

111TH CONGRESS
2D SESSION

S. _____

To extend expiring provisions and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. BAUCUS introduced the following bill; which was read twice and referred
to the Committee on _____

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 Cut 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
10 of an amendment to, or repeal of, a section or other provi-
11 sion, the reference shall be considered to be made to a

2

1 section or other provision of the Internal Revenue Code
2 of 1986.

3 (c) TABLE OF CONTENTS.—The table of contents for
4 this Act is as follows:

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—INFRASTRUCTURE INCENTIVES

Sec. 101. Extension of Build America Bonds.

Sec. 102. Exempt-facility bonds for sewage and water supply facilities.

Sec. 103. Extension of exemption from alternative minimum tax treatment for certain tax-exempt bonds.

Sec. 104. Extension and additional allocations of recovery zone bond authority.

Sec. 105. Allowance of new markets tax credit against alternative minimum tax.

Sec. 106. Extension of tax-exempt eligibility for loans guaranteed by Federal home loan banks.

Sec. 107. Extension of temporary small issuer rules for allocation of tax-exempt interest expense by financial institutions.

TITLE II—EXTENSION OF EXPIRING PROVISIONS

Subtitle A—Energy

Sec. 201. Alternative motor vehicle credit for new qualified hybrid motor vehicles other than passenger automobiles and light trucks.

Sec. 202. Incentives for biodiesel and renewable diesel.

Sec. 203. Credit for electricity produced at certain open-loop biomass facilities.

Sec. 204. Extension and modification of credit for steel industry fuel.

Sec. 205. Credit for producing fuel from coke or coke gas.

Sec. 206. New energy efficient home credit.

Sec. 207. Excise tax credits and outlay payments for alternative fuel and alternative fuel mixtures.

Sec. 208. Special rule for sales or dispositions to implement FERC or State electric restructuring policy for qualified electric utilities.

Sec. 209. Suspension of limitation on percentage depletion for oil and gas from marginal wells.

Sec. 210. Direct payment of energy efficient appliances tax credit.

Sec. 211. Modification of standards for windows, doors, and skylights with respect to the credit for nonbusiness energy property.

Subtitle B—Individual Tax Relief

PART I—MISCELLANEOUS PROVISIONS

Sec. 221. Deduction for certain expenses of elementary and secondary school teachers.

Sec. 222. Additional standard deduction for State and local real property taxes.

Sec. 223. Deduction of State and local sales taxes.

Sec. 224. Contributions of capital gain real property made for conservation purposes.

Sec. 225. Above-the-line deduction for qualified tuition and related expenses.

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- 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.

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- 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

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- 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

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- 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—

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

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

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

6 (A) by striking “January 1, 2011” and in-
 7 serting “January 1, 2012”; and

8 (B) by striking “QUALIFIED BONDS
 9 ISSUED BEFORE 2011” in the heading and in-
 10 serting “CERTAIN QUALIFIED BONDS”.

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

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

15 “(1) IN GENERAL.—The Secretary”;

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

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

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

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

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

4 “(3) TREATMENT OF CURRENT REFUNDING
5 BONDS.—

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

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

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

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

20 “(B) APPLICABLE PERCENTAGE.—In the
21 case of a refunding bond referred to in subpara-
22 graph (A), the applicable percentage with re-
23 spect to such bond under section 6431(b) shall

1 be the lowest percentage specified in paragraph
2 (2) of such section.

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

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

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

14 (a) BONDS FOR WATER AND SEWAGE FACILITIES
15 EXEMPT FROM VOLUME CAP ON PRIVATE ACTIVITY
16 BONDS.—

17 (1) IN GENERAL.—Paragraph (3) of section
18 146(g) is amended by inserting “(4), (5),” after
19 “(2),”.

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

23 (b) TAX-EXEMPT ISSUANCE BY INDIAN TRIBAL GOV-
24 ERNMENTS.—

1 (1) IN GENERAL.—Subsection (c) of section
2 7871 is amended by adding at the end the following
3 new paragraph:

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

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

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

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

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

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

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

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

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

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

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

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

12 (a) EXTENSION OF RECOVERY ZONE BOND AUTHOR-
13 ITY.—Section 1400U–2(b)(1) and section 1400U–
14 3(b)(1)(B) are each amended by striking “January 1,
15 2011” and inserting “January 1, 2012”.

16 (b) ADDITIONAL ALLOCATIONS OF RECOVERY ZONE
17 BOND AUTHORITY BASED ON UNEMPLOYMENT.—Section
18 1400U–1 is amended by adding at the end the following
19 new subsection:

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

22 “(1) IN GENERAL.—The Secretary shall allo-
23 cate the 2010 national recovery zone economic devel-
24 opment bond limitation and the 2010 national recov-
25 ery zone facility bond limitation among the States in

1 the proportion that each such State's 2009 unem-
2 ployment number bears to the aggregate of the 2009
3 unemployment numbers for all of the States.

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

12 “(3) ALLOCATIONS BY STATES.—

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

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

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

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

20 “(C) WAIVER OF SUBALLOCATIONS.—A
21 county or municipality may waive any portion
22 of an allocation made under this paragraph. A
23 county or municipality shall be treated as hav-
24 ing waived any portion of an allocation made
25 under this paragraph which has not been allo-

1 cated to a bond issued before May 1, 2011. Any
2 allocation waived (or treated as waived) under
3 this subparagraph may be used or reallocated
4 by the State.

5 “(D) SPECIAL RULE FOR A MUNICIPALITY
6 IN A COUNTY.—In the case of any large munici-
7 pality any portion of which is in a county, such
8 portion shall be treated as part of such munici-
9 pality and not part of such county.

10 “(4) 2009 UNEMPLOYMENT NUMBER.—For
11 purposes of this subsection, the term ‘2009 unem-
12 ployment number’ means, with respect to any State,
13 county or municipality, the number of individuals in
14 such State, county, or municipality who were deter-
15 mined to be unemployed by the Bureau of Labor
16 Statistics for December 2009.

17 “(5) 2010 NATIONAL LIMITATIONS.—

18 “(A) RECOVERY ZONE ECONOMIC DEVEL-
19 OPMENT BONDS.—The 2010 national recovery
20 zone economic development bond limitation is
21 \$10,000,000,000. Any allocation of such limita-
22 tion under this subsection shall be treated for
23 purposes of section 1400U–2 in the same man-
24 ner as an allocation of national recovery zone
25 economic development bond limitation.

1 “(B) RECOVERY ZONE FACILITY BONDS.—

2 The 2010 national recovery zone facility bond
3 limitation is \$15,000,000,000. Any allocation of
4 such limitation under this subsection shall be
5 treated for purposes of section 1400U–3 in the
6 same manner as an allocation of national recov-
7 ery zone facility bond limitation.”.

8 (c) AUTHORITY OF STATE TO WAIVE CERTAIN 2009
9 ALLOCATIONS.—Subparagraph (A) of section 1400U–
10 1(a)(3) is amended by adding at the end the following:
11 “A county or municipality shall be treated as having
12 waived any portion of an allocation made under this sub-
13 paragraph which has not been allocated to a bond issued
14 before May 1, 2011. Any allocation waived (or treated as
15 waived) under this subparagraph may be used or reallo-
16 cated by the State.”.

17 **SEC. 105. ALLOWANCE OF NEW MARKETS TAX CREDIT**
18 **AGAINST ALTERNATIVE MINIMUM TAX.**

19 (a) IN GENERAL.—Subparagraph (B) of section
20 38(c)(4), as amended by the Patient Protection and Af-
21 fordable Care Act, is amended by redesignating clauses
22 (v) through (ix) as clauses (vi) through (x), respectively,
23 and by inserting after clause (iv) the following new clause:
24 “(v) the credit determined under sec-
25 tion 45D, but only with respect to credits

1 determined with respect to qualified equity
2 investments (as defined in section 45D(b))
3 initially made before January 1, 2012,”.

4 (b) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to credits determined with respect
6 to qualified equity investments (as defined in section
7 45D(b) of the Internal Revenue Code of 1986) initially
8 made after March 15, 2010.

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

12 Clause (iv) of section 149(b)(3)(A) is amended by
13 striking “December 31, 2010” and inserting “December
14 31, 2011”.

15 **SEC. 107. EXTENSION OF TEMPORARY SMALL ISSUER**
16 **RULES FOR ALLOCATION OF TAX-EXEMPT IN-**
17 **TEREST EXPENSE BY FINANCIAL INSTITU-**
18 **TIONS.**

19 (a) IN GENERAL.—Clauses (i), (ii), and (iii) of sec-
20 tion 265(b)(3)(G) are each amended by striking “or
21 2010” and inserting “, 2010, or 2011”.

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

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

4 **TITLE II—EXTENSION OF** 5 **EXPIRING PROVISIONS**

6 **Subtitle A—Energy**

7 **SEC. 201. ALTERNATIVE MOTOR VEHICLE CREDIT FOR NEW**
8 **QUALIFIED HYBRID MOTOR VEHICLES**
9 **OTHER THAN PASSENGER AUTOMOBILES**
10 **AND LIGHT TRUCKS.**

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

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

17 **SEC. 202. INCENTIVES FOR BIODIESEL AND RENEWABLE**
18 **DIESEL.**

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

23 (b) EXCISE TAX CREDITS AND OUTLAY PAYMENTS
24 FOR BIODIESEL AND RENEWABLE DIESEL FUEL MIX-
25 TURES.—

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

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

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to fuel sold or used after December
9 31, 2009.

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

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

14 (1) by striking “5-year period” and inserting
15 “6-year period”; and

16 (2) by adding at the end the following: “In the
17 case of the last year of the 6-year period described
18 in the preceding sentence, the credit determined
19 under subsection (a) with respect to electricity pro-
20 duced during such year shall not exceed 80 percent
21 of such credit determined without regard to this sen-
22 tence.”.

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

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

3 (a) CREDIT PERIOD.—

4 (1) IN GENERAL.—Subclause (II) of section
5 45(e)(8)(D)(ii) is amended to read as follows:

6 “(II) CREDIT PERIOD.—In lieu
7 of the 10-year period referred to in
8 clauses (i) and (ii)(II) of subpara-
9 graph (A), the credit period shall be
10 the period beginning on the date that
11 the facility first produces steel indus-
12 try fuel that is sold to an unrelated
13 person after September 30, 2008, and
14 ending 2 years after such date.”.

15 (2) CONFORMING AMENDMENT.—Section
16 45(e)(8)(D) is amended by striking clause (iii) and
17 by redesignating clause (iv) as clause (iii).

18 (b) EXTENSION OF PLACED-IN-SERVICE DATE.—
19 Subparagraph (A) of section 45(d)(8) is amended—

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

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

23 (c) CLARIFICATIONS.—

24 (1) STEEL INDUSTRY FUEL.—Subclause (I) of
25 section 45(c)(7)(C)(i) is amended by inserting “, a

blend of coal and petroleum coke, or other coke feed-
stock” after “on coal”.

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

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

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

“(iii) PRODUCTION AND SALE.—The owner of a facility producing steel industry fuel shall be treated as producing and selling steel industry fuel where that owner

1 manufactures such steel industry fuel from
2 coal, a blend of coal and petroleum coke,
3 or other coke feedstock to which it has
4 title. The sale of such steel industry fuel
5 by the owner of the facility to a person
6 who is not the owner of the facility shall
7 not fail to qualify as a sale to an unrelated
8 person solely because such purchaser may
9 also be a ground lessor, supplier, or cus-
10 tomer.”.

11 (d) SPECIFIED CREDIT FOR PURPOSES OF ALTER-
12 NATIVE MINIMUM TAX EXCLUSION.—Subclause (II) of
13 section 38(c)(4)(B)(iii) is amended by inserting “(in the
14 case of a refined coal production facility producing steel
15 industry fuel, during the credit period set forth in section
16 45(e)(8)(D)(ii)(II))” after “service”.

17 (e) EFFECTIVE DATES.—

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

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

1 **SEC. 205. CREDIT FOR PRODUCING FUEL FROM COKE OR**
2 **COKE GAS.**

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

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

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

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

13 (b) EFFECTIVE DATE.—The amendment made by
14 this section shall apply to homes acquired after December
15 31, 2009.

16 **SEC. 207. EXCISE TAX CREDITS AND OUTLAY PAYMENTS**
17 **FOR ALTERNATIVE FUEL AND ALTERNATIVE**
18 **FUEL MIXTURES.**

19 (a) ALTERNATIVE FUEL CREDIT.—Paragraph (5) of
20 section 6426(d) is amended by striking “after December
21 31, 2009” and all that follows and inserting “after—

22 “(A) September 30, 2014, in the case of
23 liquefied hydrogen,

24 “(B) December 31, 2010, in the case of
25 fuels described in subparagraph (A), (C), (F),
26 or (G) of paragraph (2), and

1 “(C) December 31, 2009, in any other
2 case.”.

3 (b) ALTERNATIVE FUEL MIXTURE CREDIT.—Para-
4 graph (3) of section 6426(e) is amended by striking “after
5 December 31, 2009” and all that follows and inserting
6 “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 subsection (d)(2), and

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

14 (c) PAYMENT AUTHORITY.—

15 (1) IN GENERAL.—Paragraph (6) of section
16 6427(e) is amended by striking “and” at the end of
17 subparagraph (C), by striking the period at the end
18 of subparagraph (D) and inserting “, and”, and by
19 adding at the end the following new subparagraph:

20 “(E) any alternative fuel or alternative fuel
21 mixture (as so defined) involving fuel described
22 in subparagraph (A), (C), (F), or (G) of section
23 6426(d)(2) sold or used after December 31,
24 2010.”.

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

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

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

13 SEC. 208. SPECIAL RULE FOR SALES OR DISPOSITIONS TO
14 IMPLEMENT FERC OR STATE ELECTRIC RE-
15 STRUCTURING POLICY FOR QUALIFIED ELEC-
16 TRIC UTILITIES.

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

(b) MODIFICATION OF DEFINITION OF INDEPENDENT TRANSMISSION COMPANY.—

22 (1) IN GENERAL.—Clause (i) of section
23 451(i)(4)(B) is amended to read as follows:

24 “(i) who the Federal Energy Regu-
25 latory Commission determines in its au-

1 thorization of the transaction under section
2 203 of the Federal Power Act (16 U.S.C.
3 824b) or by declaratory order—

4 “(I) is not itself a market partici-
5 pant as determined by the Commis-
6 sion, and also is not controlled by any
7 such market participant, or

8 “(II) to be independent from
9 market participants or to be an inde-
10 pendent transmission company within
11 the meaning of such Commission’s
12 rules applicable to independent trans-
13 mission providers, and”.

