to provide loans to repair or reconstruct homes and rental housing units that have been rendered unsafe for use as a residence by reason of a Federally-declared disaster or have been demolished or relocated by reason of government order on account of a Federally-declared disaster. Such loans are limited to the lower of (1) the actual cost of the repair or reconstruction or (2) \$150,000. *This proposal is estimated to cost \$21 million over 10 years.*

Bonus depreciation for qualified disaster property. The bill would extend for one year (through 2010) the provision that permits businesses that suffered damage as a result of a Federally-declared disaster to claim an additional first-year depreciation deduction equal to 50 percent of the cost of new real and personal property investments made in the Presidentially-declared disaster area. *This proposal and the proposal immediately below are estimated to cost \$1.413 billion over 10 years.*

Increased small business expensing for expenditures relating to federal disasters. The bill would extend for one year (through 2010) the provision that increases by \$100,000 (or the cost of qualified property, if less) the amount of expensing available for qualifying expenditures made in a Federally-declared disaster area. The bill would also extend for one year (through 2010) the provision that increases by \$600,000 (or the cost of qualified property, if less) the level of investment at which the small business expensing benefits phase-out. *The cost of this proposal is included in the description of the proposal immediately above.*

D. OTHER EXPIRING DISASTER RELIEF PROVISIONS

Extension of tax incentives for the New York Liberty Zone. The bill would extend for one year (through 2010) the special depreciation allowance for certain real property within the New York Liberty Zone and the time for issuing New York Liberty Zone bonds. *This proposal is estimated to cost \$152 million over 10 years.*

Extend Work Opportunity Tax Credit (WOTC) for Hurricane Katrina Employees. The bill would extend for one year (through August 28, 2010) the work opportunity tax credit for certain employers hiring in the Hurricane Katrina core disaster area. *This proposal is estimated to cost \$7 million over 10 years.*

Extension of increased rehabilitation credit for historic structures in the Gulf Opportunity Zone. The bill would extend for one year (through 2010) the increased rehabilitation credit for qualified expenditures in the Gulf Opportunity Zone. The Gulf Opportunity Zone Act of 2005 increased the rehabilitation credit from 10 percent to 13 percent of qualified expenditures for any qualified rehabilitated building other than a certified historic structure, and from 20 percent to 26 percent of qualified expenditures for any certified historic structure. *This proposal is estimated to cost \$43 million over 10 years.*

Two-year extension of Gulf Opportunity Zone low-income housing placed-in-service date. The Gulf Opportunity Zone Act of 2005 provided an additional allocation of low-income housing tax credits to the Gulf Opportunity Zone in an amount equal to the product of \$18.00 multiplied by the portion of the State population which is in the Gulf Opportunity Zone. The additional allocations were made in calendar years 2006, 2007, and 2008, and required that the properties be placed in service before January 1, 2011. The bill would extend that placed-in-service date by two years (through 2012). *This proposal is estimated to cost \$357 million over 10 years.*

Disaster Low-Income Housing Tax Credits. Under current law, every year states receive allocations of low-income housing tax credits (LIHTC) based on population or a small state set-aside. In response to Hurricane Katrina in 2005, as well as the floods in the Midwest in 2007, the LIHTC was expanded to allow for additional credits, called “disaster credits”, to help affected states rebuild. This amount is on top of what States receive under current law. As part of the American Recovery and Reinvestment Act of 2009, LIHTCs are eligible to be exchanged for grants. This exchange program only applies to LIHTCs allocated based on population – it did not apply to disaster credits. In the underlying bill, LIHTCs allocated in 2010 are eligible to be refundable credits. This provision also allows disaster credits from the Katrina and Midwestern flood disasters to be exchanged for either grants or refundable credits. *The provision is estimated to cost \$91 million over 10 years.*

IV. DOMESTIC ENERGY

Extension of tax incentives for biodiesel and renewable diesel. The bill would extend for one year (through 2010) the \$1.00 per gallon production tax credit for biodiesel and the small agri-biodiesel producer credit of 10 cents per gallon. The bill would also extend for one year (through 2010) the \$1.00 per gallon production tax credit for diesel fuel created from biomass. *This proposal is estimated to cost \$868 million over 10 years.*

Credit for electricity produced at certain open-loop biomass facilities. The bill would extend the credit period under the production tax credit for electricity produced at open-loop biomass facilities that were placed in service prior to January 1, 2005 from five years to six years. In the sixth year, the credit provided to these facilities is reduced by 20 percent. *This proposal is estimated to cost \$84 million over 10 years.*

Extension of the alternative motor vehicle credit for heavy hybrids. The bill would extend for one year (through 2010) the alternative motor vehicle credit for heavy hybrids (i.e., hybrid motor vehicles that are not passenger automobiles or light trucks). *This proposal is estimated to cost \$8 million over 10 years.*

Extension of tax incentive for liquid fuels derived from biomass, biogas, natural gas and propane used as a fuel in transportation vehicles. The bill would extend for one year (through 2010) the \$0.50 per gallon alternative fuel tax credit for liquid fuels derived from biomass, compressed or liquefied biogas, natural gas and propane. The bill would not extend this credit any liquid fuel derived from a pulp or paper manufacturing process (i.e., black liquor). *This proposal is estimated to cost \$96 million over 10 years.*

Extension of steel industry fuel tax credit. The bill would extend the placed-in-service date for the \$2.83 per barrel-of-oil equivalent tax credit for steel industry fuel by one year (through 2010) and would allow facilities that qualify for the tax credit to receive this benefit for the first two years from the date that the facility is placed in service. *This proposal is estimated to cost \$44 million over 10 years.*

Extension of coke and coke gas production tax credit. The bill would extend the placed-in-service date for the \$3.36 credit per barrel-of-oil equivalent of coke or coke gas by one year (through 2010). *This proposal is estimated to cost \$21 million over 10 years.*

Extension of energy-efficient new homes credit. The bill would extend the tax credit for manufacturers of energy-efficient residential homes for one year (through 2010). *This proposal is estimated to cost \$66 million over 10 years.*

Energy-efficient windows. In order to claim the section 25C tax credit for energy-efficient windows, taxpayers must purchase windows that meet certain specifications. Many have raised concerns that the current specifications fail to account for different climate regions in the United States. Recently, the EPA updated the Energy Star requirements to take these climate regions into account. The bill would link eligibility for the tax credit to the Energy Star requirements. *This proposal is estimated to cost \$145 million over 10 years.*

Direct payment in lieu of energy-efficient appliance tax credit. The bill would allow manufacturers of energy-efficient appliances to elect to receive a direct payment in lieu of the section 45M energy-efficient appliance tax credit. The direct payment would be equal to eighty-five percent (85%) of the tax credit that would otherwise have been allowed under section 45M. *This proposal is estimated to cost \$69 million over 10 years.*

Extension of special rule for sales of electric transmission property. The bill would extend for one year (for sales prior to January 1, 2011) the present law deferral of gain on sales of transmission property by vertically integrated electric utilities to FERC-approved independent transmission companies. Rather than recognizing the full amount of gain in the year of sale, this provision would allow gain on such sales to be recognized ratably over an eight-year period. *This proposal is revenue neutral over 10 years.*

Extension of special rule for percentage depletion for marginal wells. The bill would extend for one year (through 2010) the suspension on the taxable income limit for purposes of depleting a marginal oil or gas well. *This proposal is estimated to cost \$103 million over 10 years.*

V. EXTENSION OF OTHER EXPIRING TAX PROVISIONS

A. CHARITABLE PROVISIONS

Extension of provision encouraging contributions of capital gain real property for conservation purposes. The bill would extend for one year (through 2010) the increased contribution limits and carryforward period for contributions of appreciated real property (including partial interests in real property) for conservation purposes. *This proposal is estimated to cost \$190 million over 10 years.*

Extension of enhanced charitable deduction for contributions of food inventory. The bill would extend for one year (through 2010) the provision allowing businesses to claim an enhanced deduction for the contribution of food inventory. *This proposal is estimated to cost \$78 million over 10 years.*

Extension of enhanced charitable deduction for contributions of book inventories to public schools. The bill would extend for one year (through 2010) the provision allowing C corporations to claim an enhanced deduction for contributions of book inventory to public schools (kindergarten through grade 12). *This proposal is estimated to cost \$31 million over 10 years.*

Extension of enhanced charitable deduction for corporate contributions of computer equipment for educational purposes. The bill would extend for one year (through 2010) the provision that encourages businesses to contribute computer equipment and software to elementary, secondary, and post-secondary schools by allowing an enhanced deduction for such contributions. *This proposal is estimated to cost \$195 million over 10 years.*