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

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

21 (c) EFFECTIVE DATE.—

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

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

4 **SEC. 209. SUSPENSION OF LIMITATION ON PERCENTAGE**
5 **DEPLETION FOR OIL AND GAS FROM MAR-**
6 **GINAL WELLS.**

7 (a) IN GENERAL.—Clause (ii) of section
8 613A(c)(6)(H) is amended by striking “January 1, 2010”
9 and inserting “January 1, 2011”.

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

13 **SEC. 210. DIRECT PAYMENT OF ENERGY EFFICIENT APPLI-**
14 **ANCES TAX CREDIT.**

15 In the case of any taxable year which includes the
16 last day of calendar year 2009 or calendar year 2010, a
17 taxpayer who elects to waive the credit which would other-
18 wise be determined with respect to the taxpayer under sec-
19 tion 45M of the Internal Revenue Code of 1986 for such
20 taxable year shall be treated as making a payment against
21 the tax imposed under subtitle A of such Code for such
22 taxable year in an amount equal to 85 percent of the
23 amount of the credit which would otherwise be so deter-
24 mined. Such payment shall be treated as made on the later
25 of the due date of the return of such tax or the date on

1 which such return is filed. Elections under this section
2 may be made separately for 2009 and 2010, but once
3 made shall be irrevocable. No amount shall be includible
4 in gross income or alternative minimum taxable income
5 by reason of this section.

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

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

13 “(A) in the case of any component placed
14 in service after the date which is 90 days after
15 the date of the enactment of the Job Creation
16 and Tax Cut Act of 2010, such component
17 meets the criteria for such components estab-
18 lished by the 2010 Energy Star Program Re-
19 quirements for Residential Windows, Doors,
20 and Skylights, Version 5.0 (or any subsequent
21 version of such requirements which is in effect
22 after January 4, 2010),

23 “(B) in the case of any component placed
24 in service after the date of the enactment of the
25 Job Creation and Tax Cut Act of 2010 and on

1 or before the date which is 90 days after such
2 date, such component meets the criteria de-
3 scribed in subparagraph (A) or is equal to or
4 below a U factor of 0.30 and SHGC of 0.30,
5 and

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

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

12 **Subtitle B—Individual Tax Relief**

13 **PART I—MISCELLANEOUS PROVISIONS**

14 **SEC. 221. DEDUCTION FOR CERTAIN EXPENSES OF ELE-** 15 **MENTARY AND SECONDARY SCHOOL TEACH-** 16 **ERS.**

17 (a) IN GENERAL.—Subparagraph (D) of section
18 62(a)(2) is amended by striking “or 2009” and inserting
19 “2009, or 2010”.

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

1 **SEC. 222. ADDITIONAL STANDARD DEDUCTION FOR STATE**
2 **AND LOCAL REAL PROPERTY TAXES.**

3 (a) IN GENERAL.—Subparagraph (C) of section
4 63(c)(1) is amended by striking “or 2009” and inserting
5 “2009, or 2010”.

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

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

10 (a) IN GENERAL.—Subparagraph (I) of section
11 164(b)(5) is amended by striking “January 1, 2010” and
12 inserting “January 1, 2011”.

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

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

18 (a) IN GENERAL.—Clause (vi) of section
19 170(b)(1)(E) is amended by striking “December 31,
20 2009” and inserting “December 31, 2010”.

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

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

4 **SEC. 225. ABOVE-THE-LINE DEDUCTION FOR QUALIFIED**
5 **TUITION AND RELATED EXPENSES.**

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

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

12 (c) TEMPORARY COORDINATION WITH HOPE AND
13 LIFETIME LEARNING CREDITS.—In the case of any tax-
14 payer for any taxable year beginning in 2010, no deduc-
15 tion shall be allowed under section 222 of the Internal
16 Revenue Code of 1986 if—

17 (1) the taxpayer’s net Federal income tax re-
18 duction which would be attributable to such deduc-
19 tion for such taxable year, is less than

20 (2) the credit which would be allowed to the
21 taxpayer for such taxable year under section 25A of
22 such Code (determined without regard to sections
23 25A(e) and 26 of such Code).

1 **SEC. 226. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RE-**
2 **TIREMENT PLANS FOR CHARITABLE PUR-**
3 **POSES.**

4 (a) IN GENERAL.—Subparagraph (F) of section
5 408(d)(8) 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 distributions made in taxable
9 years beginning after December 31, 2009.

10 **SEC. 227. LOOK-THRU OF CERTAIN REGULATED INVEST-**
11 **MENT COMPANY STOCK IN DETERMINING**
12 **GROSS ESTATE OF NONRESIDENTS.**

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

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

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

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

22 (a) IN GENERAL.—Section 42 is amended by redesign-
23 ating subsection (n) as subsection (o) and by inserting
24 after subsection (m) the following new subsection:

25 “(n) ELECTION FOR DIRECT PAYMENT OF CRED-
26 IT.—

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

6 “(2) 2010 LOW-INCOME HOUSING REFUNDABLE
7 CREDIT ELECTION AMOUNT.—For purposes of this
8 subsection, the term ‘2010 low-income housing re-
9 fundable credit election amount’ means, with respect
10 to any State, such amount as the State may elect
11 which does not exceed 85 percent of the product
12 of—

13 “(A) the sum of—

14 “(i) 100 percent of the State housing
15 credit ceiling for 2010 which is attrib-
16 utable to amounts described in clauses (i)
17 and (iii) of subsection (h)(3)(C), plus any
18 credits returned to the State attributable
19 to section 1400N(c) (including credits
20 made available under such section as ap-
21 plied by reason of sections 702(d)(2) and
22 704(b) of the Tax Extenders and Alter-
23 native Minimum Tax Relief Act of 2008),
24 and

1 “(ii) 40 percent of the State housing
2 credit ceiling for 2010 which is attrib-
3 utable to amounts described in clauses (ii)
4 and (iv) of such subsection, plus any cred-
5 its for 2010 attributable to the application
6 of such section 702(d)(2) and 704(b), mul-
7 tiplied by
8 “(B) 10.

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

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

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

1 “(5) PAYMENT OF CREDIT; USE TO FINANCE
2 LOW-INCOME BUILDINGS.—The Secretary shall pay
3 to the housing credit agency of each State an
4 amount equal to the credit allowed under paragraph
5 (1). Rules similar to the rules of subsections (c) and
6 (d) of section 1602 of the American Recovery and
7 Reinvestment Tax Act of 2009 shall apply with re-
8 spect to any payment made under this paragraph,
9 except that such subsection (d) shall be applied by
10 substituting ‘January 1, 2012’ for ‘January 1,
11 2011’.”.

12 (b) CONFORMING AMENDMENT.—Section 1324(b)(2)
13 of title 31, United States Code, is amended by inserting
14 “42(n),” after “36C,”.

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

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

21 (1) by inserting “, plus any increase for 2009
22 or 2010 attributable to section 1400N(c) of such
23 Code (including credits made available under such
24 section as applied by reason of sections 702(d)(2)
25 and 704(b) of the Tax Extenders and Alternative

1 Minimum Tax Relief Act of 2008)” after “1986” in
2 subparagraph (A), and

3 (2) by inserting “, plus any credits for 2009 at-
4 tributable to the application of such section
5 702(d)(2) and 704(b)” after “such section” in sub-
6 paragraph (B).

7 (b) APPLICATION OF ADDITIONAL HOUSING CREDIT
8 AMOUNT FOR PURPOSES OF 2009 GRANT ELECTION.—
9 Subsection (b) of section 1602 of the American Recovery
10 and Reinvestment Tax Act of 2009, as amended by sub-
11 section (a), is amended by adding at the end the following
12 flush sentence:

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

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

1 **Subtitle C—Business Tax Relief**

2 **SEC. 241. RESEARCH CREDIT.**

3 (a) IN GENERAL.—Subparagraph (B) of section
4 41(h)(1) is amended by striking “December 31, 2009”
5 and inserting “December 31, 2010”.

6 (b) CONFORMING AMENDMENT.—Subparagraph (D)
7 of section 45C(b)(1) is amended by striking “December
8 31, 2009” and inserting “December 31, 2010”.

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

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

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

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

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

20 (a) IN GENERAL.—Subparagraph (F) of section
21 45D(f)(1) is amended by inserting “and 2010” after
22 “2009”.

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

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

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

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

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

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

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

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

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

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

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

24 (c) EFFECTIVE DATE.—

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

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

9 **SEC. 246. EMPLOYER WAGE CREDIT FOR EMPLOYEES WHO**
10 **ARE ACTIVE DUTY MEMBERS OF THE UNI-**
11 **FORMED SERVICES.**

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

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

18 **SEC. 247. 5-YEAR DEPRECIATION FOR FARMING BUSINESS**
19 **MACHINERY AND EQUIPMENT.**

20 (a) IN GENERAL.—Clause (vii) of section
21 168(e)(3)(B) is amended by striking “January 1, 2010”
22 and inserting “January 1, 2011”.

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. 248. 15-YEAR STRAIGHT-LINE COST RECOVERY FOR**
2 **QUALIFIED LEASEHOLD IMPROVEMENTS,**
3 **QUALIFIED RESTAURANT BUILDINGS AND IM-**
4 **PROVEMENTS, AND QUALIFIED RETAIL IM-**
5 **PROVEMENTS.**

6 (a) IN GENERAL.—Clauses (iv), (v), and (ix) of sec-
7 tion 168(e)(3)(E) are each amended by striking “January
8 1, 2010” and inserting “January 1, 2011”.

9 (b) CONFORMING AMENDMENTS.—

10 (1) Clause (i) of section 168(e)(7)(A) is amend-
11 ed by striking “if such building is placed in service
12 after December 31, 2008, and before January 1,
13 2010,”.

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

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

19 **SEC. 249. 7-YEAR RECOVERY PERIOD FOR MOTORSPORTS**
20 **ENTERTAINMENT COMPLEXES.**

21 (a) IN GENERAL.—Subparagraph (D) of section
22 168(i)(15) 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 property placed in service after
26 December 31, 2009.

1 **SEC. 250. ACCELERATED DEPRECIATION FOR BUSINESS**
2 **PROPERTY ON AN INDIAN RESERVATION.**

3 (a) IN GENERAL.—Paragraph (8) of section 168(j)
4 is amended by striking “December 31, 2009” and insert-
5 ing “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. 251. ENHANCED CHARITABLE DEDUCTION FOR CON-**
10 **TRIBUTIONS OF FOOD INVENTORY.**

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

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

17 **SEC. 252. ENHANCED CHARITABLE DEDUCTION FOR CON-**
18 **TRIBUTIONS OF BOOK INVENTORIES TO PUB-**
19 **LIC SCHOOLS.**

20 (a) IN GENERAL.—Clause (iv) of section
21 170(e)(3)(D) is amended by striking “December 31,
22 2009” and inserting “December 31, 2010”.

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

1 **SEC. 253. ENHANCED CHARITABLE DEDUCTION FOR COR-**
2 **PORATE CONTRIBUTIONS OF COMPUTER IN-**
3 **VENTORY FOR EDUCATIONAL PURPOSES.**

4 (a) IN GENERAL.—Subparagraph (G) of section
5 170(e)(6) 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 contributions made in taxable
9 years beginning after December 31, 2009.

10 **SEC. 254. ELECTION TO EXPENSE MINE SAFETY EQUIP-**
11 **MENT.**

12 (a) IN GENERAL.—Subsection (g) of section 179E is
13 amended by striking “December 31, 2009” and inserting
14 “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. 255. SPECIAL EXPENSING RULES FOR CERTAIN FILM**
19 **AND TELEVISION PRODUCTIONS.**

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

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

1 **SEC. 256. EXPENSING OF ENVIRONMENTAL REMEDIATION**
2 **COSTS.**

3 (a) IN GENERAL.—Subsection (h) of section 198 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 expenditures paid or incurred
8 after December 31, 2009.

9 **SEC. 257. DEDUCTION ALLOWABLE WITH RESPECT TO IN-**
10 **COME ATTRIBUTABLE TO DOMESTIC PRO-**
11 **DUCTION ACTIVITIES IN PUERTO RICO.**

12 (a) IN GENERAL.—Subparagraph (C) of section
13 199(d)(8) is amended—

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

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

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

21 **SEC. 258. MODIFICATION OF TAX TREATMENT OF CERTAIN**
22 **PAYMENTS TO CONTROLLING EXEMPT ORGA-**
23 **NIZATIONS.**

24 (a) IN GENERAL.—Clause (iv) of section
25 512(b)(13)(E) is amended by striking “December 31,
26 2009” and inserting “December 31, 2010”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to payments received or accrued
3 after December 31, 2009.

4 **SEC. 259. EXCLUSION OF GAIN OR LOSS ON SALE OR EX-**
5 **CHANGE OF CERTAIN BROWNFIELD SITES**
6 **FROM UNRELATED BUSINESS INCOME.**

7 (a) IN GENERAL.—Subparagraph (K) of section
8 512(b)(19) is amended by striking “December 31, 2009”
9 and inserting “December 31, 2010”.

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

13 **SEC. 260. TIMBER REIT MODERNIZATION.**

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

17 (b) CONFORMING AMENDMENTS.—

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

23 (2) Clause (iii) of section 856(c)(5)(H) is
24 amended by inserting “in taxable years beginning”
25 after “dispositions”.

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

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

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to taxable years ending after May
9 22, 2009.

10 **SEC. 261. TREATMENT OF CERTAIN DIVIDENDS OF REGU-**
11 **LATED INVESTMENT COMPANIES.**

12 (a) IN GENERAL.—Paragraphs (1)(C) and (2)(C) of
13 section 871(k) are each amended by striking “December
14 31, 2009” and inserting “December 31, 2010”.

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

18 **SEC. 262. RIC QUALIFIED INVESTMENT ENTITY TREATMENT**
19 **UNDER FIRPTA.**

20 (a) IN GENERAL.—Clause (ii) of section
21 897(h)(4)(A) is amended by striking “December 31,
22 2009” and inserting “December 31, 2010”.

23 (b) EFFECTIVE DATE.—

24 (1) IN GENERAL.—The amendment made by
25 subsection (a) shall take effect on January 1, 2010.

1 Notwithstanding the preceding sentence, such
2 amendment shall not apply with respect to the with-
3 holding requirement under section 1445 of the Inter-
4 nal Revenue Code of 1986 for any payment made
5 before the date of the enactment of this Act.

6 (2) AMOUNTS WITHHELD ON OR BEFORE DATE
7 OF ENACTMENT.—In the case of a regulated invest-
8 ment company—

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

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

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

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

21 (a) IN GENERAL.—Sections 953(e)(10) and
22 954(h)(9) are each amended by striking “January 1,
23 2010” and inserting “January 1, 2011”.

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

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to taxable years of foreign corpora-
6 tions beginning after December 31, 2009, and to taxable
7 years of United States shareholders with or within which
8 any such taxable year of such foreign corporation ends.

9 **SEC. 264. LOOK-THRU TREATMENT OF PAYMENTS BE-**
10 **TWEEN RELATED CONTROLLED FOREIGN**
11 **CORPORATIONS UNDER FOREIGN PERSONAL**
12 **HOLDING COMPANY RULES.**

13 (a) IN GENERAL.—Subparagraph (C) of section
14 954(c)(6) is amended by striking “January 1, 2010” and
15 inserting “January 1, 2011”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 this section shall apply to taxable years of foreign corpora-
18 tions beginning after December 31, 2009, and to taxable
19 years of United States shareholders with or within which
20 any such taxable year of such foreign corporation ends.

1 **SEC. 265. BASIS ADJUSTMENT TO STOCK OF S CORPS MAK-**
2 **ING CHARITABLE CONTRIBUTIONS OF PROP-**
3 **ERTY.**

4 (a) IN GENERAL.—Paragraph (2) of section 1367(a)
5 is amended by striking “December 31, 2009” and insert-
6 ing “December 31, 2010”.

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

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

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

12 (1) by striking “December 31, 2009” in sub-
13 section (d)(1)(A)(i) and inserting “December 31,
14 2010”; and

15 (2) by striking the last sentence of subsection
16 (h)(2).

17 (b) INCREASED EXCLUSION OF GAIN ON STOCK OF
18 EMPOWERMENT ZONE BUSINESSES.—Subparagraph (C)
19 of section 1202(a)(2) is amended—

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

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

24 (c) TREATMENT OF CERTAIN TERMINATION DATES
25 SPECIFIED IN NOMINATIONS.—In the case of a designa-
26 tion of an empowerment zone the nomination for which

1 included a termination date which is contemporaneous
2 with the date specified in subparagraph (A)(i) of section
3 1391(d)(1) of the Internal Revenue Code of 1986 (as in
4 effect before the enactment of this Act), subparagraph (B)
5 of such section shall not apply with respect to such des-
6 ignation unless, after the date of the enactment of this
7 section, the entity which made such nomination reconfirms
8 such termination date, or amends the nomination to pro-
9 vide for a new termination date, in such manner as the
10 Secretary of the Treasury (or the Secretary's designee)
11 may provide.

12 (d) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to periods after December 31,
14 2009.

15 **SEC. 267. TAX INCENTIVES FOR INVESTMENT IN THE DIS-**
16 **TRICT OF COLUMBIA.**

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

20 (b) TAX-EXEMPT DC EMPOWERMENT ZONE
21 BONDS.—Subsection (b) of section 1400A is amended by
22 striking “December 31, 2009” and inserting “December
23 31, 2010”.

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

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

5 (2) LIMITATION ON PERIOD OF GAINS.—

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

8 (i) by striking “December 31, 2014”
9 and inserting “December 31, 2015”; and

10 (ii) by striking “2014” in the heading
11 and inserting “2015”.

12 (B) PARTNERSHIPS AND S-CORPS.—Para-
13 graph (2) of section 1400B(g) is amended by
14 striking “December 31, 2014” and inserting
15 “December 31, 2015”.

16 (d) FIRST-TIME HOMEBUYER CREDIT.—Subsection
17 (i) of section 1400C is amended by striking “January 1,
18 2010” and inserting “January 1, 2011”.

19 (e) EFFECTIVE DATES.—

20 (1) IN GENERAL.—Except as otherwise pro-
21 vided in this subsection, the amendments made by
22 this section shall apply to periods after December
23 31, 2009.

24 (2) TAX-EXEMPT DC EMPOWERMENT ZONE
25 BONDS.—The amendment made by subsection (b)

1 shall apply to bonds issued after December 31,
2 2009.

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

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

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

11 (a) IN GENERAL.—Subsection (b) of section 1400E
12 is amended—

13 (1) by striking “December 31, 2009” in para-
14 graphs (1)(A) and (3) and inserting “December 31,
15 2010”; and

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

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

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

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

1 (A) by striking “December 31, 2014” and
2 inserting “December 31, 2015”; and

3 (B) by striking “2014” in the heading and
4 inserting “2015”.

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

8 (c) COMMERCIAL REVITALIZATION DEDUCTION.—

9 (1) IN GENERAL.—Subsection (g) of section
10 1400I is amended by striking “December 31, 2009”
11 and inserting “December 31, 2010”.

12 (2) CONFORMING AMENDMENT.—Subparagraph
13 (A) of section 1400I(d)(2) is amended by striking
14 “after 2001 and before 2010” and inserting “which
15 begins after 2001 and before the date referred to in
16 subsection (g)”.

17 (d) INCREASED EXPENSING UNDER SECTION 179.—
18 Subparagraph (A) of section 1400J(b)(1) is amended by
19 striking “January 1, 2010” and inserting “January 1,
20 2011”.

21 (e) TREATMENT OF CERTAIN TERMINATION DATES
22 SPECIFIED IN NOMINATIONS.—In the case of a designa-
23 tion of a renewal community the nomination for which in-
24 cluded a termination date which is contemporaneous with
25 the date specified in subparagraph (A) of section

1 1400E(b)(1) of the Internal Revenue Code of 1986 (as
2 in effect before the enactment of this Act), subparagraph
3 (B) of such section shall not apply with respect to such
4 designation unless, after the date of the enactment of this
5 section, the entity which made such nomination reconfirms
6 such termination date, or amends the nomination to pro-
7 vide for a new termination date, in such manner as the
8 Secretary of the Treasury (or the Secretary's designee)
9 may provide.

10 (f) 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) ACQUISITIONS.—The amendments made by
16 subsections (b)(1) and (d) shall apply to acquisitions
17 after December 31, 2009.

18 (3) COMMERCIAL REVITALIZATION DEDUC-
19 TION.—

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

23 (B) CONFORMING AMENDMENT.—The
24 amendment made by subsection (c)(2) shall

1 apply to calendar years beginning after Decem-
2 ber 31, 2009.

3 **SEC. 269. TEMPORARY INCREASE IN LIMIT ON COVER OVER**
4 **OF RUM EXCISE TAXES TO PUERTO RICO AND**
5 **THE VIRGIN ISLANDS.**

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

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

12 **SEC. 270. PAYMENT TO AMERICAN SAMOA IN LIEU OF EX-**
13 **TENSION OF ECONOMIC DEVELOPMENT**
14 **CREDIT.**

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

1 **SEC. 271. ELECTION TO TEMPORARILY UTILIZE UNUSED**
2 **AMT CREDITS DETERMINED BY DOMESTIC IN-**
3 **VESTMENT.**

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

6 “(g) ELECTION FOR CORPORATIONS WITH NEW DO-
7 MESTIC INVESTMENTS.—

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

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

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

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

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

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

3 “(B) which is placed in service in the
4 United States by the taxpayer during such tax-
5 able year.

6 “(4) CREDIT REFUNDABLE.—For purposes of
7 subsection (b) of section 6401, the aggregate in-
8 crease in the credits allowable under this part for
9 any taxable year resulting from the application of
10 this subsection shall be treated as allowed under
11 subpart C (and not under any other subpart). For
12 purposes of section 6425, any amount treated as so
13 allowed shall be treated as a payment of estimated
14 income tax for the taxable year.

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

22 “(6) TREATMENT OF CERTAIN PARTNERSHIP
23 INVESTMENTS.—For purposes of this subsection, a
24 corporation shall take into account its allocable
25 share of any new domestic investments by a partner-

1 ship for any taxable year if, and only if, more than
2 90 percent of the capital and profits interests in
3 such partnership are owned by such corporation (di-
4 rectly or indirectly) at all times during such taxable
5 year.

6 “(7) NO DOUBLE BENEFIT.—

7 “(A) IN GENERAL.—A corporation making
8 an election under this subsection may not make
9 an election under subparagraph (H) of section
10 172(b)(1).

11 “(B) SPECIAL RULES WITH RESPECT TO
12 TAXPAYERS PREVIOUSLY ELECTING APPLICA-
13 BLE NET OPERATING LOSSES.—In the case of a
14 corporation which made an election under sub-
15 paragraph (H) of section 172(b)(1) and elects
16 the application of this subsection—

17 “(i) ELECTION OF APPLICABLE NET
18 OPERATING LOSS TREATED AS RE-
19 VOKED.—The election under such subpara-
20 graph (H) shall (notwithstanding clause
21 (iii)(II) of such subparagraph) be treated
22 as having been revoked by the taxpayer.

23 “(ii) COORDINATION WITH PROVISION
24 FOR EXPEDITED REFUND.—The amount
25 otherwise treated as a payment of esti-

1 mated income tax under the last sentence
2 of paragraph (4) shall be reduced (but not
3 below zero) by the aggregate increase in
4 unpaid tax liability determined under this
5 chapter by reason of the revocation of the
6 election under clause (i).

7 “(iii) APPLICATION OF STATUTE OF
8 LIMITATIONS.—With respect to the revoca-
9 tion of an election under clause (i)—

10 “(I) the statutory period for the
11 assessment of any deficiency attrib-
12 utable to such revocation shall not ex-
13 pire before the end of the 3-year pe-
14 riod beginning on the date of the elec-
15 tion to have this subsection apply, and

16 “(II) such deficiency may be as-
17 sessed before the expiration of such 3-
18 year period notwithstanding the provi-
19 sions of any other law or rule of law
20 which would otherwise prevent such
21 assessment.

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

1 “(8) REGULATIONS.—The Secretary may issue
2 such regulations or other guidance as may be nec-
3 essary or appropriate to carry out the purposes of
4 this subsection, including to prevent fraud and abuse
5 under this subsection.”.

6 (b) CONFORMING AMENDMENTS.—

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

9 (2) Section 1324(b)(2) of title 31, United
10 States Code, is amended by inserting “53(g),” after
11 “53(e),”.

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

15 **SEC. 272. REDUCTION IN CORPORATE RATE FOR QUALI-**
16 **FIED TIMBER GAIN.**

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

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

22 “(3) APPLICATION OF SUBSECTION.—The
23 qualified timber gain for any taxable year shall not
24 exceed the qualified timber gain which would be de-

1 terminated by not taking into account any portion of
2 such taxable year after December 31, 2010.”.

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

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

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

8 (1) Currently, the aggregate cost of Federal tax
9 expenditures rivals, or even exceeds, the amount of
10 total Federal discretionary spending.

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

14 (3) Additionally, tax expenditures can com-
15 plicate the Internal Revenue Code of 1986 for tax-
16 payers and complicate tax administration for the In-
17 ternal Revenue Service.

18 (4) To facilitate a better understanding of tax
19 expenditures in the future, it is constructive for leg-
20 islation extending these provisions to include a study
21 of such provisions.

22 (b) REQUIREMENT TO REPORT.—Not later than No-
23 vember 30, 2010, the Chief of Staff of the Joint Com-
24 mittee on Taxation, in consultation with the Comptroller
25 General of the United States, shall submit to the Com-

1 mittee on Ways and Means of the House of Representa-
2 tives and the Committee on Finance of the Senate a report
3 on each tax expenditure (as defined in section 3(3) of the
4 Congressional Budget Impoundment Control Act of 1974
5 (2 U.S.C. 622(3)) extended by this title.

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

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

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

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

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

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

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

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

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

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

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

22 (10) A description of any unavailable informa-
23 tion the staff of the Joint Committee on Taxation
24 may need to complete a more thorough examination

1 and analysis of the tax expenditure, and what must
2 be done to make such information available.

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

10 **Subtitle D—Temporary Disaster** 11 **Relief Provisions**

12 **PART I—NATIONAL DISASTER RELIEF**

13 **SEC. 281. WAIVER OF CERTAIN MORTGAGE REVENUE BOND** 14 **REQUIREMENTS.**

15 (a) IN GENERAL.—Paragraph (11) of section 143(k)
16 is amended by striking “January 1, 2010” and inserting
17 “January 1, 2011”.

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

23 (c) TECHNICAL AMENDMENT.—Subsection (k) of sec-
24 tion 143 is amended by redesignating the second para-

1 graph (12) (relating to special rules for residences de-
2 stroyed in federally declared disasters) as paragraph (13).

3 (d) EFFECTIVE DATES.—

4 (1) IN GENERAL.—Except as otherwise pro-
5 vided in this subsection, the amendment made by
6 this section shall apply to bonds issued after Decem-
7 ber 31, 2009.

8 (2) RESIDENCES DESTROYED IN FEDERALLY
9 DECLARED DISASTERS.—The amendments made by
10 subsection (b) shall apply with respect to disasters
11 occurring after December 31, 2009.

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

16 **SEC. 282. LOSSES ATTRIBUTABLE TO FEDERALLY DE-**
17 **CLARED DISASTERS.**

18 (a) IN GENERAL.—Subclause (I) of section
19 165(h)(3)(B)(i) is amended by striking “January 1,
20 2010” and inserting “January 1, 2011”.

21 (b) \$500 LIMITATION.—Paragraph (1) of section
22 165(h) is amended by striking “December 31, 2009” and
23 inserting “December 31, 2010”.

24 (c) EFFECTIVE DATE.—

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

4 (2) \$500 LIMITATION.—The amendment made
5 by subsection (b) shall apply to taxable years begin-
6 ning after December 31, 2009.

7 **SEC. 283. SPECIAL DEPRECIATION ALLOWANCE FOR QUALI-**
8 **FIED DISASTER PROPERTY.**

9 (a) IN GENERAL.—Subclause (I) of section
10 168(n)(2)(A)(ii) is amended by striking “January 1,
11 2010” and inserting “January 1, 2011”.