Extension of tax-free distributions from individual retirement plans for charitable purposes. The bill would extend for one year (through 2010) the provision that permits tax-free distributions to charity from an Individual Retirement Account (IRA) of up to \$100,000 per taxpayer, per taxable year. *This proposal is estimated to cost \$627 million over 10 years.*

Extension of special tax treatment of certain payments to controlling exempt organizations. The bill would extend for one year (through 2010) the special rules for interest, rents, royalties and annuities received by a tax exempt entity from a controlled entity. *This proposal is estimated to cost \$20 million over 10 years.*

Extension of special rule for S corporations making charitable contributions of property. The bill would extend for one year (through 2010) the provision allowing S corporation shareholders to take into account their pro rata share of charitable deductions even if such deductions would exceed such shareholder's adjusted basis in the S corporation. *This proposal is estimated to cost \$39 million over 10 years.*

B. MISCELLANEOUS

Extension of seven year straight line cost recovery period for motorsports entertainment complexes. The bill would extend for one year (through 2010) the special seven year cost recovery period for property used for land improvement and support facilities at motorsports entertainment complexes. *This proposal is estimated to cost \$19 million over 10 years.*

Taxation of Qualified Timber Gain and Timber REIT Provisions. Under current law, gains on timber sales are eligible for capital gains tax treatment. The bill provides an extension of a provision included in the Farm Bill of 2008 that created an alternative maximum tax rate of 15 percent for gain on qualified timber harvest by a C corporation. Qualified timber gain is gain from the sale or exchange of timber held for at least 15 years. In addition, the bill extends other Farm Bill provisions intended to modernize the taxation of timber real estate investment trusts (REITS) including: (1) clarifying that gains from the sale of timber held for less than one year is qualifying income; (2) providing that mineral royalty income is qualifying income; and (3) making changes to the safe harbors for timber property sales. *This proposal is estimated to cost \$261 million over ten years.*

Extension of railroad track maintenance credit. The bill would extend for one year (through 2010) the railroad track maintenance credit. *This proposal is estimated to cost \$165 million over 10 years.*

Extension of special expensing rules for U.S. film and television productions. The bill would extend for one year (through 2010) the provision that allows film and television producers to expense the first \$15 million of production costs incurred in the United States (\$20 million if the costs are incurred in economically depressed areas in the United States). *This proposal is estimated to cost \$46 million over 10 years.*

Extension of special rules for regulated investment companies. The bill would extend for one year (through 2010) the tax treatment of interest-related dividends, short-term capital gain dividends, and other special rules applicable to foreign shareholders that invest in regulated investment companies. *These proposals are estimated to cost \$94 million over 10 years.*

Extension of temporary increase in limit on cover over of rum excise tax revenues to Puerto Rico and the Virgin Islands. The bill would extend for one year (through 2010) the provision providing for payment of \$13.25 per gallon to cover over a \$13.50 per proof gallon excise tax on distilled spirits produced in or imported into the United States. *This proposal is estimated to cost \$131 million over 10 years.*

Study of extended tax expenditures. The bill would direct the Chief of Staff of the Joint Committee on Taxation to submit a report to the Committee on Ways and Means and the Committee on Finance on each tax expenditure extended by this Act. *This proposal has no revenue effect.*

VI. CLOSING OTHER TAX LOOPHOLES

A. INDIVIDUAL LOOPHOLES

Changes to the taxation of carried interest. The bill would prevent investment fund managers from paying taxes entirely at capital gains rates on investment management services income received as carried interest in an investment fund. To the extent that carried interest reflects a return on invested capital, the bill would continue to tax carried interest at capital gain tax rates. However, to the extent that carried interest does not reflect a return on invested capital, the bill would require investment fund managers to treat 75 percent of the remaining carried interest as ordinary income beginning on January 1, 2011. The amount that will be treated as ordinary income is reduced to 50 percent for carried interest that does not reflect a return on invested capital but which is attributable to the sale of assets which are held for five or more years. The lower recharacterization percentage also applies to the gain or loss attributable to the underlying assets held for five or more years when a partnership interest is sold as well as to gain attributable to section 197 intangibles of an entity providing specific investment management services when the partnership interest has been held for five or more years. *This proposal is estimated to raise \$13.594 billion over 10 years.*