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

15 **SEC. 284. NET OPERATING LOSSES ATTRIBUTABLE TO FED-**
16 **ERALLY DECLARED DISASTERS.**

17 (a) IN GENERAL.—Subclause (I) of section
18 172(j)(1)(A)(i) is amended by striking “January 1, 2010”
19 and inserting “January 1, 2011”.

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

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

2 (a) IN GENERAL.—Subparagraph (A) of section
3 198A(b)(2) is amended by striking “January 1, 2010”
4 and inserting “January 1, 2011”.

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

8 **PART II—REGIONAL PROVISIONS**

9 **Subpart A—New York Liberty Zone**

10 **SEC. 291. SPECIAL DEPRECIATION ALLOWANCE FOR NON-**
11 **RESIDENTIAL AND RESIDENTIAL REAL PROP-**
12 **ERTY.**

13 (a) IN GENERAL.—Subparagraph (A) of section
14 1400L(b)(2) is amended by striking “December 31, 2009”
15 and inserting “December 31, 2010”.

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

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

20 (a) IN GENERAL.—Subparagraph (D) of section
21 1400L(d)(2) is amended by striking “January 1, 2010”
22 and inserting “January 1, 2011”.

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

1 **Subpart B—GO Zone**

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

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

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

9 **SEC. 296. WORK OPPORTUNITY TAX CREDIT WITH RESPECT**
10 **TO CERTAIN INDIVIDUALS AFFECTED BY**
11 **HURRICANE KATRINA FOR EMPLOYERS IN-**
12 **SIDE DISASTER AREAS.**

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

16 (b) EFFECTIVE DATE.—The amendment made by
17 subsection (a) shall apply to individuals hired after August
18 27, 2009.

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

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

1 **TITLE III—TECHNICAL CORREC-**
2 **TIONS TO PENSION FUNDING**
3 **LEGISLATION**

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

5 (a) AMENDMENT TO ERISA.—Clause (v) of section
6 303(c)(2)(D) of the Employee Retirement Income Secu-
7 rity Act of 1974 (29 U.S.C. 1083(c)(2)(D)), as added by
8 section 201(a)(1) of the Preservation of Access to Care
9 for Medicare Beneficiaries and Pension Relief Act of 2010,
10 is amended by striking “on or after the date of the enact-
11 ment of this subparagraph” and inserting “on or after
12 March 10, 2010”.

13 (b) AMENDMENT TO INTERNAL REVENUE CODE OF
14 1986.—Clause (v) of section 430(c)(2)(D) of the Internal
15 Revenue Code of 1986, as added by section 201(b)(1) of
16 the Preservation of Access to Care for Medicare Bene-
17 ficiaries and Pension Relief Act of 2010, is amended by
18 striking “on or after the date of the enactment of this
19 subparagraph” and inserting “on or after March 10,
20 2010”.

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

1 **SEC. 302. ELIGIBLE CHARITY PLANS.**

2 (a) DEFINITION OF ELIGIBLE CHARITY PLANS.—

3 (1) IN GENERAL.—Section 104(d) of the Pen-
4 sion Protection Act of 2006, as added by section
5 202(b) of the Preservation of Access to Care for
6 Medicare Beneficiaries and Pension Relief Act of
7 2010, is amended to read as follows:

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

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

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

16 “(3) each such employee (other than a de mini-
17 mis number of employees) is employed by an em-
18 ployer described in section 501(c)(3) of such Code
19 and the primary exempt purpose of each such em-
20 ployer is to provide services with respect to children,
21 and

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

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

1 (2) EFFECTIVE DATE.—The amendment made
2 by this subsection shall take effect as if included in
3 the amendment made by the provision of the Preser-
4 vation of Access to Care for Medicare Beneficiaries
5 and Pension Relief Act of 2010 to which the amend-
6 ment relates (determined after application of the
7 amendment made by subsection (c)), except that a
8 plan sponsor may elect to apply such amendment to
9 plan years beginning on or after January 1, 2011.

10 (b) REGULATIONS.—The Secretary of the Treasury
11 may prescribe such regulations as may be necessary to
12 carry out the purposes of the amendments made by section
13 202(b) of the Preservation of Access to Care for Medicare
14 Beneficiaries and Pension Relief Act of 2010 and the
15 amendment made by subsection (a).

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

18 (1) IN GENERAL.—Paragraph (2) of section
19 202(c) of the Preservation of Access to Care for
20 Medicare Beneficiaries and Pension Relief Act of
21 2010 is amended to read as follows:

22 “(2) ELIGIBLE CHARITY PLANS.—The amend-
23 ments made by subsection (b) shall apply to plan
24 years beginning after December 31, 2010, except
25 that a plan sponsor may elect to apply such amend-

1 ments to plan years beginning after an earlier
2 date.”.

3 (2) EFFECTIVE DATE.—The amendment made
4 by this subsection shall take effect as if included in
5 the amendment made by the provision of the Preser-
6 vation of Access to Care for Medicare Beneficiaries
7 and Pension Relief Act of 2010 to which the amend-
8 ment relates.

9 **SEC. 303. SUSPENSION OF CERTAIN FUNDING LEVEL LIM-**
10 **TATIONS.**

11 (a) LIMITATIONS ON BENEFIT ACCRUALS.—Section
12 203 of the Worker, Retiree, and Employer Recovery Act
13 of 2008 (Public Law 110–458; 122 Stat. 5118) is amend-
14 ed—

15 (1) by striking “the first plan year beginning
16 during the period beginning on October 1, 2008, and
17 ending on September 30, 2009” and inserting “any
18 plan year beginning during the period beginning on
19 October 1, 2008, and ending on December 31,
20 2011”;

21 (2) by striking “substituting” and all that fol-
22 lows through “for such plan year” and inserting
23 “substituting for such percentage the plan’s ad-
24 justed funding target attainment percentage for the

1 last plan year ending before September 30, 2009,”;
2 and

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

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

7 (1) ERISA AMENDMENT.—Section
8 206(g)(3)(E) of the Employee Retirement Income
9 Security Act of 1974 is amended by adding at the
10 end the following new sentence: “For purposes of
11 applying clause (i) in the case of payments the an-
12 nuity starting date for which occurs on or before De-
13 cember 31, 2011, payments under a social security
14 leveling option shall be treated as not in excess of
15 the monthly amount paid under a single life annuity
16 (plus an amount not in excess of a social security
17 supplement described in the last sentence of section
18 204(b)(1)(G)).”.

19 (2) IRC AMENDMENT.—Section 436(d)(5) of
20 the Internal Revenue Code of 1986 is amended by
21 adding at the end the following new sentence: “For
22 purposes of applying subparagraph (A) in the case
23 of payments the annuity starting date for which oc-
24 curs on or before December 31, 2011, payments
25 under a social security leveling option shall be treat-

1 ed as not in excess of the monthly amount paid
2 under a single life annuity (plus an amount not in
3 excess of a social security supplement described in
4 the last sentence of section 411(a)(9)).”.

5 (3) EFFECTIVE DATE.—

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

10 (B) PERMITTED APPLICATION.—A plan
11 shall not be treated as failing to meet the re-
12 quirements of sections 206(g) of the Employee
13 Retirement Income Security Act of 1974 (as
14 amended by this subsection) and section 436(d)
15 of the Internal Revenue Code of 1986 (as so
16 amended) if the plan sponsor elects to apply the
17 amendments made by this subsection to pay-
18 ments the annuity starting date for which oc-
19 curs before January 1, 2011.

20 (c) REPEAL OF RELATED PROVISIONS.—The provi-
21 sions of, and the amendments made by, section 203 of
22 the Preservation of Access to Care for Medicare Bene-
23 ficiaries and Pension Relief Act of 2010 are repealed and
24 the Employee Retirement Income Security Act of 1974,
25 the Internal Revenue Code of 1986, and the Worker, Re-

1 tiree, and Employer Recovery Act of 2008 (Public Law
2 110–458; 122 Stat. 5118) shall be applied as if such sec-
3 tion had never been enacted.

4 SEC. 304. OPTIONAL USE OF 30-YEAR AMORTIZATION PERI-
5 ODS.

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

13 (b) ELECTIVE SPECIAL RELIEF RULES.—

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

19 “(8) ELECTIVE SPECIAL RELIEF RULES.—Not-
20 withstanding any other provision of this sub-
21 section—

22 “(A) AMORTIZATION OF NET INVESTMENT
23 LOSSES.—

24 “(i) IN GENERAL.—The plan sponsor
25 of a multiemployer plan with respect to

1 which the solvency test under subpara-
2 graph (B) is met may elect to treat the
3 portion of any experience loss or gain for
4 a plan year that is attributable to the allo-
5 cable portion of the net investment losses
6 incurred in either or both of the first two
7 plan years ending on or after June 30,
8 2008, as an experience loss separate from
9 other experience losses or gains to be am-
10 ortized in equal annual installments (until
11 fully amortized) over the period—

12 “(I) beginning with the plan year
13 for which the allocable portion is de-
14 termined, and

15 “(II) ending with the last plan
16 year in the 30-plan year period begin-
17 ning with the plan year following the
18 plan year in which such net invest-
19 ment loss was incurred.

20 “(ii) COORDINATION WITH EXTEN-
21 SIONS.—If an election is made under
22 clause (i) for any plan year—

23 “(I) no extension of the amorti-
24 zation period under clause (i) shall be
25 allowed under subsection (d), and

1 “(II) if an extension was granted
2 under subsection (d) for any plan year
3 before the plan year for which the
4 election under this subparagraph is
5 made, such extension shall not result
6 in such amortization period exceeding
7 30 years.

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

10 “(I) NET INVESTMENT
11 LOSSES.—The net investment loss in-
12 curred by a plan in a plan year is
13 equal to the excess of the expected
14 value of the assets as of the end of
15 the plan year over the market value of
16 the assets as of the end of the plan
17 year, including any difference attrib-
18 utable to a criminally fraudulent in-
19 vestment arrangement.

20 “(II) EXPECTED VALUE.—For
21 purposes of subclause (I), the ex-
22 pected value of the assets as of the
23 end of a plan year is the excess of the
24 market value of the assets at the be-
25 ginning of the plan year plus con-

1 tributions made during the plan year
2 over disbursements made during the
3 plan year, except that such amounts
4 shall be adjusted with interest at the
5 valuation rate to the end of the plan
6 year.

7 “(III) CRIMINALLY FRAUDULENT
8 INVESTMENT ARRANGEMENTS.—The
9 determination as to whether an ar-
10 rangement is a criminally fraudulent
11 investment arrangement shall be made
12 under rules substantially similar to
13 the rules prescribed by the Secretary
14 of the Treasury for purposes of sec-
15 tion 165 of the Internal Revenue Code
16 of 1986.

17 “(IV) AMOUNT ATTRIBUTABLE
18 TO ALLOCABLE PORTION OF NET IN-
19 VESTMENT LOSS.—The amount at-
20 tributable to the allocable portion of
21 the net investment loss for a plan year
22 shall be an amount equal to the allo-
23 cable portion of net investment loss
24 for the plan year under subclauses (V)
25 and (VI), increased with interest at

1 the valuation rate determined from
 2 the plan year after the plan year in
 3 which the net investment loss was in-
 4 curred.

5 “(V) ALLOCABLE PORTION OF
 6 NET INVESTMENT LOSSES.—Except
 7 as provided in subclause (VI), the net
 8 investment loss incurred in a plan
 9 year shall be allocated among the 5
 10 plan years following the plan year in
 11 which the investment loss is incurred
 12 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	$\frac{1}{2}$
2nd	0
3rd	$\frac{1}{6}$
4th	$\frac{1}{6}$
5th	$\frac{1}{6}$

13 “(VI) SPECIAL RULE FOR PLANS
 14 THAT ADOPT LONGER SMOOTHER PE-
 15 RIOD.—If a plan sponsor elects an ex-
 16 tended smoothing period for its asset
 17 valuation method under subsection
 18 (c)(2)(B), then the allocable portion of
 19 net investment loss for the first two
 20 plan years following the plan year the
 21 investment loss is incurred is the
 22 same as determined under subclause

1 (V), but the remaining $\frac{1}{2}$ of the net
2 investment loss is allocated ratably
3 over the period beginning with the
4 third plan year following the plan year
5 the net investment loss is incurred
6 and ending with the last plan year in
7 the extended smoothing period.

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

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

1 “(B) SOLVENCY TEST.—

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

11 “(ii) FUNDED PERCENTAGE.—For
12 purposes of clause (i), the term ‘funded
13 percentage’ has the meaning provided in
14 section 305(i)(2), except that the value of
15 the plan’s assets referred to in section
16 305(i)(2)(A) shall be the market value of
17 such assets.

18 “(iii) ACTUARIAL ASSUMPTIONS.—In
19 making any certification under this sub-
20 paragraph, the plan actuary shall use the
21 same actuarial estimates, assumptions, and
22 methods as those applicable for the most
23 recent certification under section 305, ex-
24 cept that the plan actuary may take into
25 account benefit reductions and increases in

1 contribution rates, under either funding
2 improvement plans adopted under section
3 305(c) or under section 432(c) of the In-
4 ternal Revenue Code of 1986 or rehabilita-
5 tion plans adopted under section 305(e) or
6 under section 432(e) of such Code, that
7 the plan actuary reasonably anticipates will
8 occur without regard to any change in sta-
9 tus of the plan resulting from the election.

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

20 “(i) the plan actuary certifies that—

21 “(I) any such increase is paid for
22 out of additional contributions not al-
23 located to the plan immediately before
24 the election to have this paragraph
25 apply to the plan, and

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

1 such form and manner as the Pension
2 Benefit Guaranty Corporation may pre-
3 scribe.”.

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

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

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

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

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

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

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

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

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

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

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

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 for purposes of section 165.

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

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

1 which the investment loss is incurred
 2 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	$\frac{1}{2}$
2nd	0
3rd	$\frac{1}{6}$
4th	$\frac{1}{6}$
5th	$\frac{1}{6}$

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

20 “(VII) SPECIAL RULE FOR OVER-
 21 STATEMENT OF LOSS.—If, for a plan
 22 year, there is an experience loss for

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

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

16 “(B) SOLVENCY TEST.—

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

1 “(ii) FUNDED PERCENTAGE.—For
2 purposes of clause (i), the term ‘funded
3 percentage’ has the meaning provided in
4 section 432(i)(2), except that the value of
5 the plan’s assets referred to in section
6 432(i)(2)(A) shall be the market value of
7 such assets.

8 “(iii) ACTUARIAL ASSUMPTIONS.—In
9 making any certification under this sub-
10 paragraph, the plan actuary shall use the
11 same actuarial estimates, assumptions, and
12 methods as those applicable for the most
13 recent certification under section 432, ex-
14 cept that the plan actuary may take into
15 account benefit reductions and increases in
16 contribution rates, under either funding
17 improvement plans adopted under section
18 432(c) or under section 305(c) of the Em-
19 ployee Retirement Income Security Act of
20 1974 or rehabilitation plans adopted under
21 section 432(e) or under section 305(e) of
22 such Act, that the plan actuary reasonably
23 anticipates will occur without regard to
24 any change in status of the plan resulting
25 from the election.

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

11 “(i) the plan actuary certifies that—

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

17 “(II) the plan’s funded percent-
18 age and projected credit balances for
19 the first 3 plan years ending on or
20 after such date are reasonably ex-
21 pected to be at least as high as such
22 percentage and balances would have
23 been if the benefit increase had not
24 been adopted, or

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

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

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

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

14 “(ii) inform the Pension Benefit
15 Guaranty Corporation of such election in
16 such form and manner as the Pension
17 Benefit Guaranty Corporation may pre-
18 scribe.”.

19 (c) ASSET SMOOTHING FOR MULTIEMPLOYER
20 PLANS.—

21 (1) AMENDMENT TO ERISA.—Section 304(c)(2)
22 of the Employee Retirement Income Security Act of
23 1974 (29 U.S.C. 1084(c)(2)) is amended—

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

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

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

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

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

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

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

16 (d) EFFECTIVE DATE AND SPECIAL RULES.—

17 (1) EFFECTIVE DATE.—The amendments made
18 by this section shall take effect as of the first day
19 of the first plan year beginning after June 30, 2008,
20 except that any election a plan sponsor makes pur-
21 suant to this section or the amendments made there-
22 by that affects the plan’s funding standard account
23 for any plan year beginning before October 1, 2009,
24 shall be disregarded for purposes of applying the
25 provisions of section 305 of the Employee Retire-

1 ment Income Security Act of 1974 and section 432
2 of the Internal Revenue Code of 1986 to that plan
3 year.

4 (2) DEEMED APPROVAL FOR CERTAIN FUNDING
5 METHOD CHANGES.—In the case of a multiemployer
6 plan with respect to which an election has been
7 made under section 304(b)(8) of the Employee Re-
8 tirement Income Security Act of 1974 (as amended
9 by this section) or section 431(b)(8) of the Internal
10 Revenue Code of 1986 (as so amended)—

11 (A) any change in the plan’s funding meth-
12 od for a plan year beginning on or after July
13 1, 2008, and on or before December 31, 2010,
14 from a method that does not establish a base
15 for experience gains and losses to one that does
16 establish such a base shall be treated as ap-
17 proved by the Secretary of the Treasury; and

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

21 **SEC. 305. TRANSITION RULE FOR CERTIFICATIONS OF**
22 **PLAN STATUS.**

23 (a) IN GENERAL.—A plan actuary shall not be treat-
24 ed as failing to meet the requirements of section
25 305(b)(3)(A) of the Employee Retirement Income Secu-

1 rity Act of 1974 and section 432(b)(3)(A) of the Internal
2 Revenue Code of 1986 in connection with a certification
3 required under such sections the deadline for which is
4 after the date of the enactment of this Act if the plan
5 actuary makes such certification at any time earlier than
6 75 days after the date of the enactment of this Act.

7 (b) REVISION OF PRIOR CERTIFICATION.—

8 (1) IN GENERAL.—If—

9 (A) a plan sponsor makes an election
10 under section 304(b)(8) of the Employee Re-
11 tirement Income Security Act of 1974 and sec-
12 tion 431(b)(8) of the Internal Revenue Code of
13 1986, or under section 304(c)(2)(B) of such
14 Act and section 431(c)(2)(B) such Code, with
15 respect to a plan for a plan year beginning on
16 or after October 1, 2009; and

17 (B) the plan actuary's certification of the
18 plan status for such plan year (hereinafter in
19 this subsection referred to as “original certifi-
20 cation”) did not take into account any election
21 so made,

22 then the plan sponsor may direct the plan actuary
23 to make a new certification with respect to the plan
24 for the plan year which takes into account such elec-
25 tion (hereinafter in this subsection referred to as

1 “new certification”) if the plan’s status under sec-
2 tion 305 of such Act and section 432 of such Code
3 would change as a result of such election. Any such
4 new certification shall be treated as the most recent
5 certification referred to in section 304(b)(3)(B)(iii)
6 of such Act and section 431(b)(8)(B)(iii) of such
7 Code.

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

14 (3) NOTICE.—

15 (A) IN GENERAL.—Except as provided in
16 subparagraph (B), any such new certification
17 shall be treated as the original certification for
18 purposes of section 305(b)(3)(D) of such Act
19 and section 432(b)(3)(D) of such Code.

20 (B) NOTICE ALREADY PROVIDED.—In any
21 case in which notice has been provided under
22 such sections with respect to the original certifi-
23 cation, not later than 30 days after the new
24 certification is made, the plan sponsor shall

1 provide notice of any change in status under
2 rules similar to the rules such sections.

3 (4) EFFECT OF CHANGE IN STATUS.—If a plan
4 ceases to be in critical status pursuant to the new
5 certification, then the plan shall, not later than 30
6 days after the due date described in paragraph (2),
7 cease any restriction of benefit payments, and im-
8 position of contribution surcharges, under section 305
9 of such Act and section 432 of such Code by reason
10 of the original certification.

11 **TITLE IV—REVENUE OFFSETS**
12 **Subtitle A—Personal Service In-**
13 **come Earned in Pass-thru Enti-**
14 **ties**

15 **SEC. 401. PARTNERSHIP INTERESTS TRANSFERRED IN**
16 **CONNECTION WITH PERFORMANCE OF SERV-**
17 **ICES.**

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

23 “(4) PARTNERSHIP INTERESTS.—Except as
24 provided by the Secretary, in the case of any trans-
25 fer of an interest in a partnership in connection with

1 the provision of services to (or for the benefit of)
2 such partnership—

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

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

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

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

1 **SEC. 402. INCOME OF PARTNERS FOR PERFORMING IN-**
2 **VESTMENT MANAGEMENT SERVICES TREAT-**
3 **ED AS ORDINARY INCOME RECEIVED FOR**
4 **PERFORMANCE OF SERVICES.**

5 (a) IN GENERAL.—Part I of subchapter K of chapter
6 1 is amended by adding at the end the following new sec-
7 tion:

8 **“SEC. 710. SPECIAL RULES FOR PARTNERS PROVIDING IN-**
9 **VESTMENT MANAGEMENT SERVICES TO**
10 **PARTNERSHIP.**

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

14 “(1) IN GENERAL.—Notwithstanding section
15 702(b)—

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

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

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

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1 “(2) TREATMENT OF LOSSES.—

2 “(A) LIMITATION.—Any net loss with re-
3 spect to such interest shall be allowed for any
4 partnership taxable year only to the extent that
5 such loss does not exceed the excess (if any)
6 of—

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

10 “(ii) the aggregate net loss with re-
11 spect to such interest not disallowed under
12 this subparagraph for all prior partnership
13 taxable years.

14 “(B) CARRYFORWARD.—Any net loss for
15 any partnership taxable year which is not al-
16 lowed by reason of subparagraph (A) shall be
17 treated as an item of loss with respect to such
18 partnership interest for the succeeding partner-
19 ship taxable year.

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

24 “(D) PRIOR PARTNERSHIP YEARS.—Any
25 reference in this paragraph to prior partnership

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1 taxable years shall only include prior partner-
2 ship taxable years to which this section applies.

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

5 “(A) NET INCOME.—The term ‘net in-
6 come’ means, with respect to any investment
7 services partnership interest for any partner-
8 ship taxable year, the excess (if any) of—

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

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

15 “(B) NET LOSS.—The term ‘net loss’
16 means, with respect to such interest for such
17 year, the excess (if any) of the amount de-
18 scribed in subparagraph (A)(ii) over the amount
19 described in subparagraph (A)(i).

20 “(4) SPECIAL RULE FOR DIVIDENDS.—Any div-
21 idend taken into account in determining net income
22 or net loss for purposes of paragraph (1) shall not
23 be treated as qualified dividend income for purposes
24 of section 1(h).

25 “(b) DISPOSITIONS OF PARTNERSHIP INTERESTS.—

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

3 “(A) treated as ordinary income, and

4 “(B) recognized notwithstanding any other
5 provision of this subtitle.

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

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

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

17 “(3) ELECTION WITH RESPECT TO CERTAIN EX-
18 CHANGES.—Paragraph (1)(B) shall not apply to the
19 contribution of an investment services partnership
20 interest to a partnership in exchange for an interest
21 in such partnership if—

22 “(A) the taxpayer makes an irrevocable
23 election to treat the partnership interest re-
24 ceived in the exchange as an investment serv-
25 ices partnership interest, and

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

4 “(4) DISPOSITION OF PORTION OF INTEREST.—
5 In the case of any disposition of an investment serv-
6 ices partnership interest, the amount of net loss
7 which otherwise would have (but for subsection
8 (a)(2)(C)) applied to reduce the basis of such inter-
9 est shall be disregarded for purposes of this section
10 for all succeeding partnership taxable years.

11 “(5) DISTRIBUTIONS OF PARTNERSHIP PROP-
12 ERTY.—In the case of any distribution of property
13 by a partnership with respect to any investment
14 services partnership interest held by a partner—

15 “(A) the excess (if any) of—

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

19 “(ii) the adjusted basis of such prop-
20 erty in the hands of the partnership,
21 shall be taken into account as an increase in
22 such partner’s distributive share of the taxable
23 income of the partnership (except to the extent
24 such excess is otherwise taken into account in

1 determining the taxable income of the partner-
2 ship),

3 “(B) such property shall be treated for
4 purposes of subpart B of part II as money dis-
5 tributed to such partner in an amount equal to
6 such fair market value, and

7 “(C) the basis of such property in the
8 hands of such partner shall be such fair market
9 value.

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

21 “(6) APPLICATION OF SECTION 751.—

22 “(A) IN GENERAL.—In applying section
23 751, an investment services partnership interest
24 shall be treated as an inventory item.

1 “(B) EXCEPTION FOR CERTAIN DISPOSI-
2 TIONS OF INTERESTS IN A PUBLICLY TRADED
3 PARTNERSHIP.—Except as provided by the Sec-
4 retary, this paragraph shall not apply in the
5 case of any (direct or indirect) disposition of an
6 interest in a publicly traded partnership (as de-
7 fined in section 7704) which is not an invest-
8 ment services partnership interest in the hands
9 of the person disposing of such interest (or the
10 hands of the person holding such interest indi-
11 rectly).

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

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

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

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

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

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

10 “(2) SPECIFIED ASSET.—The term ‘specified
11 asset’ means securities (as defined in section
12 475(c)(2) without regard to the last sentence there-
13 of), real estate held for rental or investment, inter-
14 ests in partnerships, commodities (as defined in sec-
15 tion 475(e)(2)), or options or derivative contracts
16 with respect to any of the foregoing.

17 “(3) EXCEPTION FOR FAMILY FARMS.—The
18 term ‘specified asset’ shall not include any farm
19 used for farming purposes if such farm is held by
20 a partnership all of the interests in which are held
21 (directly or indirectly) by members of the same fam-
22 ily. Terms used in the preceding sentence which are
23 also used in section 2032A shall have the same
24 meaning as when used in such section.

1 “(4) EXCEPTION FOR PARTNERSHIPS WITH PRO
2 RATA ALLOCATIONS BASED ON CAPITAL.—Except as
3 provided by the Secretary, the term ‘investment
4 services partnership interest’ shall not include any
5 interest in a partnership if all distributions and all
6 allocations of the partnership, and of any other part-
7 nership in which the partnership directly or indi-
8 rectly holds an interest, are made pro rata on the
9 basis of the capital contributions of each partner
10 which constitute qualified capital interests under
11 subsection (d).

12 “(5) RELATED PERSONS.—A person shall be
13 treated as related to another person if the relation-
14 ship between such persons is described in section
15 267 or 707(b).

16 “(d) EXCEPTION FOR CERTAIN CAPITAL INTER-
17 ESTS.—

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

24 “(A) allocations of items are made by the
25 partnership to such qualified capital interest in

1 the same manner as such allocations are made
2 to other qualified capital interests held by part-
3 ners who do not provide any services described
4 in subsection (c)(1) and who are not related to
5 the partner holding the qualified capital inter-
6 est, and

7 “(B) the allocations made to such other in-
8 terests are significant compared to the alloca-
9 tions made to such qualified capital interest.

10 “(2) AUTHORITY TO PROVIDE EXCEPTIONS TO
11 ALLOCATION REQUIREMENTS.—To the extent pro-
12 vided by the Secretary in regulations or other guid-
13 ance—

14 “(A) ALLOCATIONS TO PORTION OF QUALI-
15 FIED CAPITAL INTEREST.—Paragraph (1) may
16 be applied separately with respect to a portion
17 of a qualified capital interest.

18 “(B) NO OR INSIGNIFICANT ALLOCATIONS
19 TO NONSERVICE PROVIDERS.—In any case in
20 which the requirements of paragraph (1)(B) are
21 not satisfied, items of income, gain, loss, and
22 deduction shall not be taken into account under
23 subsection (a) to the extent that such items are
24 properly allocable under such regulations or
25 other guidance to qualified capital interests.

1 “(C) ALLOCATIONS TO SERVICE PRO-
2 VIDERS’ QUALIFIED CAPITAL INTERESTS WHICH
3 ARE LESS THAN OTHER ALLOCATIONS.—Alloca-
4 tions shall not be treated as failing to meet the
5 requirement of paragraph (1)(A) merely be-
6 cause the allocations to the qualified capital in-
7 terest represent a lower return than the alloca-
8 tions made to the other qualified capital inter-
9 ests referred to in such paragraph.

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

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

22 “(B) for purposes of this subsection, the
23 qualified capital interest of the holder of such
24 partnership interest immediately after such
25 change shall not be less than the fair market

1 value of such interest (determined immediately
2 before such change).