B. CORPORATE LOOPHOLES

Clarification of gain recognized in certain spin-off transactions (e.g., “Reverse Morris Trust” transactions). Under current law, taxes are generally imposed on parent corporations where they extract value in excess of basis from their subsidiaries prior to engaging in a tax-free spin-off transaction. Therefore, if a subsidiary corporation distributes cash or other property to its parent in excess of the parent’s basis in the subsidiary or if a subsidiary corporation assumes parent debt in excess of the parent’s basis in the subsidiary, the parent corporation will recognize gain. However, taxes are not assessed if a subsidiary corporation distributes its own debt securities to a parent corporation prior to a spin off transaction even where the value of these securities would exceed the parent corporation’s basis in its subsidiary. The bill would treat distributions of debt securities in a tax-free spin-off transaction in the same manner as distributions of cash or other property. Subject to transition rules, the provision would apply to exchanges after December 31, 2010. *This provision is estimated to raise \$199 million over 10 years.*

Taxation of dividends received in certain business reorganizations (e.g., the “boot-within-gain” limitation). Under current law, if a shareholder receives property other than stock (called “boot” by tax practitioners) in connection with certain business reorganizations then the amount of the dividend that the shareholder is required to recognize as income is limited to the amount of gain realized in the exchange (commonly referred to as the “boot within gain” limitation). This is so even if the property received would otherwise be considered to be a dividend for tax purposes. The President’s FY 2011 Budget states that “there is not a significant policy reason to vary the treatment of a distribution that otherwise qualified as a dividend by reference to whether it is received in the normal course of a corporation’s operations or is instead received as part of a reorganization exchange.” In addition, the Administration has identified specific abuses of this rule in cross-border reorganizations. They state, “in cross-border reorganizations, the boot-within-gain limitation can permit U.S. shareholders to repatriate previously-untaxed earnings and profits of foreign subsidiaries with minimal U.S. tax consequences.” The bill would repeal the boot-within-gain limitation in the case of any reorganization transaction (that is, it would apply to both domestic and cross-border transactions) if the exchange has the effect of the distribution of a dividend. The bill would also ensure that an appropriate amount of earnings is taken into account in determining the amount of the dividend. Subject to a transition rule, the provision would apply to exchanges after December 31, 2010. *This provision is estimated to raise \$417 million over 10 years.*

VII. MAINTAINING ACCESS TO AFFORDABLE HEALTH CARE

A. HEALTH PROVISIONS

Addition of inpatient drug discount program to 340B drug discount program. Under current law, drug manufacturers are required to provide certain hospitals and other entities that treat low-income and uninsured patients (including certain public hospitals, critical access hospitals, children’s hospitals, and cancer hospitals) with discounts so that the cost of outpatient drugs for these entities does not exceed the Medicaid price for the same drug. The bill would extend these discounts for certain 340B-eligible entities to inpatient drugs for use by patients who are uninsured or who do not have insurance that provides prescription drug coverage. The bill also clarifies that these changes will not impact the operation of or eligibility for the existing 340B outpatient drug discount program. *This provision is estimated to cost \$35 million over 10 years.*

Technical correction with respect to 340B drug discount program. The bill would make a technical correction to ensure the continued inclusion of orphan drugs in the definition of covered outpatient drugs with respect to children’s hospitals under the 340B drug discount program. *This provision has no cost.*

Extension of Section 508 reclassifications. Under current law, hospital geographic reclassifications authorized under section 508 of the Medicare Modernization Act expire on September 30, 2010. The bill would extend these reclassifications through FY 2011. The bill would also clarify that for certain reclassifications extended in previous legislation, the FY 2008 wage index values only applied for FYs 2008 and 2009. *This provision is estimated to cost \$300 million over 10 years.*

Repeal of delay of RUG-IV. Under current law, implementation of Version 4 of the Resource Utilization Groups (“RUG IV”) for purposes of reimbursing skilled nursing facilities under Medicare is delayed until October 1, 2011. The bill would repeal the delay and allow RUG IV to go into effect on October 1, 2010, consistent with the final SNF payment regulation for FY11. *This provision has no cost.*

Funding for claims reprocessing. Extensions of Medicare payment policies for calendar year 2010 were enacted into law on March 23, 2010, requiring the Centers for Medicare and Medicaid Services (CMS) to reprocess Medicare claims back to January 1, 2010. The bill would provide funding for CMS to reprocess these claims. *This provision costs \$175 million over 10 years.*

Conforming amendment related to waiver of coinsurance for preventive services. The bill would clarify that waivers of cost sharing and deductibles for Medicare preventive services apply when those services are furnished at Federally Qualified Health Centers and Rural Health Clinics, as applicable. *This provision has no revenue effect.*

Clarification of effective date of Part B special enrollment period for disabled TRICARE beneficiaries. Under current law, disabled Medicare beneficiaries who are also eligible for TRICARE are eligible for a 12-month special enrollment period (SEP) for Medicare Part B in order to ensure that they properly enroll in Medicare Part B and retain their TRICARE eligibility. This provision would clarify the effective date of this SEP to ensure that beneficiaries can use it. *This provision is estimated to cost \$3 million over 10 years.*

Limitation on reasonable costs payments for certain clinical diagnostic laboratory tests furnished to hospital patients in certain rural areas. Under current law, cost-based payments for lab services at certain small hospitals are reinstated for one-year for cost reporting periods beginning after July 1, 2010. This policy previously expired on June 30, 2008 and has not been in effect for close to two years. The bill would repeal the reinstatement of this provision. *This provision has no revenue effect.*

Adjustment to Medicare payment localities. Under current law, the boundaries of payment localities in the state of California are determined using data that is almost 20 years old. This provision would update the method used to determine the localities used for Medicare’s physician geographic adjustment factor in California, utilizing an approach that is based on metropolitan statistical areas. *This provision is estimated to cost \$400 million over ten years.*

Medicaid and CHIP technical corrections. The bill would make technical corrections to Medicaid and CHIP relating to exclusion from participation, income eligibility levels for children, measurement of payment error rates, coverage of children of state employees, and payment for electronic health records. *These provisions have revenue effect.*

Clarification for Affiliated Hospitals for Distribution of Residency Positions. The bill would make a technical correction to clarify that residency positions being used as part of an affiliation agreement between teaching hospitals would not be considered unused residency positions, for the purpose of the redistribution of GME slots under current law. *This provision is estimated to save approximately \$50 million over 10 years.*

Participation of American Indians in the Pre-Existing Condition Insurance Plan – The package includes a provision that clarifies that American Indians and Alaska Natives are eligible to participate in the newly established Pre-Existing Condition Insurance Plan, created under the Affordable Care Act.

Continued inclusion of orphan drugs in definition of covered outpatient drugs with respect to children’s hospitals under the 340B drug discount program. This provision would clarify that eligible children’s hospitals retain access to 340B drug discounts on orphan drugs. *This provision has no cost.*

Clarification of effective date of part B special enrollment period for disabled TRICARE beneficiaries. Under current law, disabled Medicare beneficiaries who are also eligible for TRICARE are eligible for a 12-month special enrollment period (SEP) for Medicare Part B in order to ensure that they properly enroll in Medicare Part B and retain their TRICARE eligibility. This provision would clarify the effective date of this SEP to ensure that beneficiaries can use it. *This provision is estimated to cost \$3 million over 10 years.*

VIII. OTHER PROVISIONS

Creation of the Office of the Homeowner Advocate. This bill creates the office of the Homeowner Advocate to assist homeowners, housing counselors, and housing lawyers in resolving problems with the Home Affordable Modification Program (HAMP), a temporary program to help homeowners who are struggling to keep up with payments on their mortgages. The Office, modeled after the IRS Office of the Taxpayer Advocate, would also identify areas where homeowners and housing counselors are having problems with dealing with the HAMP program and identify possible administrative or legislative changes to the program. The Office would be funded from money that is available for costs of administering the HAMP program, but is not otherwise obligated. In order to prevent strategic default, the bill prohibits participation within the Making Home Affordable Program, unless the servicer determines that the mortgagor cannot afford to make payments under the terms of the existing mortgage loan. The section limiting participation by borrowers who strategically default does not apply to the FHA Program Adjustments to Support Refinancing for Underwater Borrowers. *This provision has no estimated revenue effect.*

Extension of State Court Improvement Programs. The bill would extend for one year programs that now provide funds to help courts improve the processing of foster care and adoption cases. *This provision is estimated to cost \$20 million over 10 years.*