3 “(4) SPECIAL RULE FOR TIERED PARTNER-
4 SHIPS.—Except as otherwise provided by the Sec-
5 retary, in the case of tiered partnerships, all items
6 which are allocated in a manner which meets the re-
7 quirements of paragraph (1) to qualified capital in-
8 terests in a lower-tier partnership shall retain such
9 character to the extent allocated on the basis of
10 qualified capital interests in any upper-tier partner-
11 ship.

12 “(5) EXCEPTION FOR NO-SELF-CHARGED
13 CARRY AND MANAGEMENT FEE PROVISIONS.—Ex-
14 cept as otherwise provided by the Secretary, an in-
15 terest shall not fail to be treated as satisfying the
16 requirement of paragraph (1)(A) merely because the
17 allocations made by the partnership to such interest
18 do not reflect the cost of services described in sub-
19 section (c)(1) which are provided (directly or indi-
20 rectly) to the partnership by the holder of such in-
21 terest (or a related person).

22 “(6) SPECIAL RULE FOR DISPOSITIONS.—In the
23 case of any investment services partnership interest
24 any portion of which is a qualified capital interest,
25 subsection (b) shall not apply to so much of any

1 gain or loss as bears the same proportion to the en-
2 tire amount of such gain or loss as—

3 “(A) the distributive share of gain or loss
4 that would have been allocated to the qualified
5 capital interest (consistent with the require-
6 ments of paragraph (1)) if the partnership had
7 sold all of its assets at fair market value imme-
8 diately before the disposition, bears to

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

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

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

19 “(i) the fair market value of any
20 money or other property contributed to the
21 partnership in exchange for such interest
22 (determined without regard to section
23 752(a)),

24 “(ii) any amounts which have been in-
25 cluded in gross income under section 83

1 with respect to the transfer of such inter-
2 est, and

3 “(iii) the excess (if any) of—

4 “(I) any items of income and
5 gain taken into account under section
6 702 with respect to such interest, over

7 “(II) any items of deduction and
8 loss so taken into account.

9 “(B) ADJUSTMENT TO QUALIFIED CAPITAL
10 INTEREST.—

11 “(i) DISTRIBUTIONS AND LOSSES.—

12 The qualified capital interest shall be re-
13 duced by distributions from the partner-
14 ship with respect to such interest and by
15 the excess (if any) of the amount described
16 in subparagraph (A)(iii)(II) over the
17 amount described in subparagraph
18 (A)(iii)(I).

19 “(ii) SPECIAL RULE FOR CONTRIBU-
20 TIONS OF PROPERTY.—In the case of any
21 contribution of property described in sub-
22 paragraph (A)(i) with respect to which the
23 fair market value of such property is not
24 equal to the adjusted basis of such prop-
25 erty immediately before such contribution,

1 proper adjustments shall be made to the
2 qualified capital interest to take into ac-
3 count such difference consistent with such
4 regulations or other guidance as the Sec-
5 retary may provide.

6 “(8) TREATMENT OF CERTAIN LOANS.—

7 “(A) PROCEEDS OF PARTNERSHIP LOANS
8 NOT TREATED AS QUALIFIED CAPITAL INTER-
9 EST OF SERVICE PROVIDING PARTNERS.—For
10 purposes of this subsection, an investment serv-
11 ices partnership interest shall not be treated as
12 a qualified capital interest to the extent that
13 such interest is acquired in connection with the
14 proceeds of any loan or other advance made or
15 guaranteed, directly or indirectly, by any other
16 partner or the partnership (or any person re-
17 lated to any such other partner or the partner-
18 ship). The preceding sentence shall not apply to
19 the extent the loan or other advance is repaid
20 before the date of the enactment of this section
21 unless such repayment is made with the pro-
22 ceeds of a loan or other advance described in
23 the preceding sentence.

24 “(B) REDUCTION IN ALLOCATIONS TO
25 QUALIFIED CAPITAL INTERESTS FOR LOANS

1 FROM NONSERVICE-PROVIDING PARTNERS TO
2 THE PARTNERSHIP.—For purposes of this sub-
3 section, any loan or other advance to the part-
4 nership made or guaranteed, directly or indi-
5 rectly, by a partner not providing services de-
6 scribed in subsection (c)(1) to the partnership
7 (or any person related to such partner) shall be
8 taken into account in determining the qualified
9 capital interests of the partners in the partner-
10 ship.

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

13 “(1) IN GENERAL.—If—

14 “(A) a person performs (directly or indi-
15 rectly) investment management services for any
16 entity,

17 “(B) such person holds (directly or indi-
18 rectly) a disqualified interest with respect to
19 such entity, and

20 “(C) the value of such interest (or pay-
21 ments thereunder) is substantially related to
22 the amount of income or gain (whether or not
23 realized) from the assets with respect to which
24 the investment management services are per-
25 formed,

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

5 “(2) DEFINITIONS.—For purposes of this sub-
6 section—

7 “(A) DISQUALIFIED INTEREST.—

8 “(i) IN GENERAL.—The term ‘dis-
9 qualified interest’ means, with respect to
10 any entity—

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

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

15 “(III) any option or other right
16 to acquire property described in sub-
17 clause (I) or (II), and

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

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

24 “(I) a partnership interest,

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

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

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

8 “(i) a domestic C corporation, or

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

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

14 “(II) subject to a comprehensive
15 foreign income tax (as defined in sec-
16 tion 457A(d)(2)).

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

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

1 “(1) provide modifications to the application of
2 this section (including treating related persons as
3 not related to one another) to the extent such modi-
4 fication is consistent with the purposes of this sec-
5 tion,

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

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

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

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

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

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

1 “(4) SPECIAL RULE FOR RECOGNITION OF
2 GAIN.—Gain which (but for this section) would not
3 be recognized shall be recognized by reason of sub-
4 section (b) only to the extent that such gain is treat-
5 ed as ordinary income after application of paragraph
6 (2).

7 “(5) COORDINATION WITH LIMITATION ON
8 LOSSES.—For purposes of applying paragraph (2) of
9 subsection (a) with respect to any net loss for any
10 taxable year—

11 “(A) such paragraph shall only apply with
12 respect to the applicable percentage of such net
13 loss for such taxable year,

14 “(B) in the case of a prior partnership tax-
15 able year referred to in clause (i) or (ii) of sub-
16 paragraph (A) of such paragraph, only the ap-
17 plicable percentage (as in effect for such prior
18 taxable year) of net income or net loss for such
19 prior partnership taxable year shall be taken
20 into account, and

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

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

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

7 “(I) as an increase in net loss or
8 as a reduction in net income (includ-
9 ing below zero), as the case may be,
10 and

11 “(II) after any reduction in the
12 amount of such net loss or net income
13 under this subsection.

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

16 “(6) COORDINATION WITH TREATMENT OF
17 DIVIDENDS.—Subsection (a)(4) shall only apply to
18 the applicable percentage of dividends described
19 therein.

20 “(7) APPLICABLE PERCENTAGE.—For purposes
21 of this subsection—

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

1 “(B) EXCEPTION FOR DISPOSITION OF AS-
2 SETS HELD BY INVESTMENT SERVICES PART-
3 NERSHIPS AT LEAST 5 YEARS.—The applicable
4 percentage shall be 50 percent with respect to
5 any net income or net loss under subsection
6 (a)(1) which is properly allocable to gain or loss
7 from the disposition (or a distribution under
8 subsection (b)(5)) of any asset (other than an
9 investment services partnership interest) which
10 has been held by the investment services part-
11 nership for at least 5 years.

12 “(C) EXCEPTION FOR DISPOSITION OF IN-
13 VESTMENT SERVICES PARTNERSHIP INTERESTS
14 HELD AT LEAST 5 YEARS.—

15 “(i) IN GENERAL.—The applicable
16 percentage shall be 50 percent with respect
17 to—

18 “(I) net income or net loss under
19 subsection (a)(1) which is properly al-
20 locable to gain or loss from the dis-
21 position (or a distribution under sub-
22 section (b)(5)) of an investment serv-
23 ices partnership interest which has
24 been held at least 5 years, and

1 “(II) gain or loss under sub-
2 section (b) on the disposition of an in-
3 vestment services partnership interest
4 which has been held for at least 5
5 years,

6 but only to the extent such gain or loss is
7 attributable to assets held by the invest-
8 ment services partnership for at least 5
9 years.

10 “(ii) APPLICATION IN THE CASE OF
11 TIERED PARTNERSHIPS, ETC.—For pur-
12 poses of determining whether the assets of
13 the investment services partnership have
14 been held for at least 5 years under clause
15 (i), an investment services partnership
16 shall be treated as owning its propor-
17 tionate share of the property of any other
18 partnership in which it has held an invest-
19 ment services partnership interest for at
20 least 5 years.

21 “(iii) REGULATIONS.—The Secretary
22 may by regulation or other guidance ex-
23 tend the application of clause (ii) to enti-
24 ties other than investment services part-

1 nerships if necessary to prevent the avoid-
2 ance of the purposes of this subparagraph.

3 “(D) TREATMENT OF GOODWILL AND
4 OTHER SECTION 197 INTANGIBLES.—For pur-
5 poses of this paragraph, in the case of any sec-
6 tion 197 intangible of an entity through which
7 services described in subparagraphs (A)
8 through (D) of subsection (c)(1) are directly or
9 indirectly provided—

10 “(i) the holding period of such intan-
11 gible shall not be less than the holding pe-
12 riod of the investment services partnership
13 interest in the partnership, and

14 “(ii) the value of such intangible shall
15 be determined in a manner consistent with
16 the regulations described in subparagraph
17 (E).

18 “(E) VALUATION METHODS.—The Sec-
19 retary shall prescribe regulations or guidance
20 which provide—

21 “(i) the acceptable valuation methods
22 for purposes of this subparagraph, except
23 that such methods shall not include any
24 valuation method which is inconsistent
25 with the method used by the taxpayer for

1 other purposes (including reporting asset
2 valuations to partners or potential partners
3 in the partnership or any related partner-
4 ship) if such inconsistent valuation method
5 would result in the treatment of a greater
6 amount of gain as attributable to a section
7 197 intangible than would result under the
8 valuation method used by the taxpayer for
9 such other purposes,

10 “(ii) circumstances under which valu-
11 ations are sufficiently independent to pro-
12 vide an accurate determination of fair mar-
13 ket value, and

14 “(iii) any information required to be
15 furnished to the Secretary by the parties to
16 the disposition with respect to such valu-
17 ation.

18 “(F) DEFINITIONS AND SPECIAL RULES.—

19 For purposes of this paragraph—

20 “(i) INVESTMENT SERVICES PARTNER-
21 SHIP.—The term ‘investment services part-
22 nership’ means, with respect to any invest-
23 ment services partnership interest, the en-
24 tity in which such interest is held.

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

4 “(iii) APPLICATION TO DISQUALIFIED
5 INTERESTS.—Rules similar to the rules of
6 this paragraph shall apply with respect to
7 income or gain with respect to a disquali-
8 fied interest under subsection (e).

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

12 (b) TREATMENT FOR PURPOSES OF SECTION
13 7704.—Subsection (d) of section 7704 is amended by add-
14 ing at the end the following new paragraph:

15 “(6) INCOME FROM INVESTMENT SERVICES
16 PARTNERSHIP INTERESTS NOT QUALIFIED.—

17 “(A) IN GENERAL.—Items of income and
18 gain shall not be treated as qualifying income
19 if such items are treated as ordinary income by
20 reason of the application of section 710 (relat-
21 ing to special rules for partners providing in-
22 vestment management services to partnership).
23 The preceding sentence shall not apply to any
24 item described in paragraph (1)(E) (or so much

1 of paragraph (1)(F) as relates to paragraph
2 (1)(E)).

3 “(B) SPECIAL RULES FOR CERTAIN PART-
4 NERSHIPS.—

5 “(i) CERTAIN PARTNERSHIPS OWNED
6 BY REAL ESTATE INVESTMENT TRUSTS.—

7 Subparagraph (A) shall not apply in the
8 case of a partnership which meets each of
9 the following requirements:

10 “(I) Such partnership is treated
11 as publicly traded under this section
12 solely by reason of interests in such
13 partnership being convertible into in-
14 terests in a real estate investment
15 trust which is publicly traded.

16 “(II) 50 percent or more of the
17 capital and profits interests of such
18 partnership are owned, directly or in-
19 directly, at all times during the tax-
20 able year by such real estate invest-
21 ment trust (determined with the ap-
22 plication of section 267(c)).

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

1 “(ii) CERTAIN PARTNERSHIPS OWN-
2 ING OTHER PUBLICLY TRADED PARTNER-
3 SHIPS.—Subparagraph (A) shall not apply
4 in the case of a partnership which meets
5 each of the following requirements:

6 “(I) Substantially all of the as-
7 sets of such partnership consist of in-
8 terests in one or more publicly traded
9 partnerships (determined without re-
10 gard to subsection (b)(2)).

11 “(II) Substantially all of the in-
12 come of such partnership is ordinary
13 income or section 1231 gain (as de-
14 fined in section 1231(a)(3)).

15 “(C) TRANSITIONAL RULE.—Subpara-
16 graph (A) shall not apply to any taxable year
17 of the partnership beginning before the date
18 which is 10 years after the date of the enact-
19 ment of this paragraph.”.

20 (c) IMPOSITION OF PENALTY ON UNDERPAY-
21 MENTS.—

22 (1) IN GENERAL.—Subsection (b) of section
23 6662 is amended by inserting after paragraph (7)
24 the following new paragraph:

1 “(8) The application of subsection (e) of section
2 710, the regulations or other guidance prescribed
3 under section 710(f) to prevent the avoidance of the
4 purposes of section 710, or the regulations or other
5 guidance prescribed under section 710(g)(7)(E).”.

6 (2) AMOUNT OF PENALTY.—

7 (A) IN GENERAL.—Section 6662 is amend-
8 ed by adding at the end the following new sub-
9 section:

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

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

19 (3) SPECIAL RULES FOR APPLICATION OF REA-
20 SONABLE CAUSE EXCEPTION.—Subsection (c) of sec-
21 tion 6664 is amended—

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

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

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

6 “(3) SPECIAL RULE FOR UNDERPAYMENTS AT-
7 TRIBUTABLE TO INVESTMENT MANAGEMENT SERV-
8 ICES.—

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

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

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

18 “(iii) the taxpayer reasonably believed
19 that such treatment was more likely than
20 not the proper treatment.

21 “(B) RULES RELATING TO REASONABLE
22 BELIEF.—Rules similar to the rules of sub-
23 section (d)(3) shall apply for purposes of sub-
24 paragraph (A)(iii).”.

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

4 (1) INTERNAL REVENUE CODE.—Section
5 1402(a) is amended by striking “and” at the end of
6 paragraph (16), by striking the period at the end of
7 paragraph (17) and inserting “; and”, and by insert-
8 ing after paragraph (17) the following new para-
9 graph:

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

19 (2) SOCIAL SECURITY ACT.—Section 211(a) of
20 the Social Security Act is amended by striking
21 “and” at the end of paragraph (15), by striking the
22 period at the end of paragraph (16) and inserting “;
23 and”, and by inserting after paragraph (16) the fol-
24 lowing new paragraph:

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

11 (e) CONFORMING AMENDMENTS.—

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

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

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

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

23 (f) EFFECTIVE DATE.—

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

5 (2) PARTNERSHIP TAXABLE YEARS WHICH IN-
6 CLUDE EFFECTIVE DATE.—In applying section
7 710(a) of the Internal Revenue Code of 1986 (as
8 added by this section) in the case of any partnership
9 taxable year which includes December 31, 2010, the
10 amount of the net income referred to in such section
11 shall be treated as being the lesser of the net income
12 for the entire partnership taxable year or the net in-
13 come determined by only taking into account items
14 attributable to the portion of the partnership taxable
15 year which is after such date.

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

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

1 **Subtitle B—Corporate Provisions**

2 **SEC. 411. TREATMENT OF SECURITIES OF A CONTROLLED** 3 **CORPORATION EXCHANGED FOR ASSETS IN** 4 **CERTAIN REORGANIZATIONS.**

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

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

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

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

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

3 (c) EFFECTIVE DATE.—

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

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

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

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

16 (C) described on or before December 31,
17 2010, in a public announcement or in a filing
18 with the Securities and Exchange Commission.

19 **SEC. 412. TAXATION OF BOOT RECEIVED IN REORGANIZA-**
20 **TIONS.**

21 (a) IN GENERAL.—Paragraph (2) of section 356(a)
22 is amended—

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

25 “(A) IN GENERAL.—If an exchange”;

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

6 (3) by adding at the end the following new sub-
7 paragraph:

8 “(B) CERTAIN REORGANIZATIONS.—In the
9 case of a reorganization described in section
10 368(a)(1)(D) to which section 354(b)(1) applies
11 or any other reorganization specified by the
12 Secretary, in applying subparagraph (A)—

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

16 “(ii) the amount which is a dividend
17 (and source thereof) shall be determined
18 under rules similar to the rules of para-
19 graphs (2) and (5) of section 304(b).”.

20 (b) EARNINGS AND PROFITS.—Paragraph (7) of sec-
21 tion 312(n) is amended by adding at the end the following:
22 “A similar rule shall apply to an exchange to which section
23 356(a)(1) applies.”.

24 (c) CONFORMING AMENDMENT.—Paragraph (1) of
25 section 356(a) is amended by striking “then the gain” and

1 inserting “then (except as provided in paragraph (2)) the
2 gain”.

3 (d) EFFECTIVE DATE.—

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

7 (2) TRANSITION RULES.—

8 (A) IN GENERAL.—The amendments made
9 by this section shall not apply to any exchange
10 between unrelated persons pursuant to a trans-
11 action which is—

12 (i) made pursuant to a written agree-
13 ment which was binding on December 31,
14 2010, and at all times thereafter;

15 (ii) described in a ruling request sub-
16 mitted to the Internal Revenue Service on
17 or before July 29, 2010; or

18 (iii) described in a public announce-
19 ment or filing with the Securities and Ex-
20 change Commission on or before December
21 31, 2010.

22 (B) SPECIAL RULE.—The amendments
23 made by this section shall not apply to an ex-
24 change described in subparagraph (C) if the ex-
25 change is completed before the date which is 1

1 year after the acquisition described in subpara-
2 graph (C) occurred.

3 (C) APPLICABLE EXCHANGES.—An ex-
4 change is described in this subparagraph if sub-
5 paragraph (A) does not apply to such exchange
6 and it—

7 (i)(I) is in connection with an acquisi-
8 tion between unrelated persons which oc-
9 curred before July 29, 2010; and

10 (II) was evidenced by written docu-
11 mentation in existence before such acquisi-
12 tion occurred; or

13 (ii)(I) is in connection with an acqui-
14 sition between unrelated persons with re-
15 spect to which there was a written agree-
16 ment, ruling request, public announcement,
17 or filing which meets the requirements of
18 clauses (i), (ii), or (iii) of subparagraph
19 (A); and

20 (II) was evidenced by written docu-
21 mentation in existence before July 29,
22 2010.

23 (3) RELATED PERSONS.—For purposes of this
24 subsection, a person shall be treated as related to
25 another person if the relationship between such per-

1 sons is described in section 267 or 707(b) of the In-
2 ternal Revenue Code of 1986.

3 **Subtitle C—Other Provisions**

4 **SEC. 421. MODIFICATIONS WITH RESPECT TO OIL SPILL LI-** 5 **ABILITY TRUST FUND.**

6 (a) EXTENSION OF APPLICATION OF OIL SPILL LI-
7 ABILITY TRUST FUND FINANCING RATE.—Paragraph (2)
8 of section 4611(f) is amended by striking “December 31,
9 2017” and inserting “December 31, 2020”.

10 (b) INCREASE IN OIL SPILL LIABILITY TRUST FUND
11 FINANCING RATE.—Subparagraph (B) of section
12 4611(c)(2) is amended to read as follows:

13 “(B) the Oil Spill Liability Trust Fund fi-
14 nancing rate is 78 cents a barrel.”.

15 (c) INCREASE IN PER INCIDENT LIMITATIONS ON
16 EXPENDITURES.—Subparagraph (A) of section
17 9509(c)(2) is amended—

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

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

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

25 (d) EFFECTIVE DATE.—

1 (1) EXTENSION OF FINANCING RATE.—Except
2 as provided in paragraph (2), the amendments made
3 by this section shall take effect on the date of the
4 enactment of this Act.

5 (2) INCREASE IN FINANCING RATE.—The
6 amendment made by subsection (b) shall apply to
7 crude oil received and petroleum products entered
8 during calendar quarters beginning more than 60
9 days after the date of the enactment of this Act.

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

11 (a) DISALLOWANCE OF DEDUCTION FOR PUNITIVE
12 DAMAGES.—

13 (1) IN GENERAL.—Section 162(g) (relating to
14 treble damage payments under the antitrust laws) is
15 amended—

16 (A) by redesignating paragraphs (1) and
17 (2) as subparagraphs (A) and (B), respectively,
18 (B) by striking “If” and inserting:

19 “(1) TREBLE DAMAGES.—If”, and

20 (C) by adding at the end the following new
21 paragraph:

22 “(2) PUNITIVE DAMAGES.—No deduction shall
23 be allowed under this chapter for any amount paid
24 or incurred for punitive damages in connection with
25 any judgment in, or settlement of, any action. This

1 paragraph shall not apply to punitive damages de-
2 scribed in section 104(c).”.

3 (2) CONFORMING AMENDMENT.—The heading
4 for section 162(g) is amended by inserting “OR PU-
5 NITIVE DAMAGES” after “LAWS”.

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

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

12 **“SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSUR-**
13 **ANCE OR OTHERWISE.**

14 “Gross income shall include any amount paid to or
15 on behalf of a taxpayer as insurance or otherwise by rea-
16 son of the taxpayer’s liability (or agreement) to pay puni-
17 tive damages.”.

18 (2) REPORTING REQUIREMENTS.—Section 6041
19 (relating to information at source) is amended by
20 adding at the end the following new subsection:

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

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

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

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

8 **TITLE V—HEALTH AND OTHER** 9 **ASSISTANCE**

10 **SEC. 501. EXTENSION OF SECTION 508 RECLASSIFICATIONS.**

11 (a) IN GENERAL.—Section 106(a) of division B of
12 the Tax Relief and Health Care Act of 2006 (42 U.S.C.
13 1395 note), as amended by section 117 of the Medicare,
14 Medicaid, and SCHIP Extension Act of 2007 (Public Law
15 110–173), section 124 of the Medicare Improvements for
16 Patients and Providers Act of 2008 (Public Law 110–
17 275), and sections 3137(a) and 10317 of Public Law 111–
18 148, is amended by striking “September 30, 2010” and
19 inserting “September 30, 2011”.

20 (b) CONFORMING AMENDMENT.—Section 117(a)(3)
21 of the Medicare, Medicaid, and SCHIP Extension Act of
22 2007 (Public Law 110–173)), is amended by inserting “in
23 fiscal years 2008 and 2009” after “For purposes of imple-
24 mentation of this subsection”.

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

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

4 **SEC. 503. LIMITATION ON REASONABLE COSTS PAYMENTS**
5 **FOR CERTAIN CLINICAL DIAGNOSTIC LAB-**
6 **ORATORY TESTS FURNISHED TO HOSPITAL**
7 **PATIENTS IN CERTAIN RURAL AREAS.**

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

11 **SEC. 504. FUNDING FOR CLAIMS REPROCESSING.**

12 For purposes of carrying out the provisions of, and
13 amendments made by, this Act that relate to title XVIII
14 of the Social Security Act, and other provisions of such
15 title that involve reprocessing of claims, there are appro-
16 priated to the Secretary of Health and Human Services
17 for the Centers for Medicare & Medicaid Services Program
18 Management Account, from amounts in the general fund
19 of the Treasury not otherwise appropriated,
20 \$175,000,000. Amounts appropriated under the preceding
21 sentence shall remain available until expended.

22 **SEC. 505. MEDICAID AND CHIP TECHNICAL CORRECTIONS.**

23 (a) **REPEAL OF EXCLUSION OF CERTAIN INDIVID-**
24 **UALS AND ENTITIES FROM MEDICAID.**—Section 6502 of
25 Public Law 111–148 is repealed and the provisions of law
26 amended by such section are restored as if such section

1 had never been enacted. Nothing in the previous sentence
2 shall affect the execution or placement of the insertion
3 made by section 6503 of such Act.

4 (b) INCOME LEVEL FOR CERTAIN CHILDREN UNDER
5 MEDICAID.—Effective as if included in the enactment of
6 Public Law 111–148, section 2001(a)(5)(B) of such Act
7 is amended by striking all that follows “is amended” and
8 inserting the following: “by inserting after ‘100 percent’
9 the following: ‘(or, beginning January 1, 2014, 133 per-
10 cent)’.”.

11 (c) CALCULATION AND PUBLICATION OF PAYMENT
12 ERROR RATE MEASUREMENT FOR CERTAIN YEARS.—
13 Section 601(b) of the Children’s Health Insurance Pro-
14 gram Reauthorization Act of 2009 (Public Law 111–3)
15 is amended by adding at the end the following: “The Sec-
16 retary is not required under this subsection to calculate
17 or publish a national or a State-specific error rate for fis-
18 cal year 2009 or fiscal year 2010.”.

19 (d) CORRECTIONS TO EXCEPTIONS TO EXCLUSION
20 OF CHILDREN OF CERTAIN EMPLOYEES.—Section
21 2110(b)(6) of the Social Security Act (42 U.S.C.
22 1397jj(b)(6)) is amended—

23 (1) in subparagraph (B)—

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

1 (B) by striking “each employee” and in-
2 serting “employees”; and

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

5 (e) ELECTRONIC HEALTH RECORDS.—Effective as if
6 included in the enactment of section 4201(a)(2) of the
7 American Recovery and Reinvestment Act of 2009 (Public
8 Law 111–5), section 1903(t) of the Social Security Act
9 (42 U.S.C. 1396b(t)) is amended—

10 (1) in paragraph (3)(E), by striking “reduced
11 by any payment that is made to such Medicaid pro-
12 vider from any other source (other than under this
13 subsection or by a State or local government)” and
14 inserting “reduced by the average payment the Sec-
15 retary estimates will be made to such Medicaid pro-
16 viders (determined on a percentage or other basis
17 for such classes or types of providers as the Sec-
18 retary may specify) from other sources (other than
19 under this subsection, or by the Federal government
20 or a State or local government)”;

21 (2) in paragraph (6)(B), by inserting before the
22 period the following: “and shall be determined to
23 have met such responsibility to the extent that the
24 payment to the Medicaid provider is not in excess of
25 85 percent of the net average allowable cost”.

1 (f) NATIVE AMERICAN TECHNICAL CORRECTION.—
2 Effective as if included in the enactment of the Patient
3 Protection and Affordable Care Act (Public Law 111–
4 148), section 1101(d)(2) of such Act (42 U.S.C.
5 18001(d)(2)) is amended by inserting after “of this Act”
6 the following: “but applied without regard to subpara-
7 graph (F) of such section”.

8 (g) CORRECTIONS OF DESIGNATIONS.—

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

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

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

17 (2) Section 2107(e)(1) of the Social Security
18 Act (42 U.S.C. 1397gg(e)(1)) is amended by redes-
19 ignating the subparagraph (N) of that section added
20 by 2101(e) of Public Law 111–148 as subparagraph
21 (O).

22 **SEC. 506. ADDITION OF INPATIENT DRUG DISCOUNT PRO-**
23 **GRAM TO 340B DRUG DISCOUNT PROGRAM.**

24 (a) ADDITION OF INPATIENT DRUG DISCOUNT.—
25 Title III of the Public Health Service Act is amended by

1 inserting after section 340B (42 U.S.C. 256b) the fol-
2 lowing:

3 **“SEC. 340B-1. DISCOUNT INPATIENT DRUGS FOR INDIVID-**
4 **UALS WITHOUT PRESCRIPTION DRUG COV-**
5 **ERAGE.**

6 “(a) REQUIREMENTS FOR AGREEMENTS WITH THE
7 SECRETARY.—

8 “(1) IN GENERAL.—

9 “(A) AGREEMENT.—The Secretary shall
10 enter into an agreement with each manufac-
11 turer of covered inpatient drugs under which
12 the amount required to be paid (taking into ac-
13 count any rebate or discount, as provided by
14 the Secretary) to the manufacturer for covered
15 inpatient drugs (other than drugs described in
16 paragraph (3)) purchased by a covered entity
17 on or after January 1, 2011, does not exceed
18 an amount equal to the average manufacturer
19 price for the drug under title XIX of the Social
20 Security Act in the preceding calendar quarter,
21 reduced by the rebate percentage described in
22 paragraph (2). For a covered inpatient drug
23 that also is a covered outpatient drug under
24 section 340B, the amount required to be paid
25 under the preceding sentence shall be equal to

1 the amount required to be paid under section
2 340B(a)(1) for such drug. The agreement with
3 a manufacturer under this subparagraph may,
4 at the discretion of the Secretary, be included
5 in the agreement with the same manufacturer
6 under section 340B.