Cobell and Pigford settlements. The bill also contains \$4.6 billion to pay for settlement of both the Cobell and Pigford class action lawsuits. The Cobell settlement concerns the government’s management and accounting for over 300,000 American Indians’ trust accounts, and the Pigford settlement ends a decades old discrimination lawsuit brought by black farmers against USDA. *This provision is estimated to cost \$4.6 billion over 10 years.*

Reinstate geothermal receipts formula. The bill would reinstate provisions that, for fiscal year 2010, would deposit all funds received from sales, bonuses, royalties, and rentals under the Geothermal Steam Act of 1970 in the Treasury, of which (1) 50 percent shall be used by the Secretary of the Treasury to make payments to States within the boundaries of which the leased land and geothermal resources are located; (2) 25 percent shall be used by the Secretary of the Treasury to make payments to the counties within the boundaries of which the leased land or geothermal resources are located; and (3) 25 percent shall be deposited in miscellaneous receipts. *This provision is estimated to cost \$8 million over 10 years.*

Allows Secretary of the Interior to grant economy-related contract extensions to timber companies. Currently, the U.S. Forest Service has several options for helping timber companies adjust economically unviable timber contracts, but the Bureau of Land Management (BLM) does not have the same authorities. As a result, there are many timber companies which negotiated contracts three years ago with the BLM but can no longer afford to remove the timber based on the current contract terms. The bill would allow the Secretary of the Interior to add three years to the current contract expiration date. This would give companies the opportunity to wait for a better economic climate in which to remove timber from BLM lands, rather than mutually agreeing with the BLM to cancel their current contracts. *This provision has no revenue effect.*

Reporting requirements for funds from the American Recovery and Reinvestment Act. The bill requires any agency funding a program provided for in the American Recovery and Reinvestment Act (ARRA) of 2009 at a level of \$2 billion and above make available on their website a description of the goals for the program, information on how the funding will be distributed, milestones for major phases of activities under the covered program, and performance measures being used by the agency. The bill also requires agencies to publish quarterly reports on ARRA programs, including information on progress towards goals, details on unobligated and unexpired balances, and whether the program has met milestones and performance standards. Civil penalties are authorized for recipients of recovery funds who do not report to the appropriate agency information on the use of such funds. *This proposal has no revenue effect.*

Commerce Department study on job losses. The bill requires the Commerce Department to submit a report to Congress on job losses in New England, Mid-Atlantic and Midwest states over the past 20 years. The Commerce Department would study what role the off-shoring of manufacturing has played in job losses, and would be required to submit recommendations on how to attract industries and jobs to the regions. *This proposal has no revenue effect.*

Denial of deductions for punitive damages. Under current law, a deduction is allowed for damages paid or incurred as ordinary and necessary expense in the course of a trade or business. However, no deduction is allowed for a fine or penalty paid to a government for the violation of any law. If a taxpayer is convicted in violation of antitrust laws, no deduction is allowed for two-thirds of any amount paid or incurred on a judgment or settlement. This provision denies a tax deduction for payments made for punitive damages in connection with any legal judgment or settlement. Additionally, in the case that a taxpayer's punitive damages are paid by an insurer, the amounts paid on behalf of the taxpayer are included in the taxpayer's gross income. This provision applies to damages paid or incurred after December 31, 2011. *The provision is estimated to raise \$315 million over 10 years.*

Provision to reallocate future spending – The modification reallocates \$11.29 billion in future spending. These reallocations consist of \$600 million in unobligated Recovery Act funds intended for improving broadband deployment across the U.S. and \$260 million in Recovery Act savings from the lower cost of construction and repair on Defense Department contracts. Also included is \$900 million from non-Recovery Act Defense Department unobligated balances which will expire on September 30, 2010, and are excess to current requirements. In addition, effective January 31, food stamp benefits will return to the levels that individuals would have received in 2014 under pre-Recovery Act law. *This modification reduces the cost of the bill by \$13.79 billion over ten years.*

Transparency requirements for foreign-held debt. The bill includes a sense of Congress that China's holdings of debt instruments of the United States could potentially pose a direct threat to the U.S. economy and to U.S. national security. The bill requires the President to submit a quarterly report on risks posed by foreign holdings of U.S. debt. The report is to include an analysis of each country's purpose in holding U.S. debt and a specific determination of whether the risk from each country's holdings of U.S. debt is acceptable. The bill requires the Comptroller General of the United States to submit an annual report on risks to the United States posed by the Federal debt of the United States. This report must include a specific determination of whether the levels of risk posed by the Federal debt of the United States are sustainable. In any case in which the President determines that foreign holdings of U.S. debt pose an unacceptable risk to the long-term national security or economic stability of the United States, the President must submit a plan of action to reduce such risk to Congress and move expeditiously to implement the plan. *This provision has no revenue effect.*

Transparency requirements for foreign-held debt. The bill requires the Secretary of the Treasury to submit an annual report on risks posed by foreign holdings of debt instruments of the United States. The bill requires the Comptroller General of the United States to submit an annual report on risks to the United States posed by the Federal debt of the United States. If the President determines that foreign holdings of U.S. debt pose an unacceptable risk to the long-term national security or economic stability of the United States, the President must submit a plan of action to reduce such risk to Congress and move expeditiously to implement the plan. *This provision has no revenue effect.*

Technical corrections to pension funding relief. These provisions provide technical changes to the funding relief the President signed into law on June 25, 2010. The principal purpose of these changes is to make the provisions that were enacted clearer and more administrable. This will allow companies access to the important relief without having to wait for administrative guidance. These technical changes do not represent any change in policy from the funding relief provisions as originally enacted. In addition, the amendment reflects the intent of the statute as enacted by clarifying that the extra relief for charities is available only for national charities that have many local chapters and provide services with respect to children. *These provisions have no revenue effect.*

Customs User Fees Extension. Congress first established customs user fees in 1986 to offset inspection costs that were previously funded solely by general taxpayer revenue. The bill extends the merchandise processing fee through December 31, 2019 and the COBRA fees through September 30, 2019. *This provision is estimated to raise \$2.56 billion over 10 years.*

Extend increased small business Surety Bond Guarantee Program. To enable small businesses to compete for larger federal and state construction projects, this provision permanently increases the limit for Small Business Association-guaranteed surety bonds, from \$2 billion to \$5 billion. The limit was temporarily lifted from \$2 million to \$10 million under the Recovery Act, but the higher limit is scheduled to revert back to \$2 million September 30, 2010. *This provision has no revenue effect.*

Unemployment insurance overpayment reform. The bill includes a multi-prong effort to improve the accuracy of the unemployment insurance program by penalizing fraudulent overpayments, reducing data errors, and increasing the recovery of overpayments. The bill includes the following overpayment policies:

- **Allow investment of recovered funds in program integrity:** Permit states to direct up to 5% of the overpayments they recover to fund program integrity efforts. Currently, states are required to redeposit recovered funds in their Federal unemployment insurance trust fund to pay more unemployment insurance claims. This proposal would allow them to direct a portion of recovered overpayments into a special state fund for program integrity activities.
- **Improve start-date data collection:** Employers would be required to report the start date of new employees to the National Directory of New Hires (NDNH). This will enable states to determine if a beneficiary collecting unemployment has started a new job in a different state.
- **Impose penalty on fraudulent recipients:** States would be required to impose a penalty of at least 15% on recipients of fraudulent overpayments. Previously, claimants who fraudulently received unemployment insurance benefits were to repay the money without penalty. The penalties collected would be used for additional program integrity activities.
- **Give Employers an incentive to prevent overpayments:** Currently, if UI benefits turn out to be overpayments, the employer will not face a higher tax penalty – even if the overpayment is the employers fault. This proposal would not allow employers to get this benefit; states would not be allowed to repay benefit charges to an employer when employers allow the overpayment.
- **Recover more funds via tax refunds:** The Federal government would have expanded authority to collect overpayments through the Treasury Offset Program (TOP).

The bill also includes the following system improvements in ways unrelated to overpayments:

- **Improve existing “work-sharing” program:** Clarifies the requirement for the existing short-term compensation (“work-sharing”) program, a program which utilizes the unemployment insurance system in order to prevent layoffs.
- **Clarify interaction with child support enforcement:** Clarifies the scope of the Department of Labor’s authority to share information with regard to the child support enforcement intercept of unemployment compensation.
- **Streamline Federal-State Extended Benefits Program:** Simplifies the documentation necessary for beneficiaries to show that they are searching for work.

The provision is estimated to raise \$2.4 billion over 10 years.