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

21 “(C) ALLOCATION METHOD.—Each such
22 agreement shall require that, if the supply of a
23 covered inpatient drug is insufficient to meet
24 demand, then the manufacturer may use an al-
25 location method that is reported in writing to,

1 and approved by, the Secretary and does not
2 discriminate on the basis of the price paid by
3 covered entities or on any other basis related to
4 the participation of an entity in the program
5 under this section.

6 “(2) REBATE PERCENTAGE DEFINED.—

7 “(A) IN GENERAL.—For a covered inpa-
8 tient drug purchased in a calendar quarter, the
9 ‘rebate percentage’ is the amount (expressed as
10 a percentage) equal to—

11 “(i) the average total rebate required
12 under section 1927(c) of the Social Secu-
13 rity Act (or the average total rebate that
14 would be required if the drug were a cov-
15 ered outpatient drug under such section)
16 with respect to the drug (for a unit of the
17 dosage form and strength involved) during
18 the preceding calendar quarter; divided by

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

22 “(B) OVER THE COUNTER DRUGS.—

23 “(i) IN GENERAL.—For purposes of
24 subparagraph (A), in the case of over the
25 counter drugs, the ‘rebate percentage’ shall

1 be determined as if the rebate required
2 under section 1927(c) of the Social Secu-
3 rity Act is based on the applicable percent-
4 age provided under section 1927(c)(3) of
5 such Act.

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

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

18 “(4) REQUIREMENTS FOR COVERED ENTI-
19 TIES.—

20 “(A) PROHIBITING DUPLICATE DISCOUNTS
21 OR REBATES.—

22 “(i) IN GENERAL.—A covered entity
23 shall not request payment under title XIX
24 of the Social Security Act for medical as-
25 sistance described in section 1905(a)(12)

1 of such Act with respect to a covered inpa-
2 tient drug that is subject to an agreement
3 under this section if the drug is subject to
4 the payment of a rebate to the State under
5 section 1927 of such Act.

6 “(ii) ESTABLISHMENT OF MECHA-
7 NISM.—The Secretary shall establish a
8 mechanism to ensure that covered entities
9 comply with clause (i). If the Secretary
10 does not establish a mechanism under the
11 previous sentence within 12 months of the
12 enactment of this section, the requirements
13 of section 1927(a)(5)(C) of the Social Se-
14 curity Act shall apply.

15 “(iii) PROHIBITING DISCLOSURE TO
16 GROUP PURCHASING ORGANIZATIONS.—In
17 the event that a covered entity is a mem-
18 ber of a group purchasing organization,
19 such entity shall not disclose the price or
20 any other information pertaining to any
21 purchases under this section directly or in-
22 directly to such group purchasing organi-
23 zation. Information pertaining to the price
24 or to any purchases under this section does
25 not include information about the safety

1 and effectiveness characteristics of a cov-
2 ered inpatient drug.

3 “(B) PROHIBITING RESALE, DISPENSING,
4 OR ADMINISTRATION OF DRUGS EXCEPT TO
5 CERTAIN PATIENTS.—With respect to any cov-
6 ered inpatient drug that is subject to an agree-
7 ment under this subsection, a covered entity
8 shall not dispense, administer, resell, or other-
9 wise transfer the covered inpatient drug to a
10 person unless—

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

13 “(ii) such person does not have health
14 plan coverage (as defined in subsection
15 (c)(3)) that provides prescription drug cov-
16 erage in the inpatient setting with respect
17 to such covered inpatient drug.

18 For purposes of clause (ii), a person shall be
19 treated as having health plan coverage (as de-
20 fined in subsection (c)(3)) with respect to a cov-
21 ered inpatient drug if benefits are not payable
22 under such coverage with respect to such drug
23 for reasons such as the application of a deduct-
24 ible or cost sharing or the use of utilization
25 management.

1 “(C) AUDITING.—A covered entity shall
2 permit the Secretary and the manufacturer of a
3 covered inpatient drug that is subject to an
4 agreement under this subsection with the entity
5 (acting in accordance with procedures estab-
6 lished by the Secretary relating to the number,
7 duration, and scope of audits) to audit at the
8 Secretary’s or the manufacturer’s expense the
9 records of the entity that directly pertain to the
10 entity’s compliance with the requirements de-
11 scribed in subparagraph (A) or (B) with respect
12 to drugs of the manufacturer. The use or dis-
13 closure of information for performance of such
14 an audit shall be treated as a use or disclosure
15 required by law for purposes of section
16 164.512(a) of title 45, Code of Federal Regula-
17 tions.

18 “(D) ADDITIONAL SANCTION FOR NON-
19 COMPLIANCE.—If the Secretary finds, after no-
20 tice and hearing, that a covered entity is in vio-
21 lation of a requirement described in subpara-
22 graph (A) or (B), the covered entity shall be
23 liable to the manufacturer of the covered inpa-
24 tient drug that is the subject of the violation in
25 an amount equal to the reduction in the price

1 of the drug (as described in subparagraph (A))
2 provided under the agreement between the Sec-
3 retary and the manufacturer under this sub-
4 section.

5 “(E) MAINTENANCE OF RECORDS.—

6 “(i) IN GENERAL.—A covered entity
7 shall establish and maintain an effective
8 recordkeeping system to comply with this
9 section and shall certify to the Secretary
10 that such entity is in compliance with sub-
11 paragraphs (A) and (B). The Secretary
12 shall require that hospitals that purchase
13 covered inpatient drugs for inpatient dis-
14 pensing or administration under this sub-
15 section appropriately segregate inventory
16 of such covered inpatient drugs, either
17 physically or electronically, from drugs for
18 outpatient use, as well as from drugs for
19 inpatient dispensing or administration to
20 individuals who have (for purposes of sub-
21 paragraph (B)) health plan coverage de-
22 scribed in clause (ii) of such subparagraph.

23 “(ii) CERTIFICATION OF NO THIRD-
24 PARTY PAYER.—A covered entity shall
25 maintain records that contain certification

1 by the covered entity that no third party
2 payment was received for any covered in-
3 patient drug that is subject to an agree-
4 ment under this subsection and that was
5 dispensed to an inpatient.

6 “(5) TREATMENT OF DISTINCT UNITS OF HOS-
7 PITALS.—In the case of a covered entity that is a
8 distinct part of a hospital, the distinct part of the
9 hospital shall not be considered a covered entity
10 under this subsection unless the hospital is otherwise
11 a covered entity under this subsection.

12 “(6) NOTICE TO MANUFACTURERS.—The Sec-
13 retary shall notify manufacturers of covered inpa-
14 tient drugs and single State agencies under section
15 1902(a)(5) of the Social Security Act of the identi-
16 ties of covered entities under this subsection, and of
17 entities that no longer meet the requirements of
18 paragraph (4), by means of timely updates of the
19 Internet website supported by the Department of
20 Health and Human Services relating to this section.

21 “(7) NO PROHIBITION ON LARGER DISCOUNT.—
22 Nothing in this subsection shall prohibit a manufac-
23 turer from charging a price for a drug that is lower
24 than the maximum price that may be charged under
25 paragraph (1).

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

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

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

21 “(B) for the most recent cost reporting pe-
22 riod that ended before the calendar quarter in-
23 volved, had a disproportionate share adjustment
24 percentage (as determined using the method-
25 ology under section 1886(d)(5)(F) of the Social

1 Security Act as in effect on the date of enact-
2 ment of this section) greater than 20.20 percent
3 or was described in section 1886(d)(5)(F)(i)(II)
4 of such Act (as so in effect on the date of en-
5 actment of this section).

6 “(2) A children’s hospital excluded from the
7 Medicare prospective payment system pursuant to
8 section 1886(d)(1)(B)(iii) of the Social Security Act
9 that would meet the requirements of paragraph (1),
10 including the disproportionate share adjustment per-
11 centage requirement under subparagraph (B) of
12 such paragraph, if the hospital were a subsection (d)
13 hospital as defined by section 1886(d)(1)(B) of the
14 Social Security Act.

15 “(3) A free-standing cancer hospital excluded
16 from the Medicare prospective payment system pur-
17 suant to section 1886(d)(1)(B)(v) of the Social Se-
18 curity Act that would meet the requirements of
19 paragraph (1), including the disproportionate share
20 adjustment percentage requirement under subpara-
21 graph (B) of such paragraph, if the hospital were a
22 subsection (d) hospital as defined by section
23 1886(d)(1)(B) of the Social Security Act.

24 “(4) An entity that is a critical access hospital
25 (as determined under section 1820(c)(2) of the So-

1 cial Security Act), and that meets the requirements
2 of paragraph (1)(A).

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

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

11 “(1) AVERAGE MANUFACTURER PRICE.—

12 “(A) IN GENERAL.—The term ‘average
13 manufacturer price’—

14 “(i) has the meaning given such term
15 in section 1927(k) of the Social Security
16 Act, except that such term shall be applied
17 under this section with respect to covered
18 inpatient drugs in the same manner (as
19 applicable) as such term is applied under
20 such section 1927(k) with respect to cov-
21 ered outpatient drugs (as defined in such
22 section); and

23 “(ii) with respect to a covered inpa-
24 tient drug for which there is no average
25 manufacturer price (as defined in clause

1 (i)), shall be the amount determined under
2 regulations promulgated by the Secretary
3 under subparagraph (B).

4 “(B) RULEMAKING.—The Secretary shall
5 by regulation, in consultation with the Adminis-
6 trator of the Centers for Medicare & Medicaid
7 Services, establish a method for determining the
8 average manufacturer price for covered inpa-
9 tient drugs for which there is no average manu-
10 facturer price (as defined in subparagraph
11 (A)(i)). Regulations promulgated with respect
12 to covered inpatient drugs under the preceding
13 sentence shall provide for the application of
14 methods for determining the average manufac-
15 turer price that are the same as the methods
16 used to determine such price in calculating re-
17 bates required for such drugs under an agree-
18 ment between a manufacturer and a State that
19 satisfies the requirements of section 1927(b) of
20 the Social Security Act, as applicable.

21 “(2) COVERED INPATIENT DRUG.—

22 “(A) IN GENERAL.—The term ‘covered in-
23 patient drug’ means a drug—

24 “(i) that is described in section
25 1927(k)(2) of the Social Security Act;

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

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

11 “(B) RULE OF CONSTRUCTION.—Nothing
12 in this paragraph shall be construed to affect
13 the program under section 340B.

14 “(3) HEALTH PLAN COVERAGE.—The term
15 ‘health plan coverage’ means—

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

19 “(B) coverage under a group health plan
20 (as defined in such section, and including cov-
21 erage under a church plan, a governmental
22 plan, or a collectively bargained plan);

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

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

4 “(4) MANUFACTURER.—The term ‘manufac-
5 turer’ has the meaning given such term in section
6 1927(k) of the Social Security Act.

7 “(d) PROGRAM INTEGRITY.—

8 “(1) MANUFACTURER COMPLIANCE.—

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

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

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

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

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

12 “(III) Conducting periodic moni-
13 toring of sales transactions by covered
14 entities.

15 “(IV) Inquiring into any discrep-
16 ancies between ceiling prices and
17 manufacturer pricing data that may
18 be identified and taking, or requiring
19 manufacturers to take, corrective ac-
20 tion in response to such discrepancies,
21 including the issuance of refunds pur-
22 suant to the procedures set forth in
23 clause (ii).

24 “(ii) The establishment of procedures
25 for manufacturers to issue refunds to cov-

1 ered entities in the event that there is an
2 overcharge by the manufacturers, including
3 the following:

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

9 “(II) Oversight by the Secretary
10 to ensure that the refunds are issued
11 accurately and within a reasonable pe-
12 riod of time.

13 “(iii) The provision of access through
14 the Internet website supported by the De-
15 partment of Health and Human Services
16 to the applicable ceiling prices for covered
17 inpatient drugs as calculated and verified
18 by the Secretary in accordance with this
19 section, in a manner (such as through the
20 use of password protection) that limits
21 such access to covered entities and ade-
22 quately assures security and protection of
23 privileged pricing data from unauthorized
24 re-disclosure.

1 “(iv) The development of a mecha-
2 nism by which—

3 “(I) rebates, discounts, or other
4 price concessions provided by manu-
5 facturers to other purchasers subse-
6 quent to the sale of covered inpatient
7 drugs to covered entities are reported
8 to the Secretary; and

9 “(II) appropriate credits and re-
10 funds are issued to covered entities if
11 such discounts, rebates, or other price
12 concessions have the effect of lowering
13 the applicable ceiling price for the rel-
14 evant quarter for the drugs involved.

15 “(v) Selective auditing of manufactur-
16 ers and wholesalers to ensure the integrity
17 of the drug discount program under this
18 section.

19 “(vi) The establishment of a require-
20 ment that manufacturers and wholesalers
21 use the identification system developed by
22 the Secretary for purposes of facilitating
23 the ordering, purchasing, and delivery of
24 covered inpatient drugs under this section,

1 including the processing of chargebacks for
2 such drugs.

3 “(vii) 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 to be promul-
9 gated by the Secretary not later than
10 January 1, 2011;

11 “(II) shall not exceed \$10,000
12 per single dosage form of a covered
13 inpatient drug purchased by a covered
14 entity where a manufacturer know-
15 ingly charges such covered entity a
16 price for such drug that exceeds the
17 ceiling price under subsection (a)(1);
18 and

19 “(III) shall not exceed \$100,000
20 for each instance where a manufac-
21 turer withholds or provides materially
22 false information to the Secretary or
23 to covered entities under this section
24 or knowingly violates any provision of

1 this section (other than subsection
2 (a)(1)).

3 “(2) COVERED ENTITY COMPLIANCE.—

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

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

14 “(i) The development of procedures to
15 enable and require covered entities to up-
16 date at least annually the information on
17 the Internet website supported by the De-
18 partment of Health and Human Services
19 relating to this section.

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

1 “(iii) The development of more de-
2 tailed guidance describing methodologies
3 and options available to covered entities for
4 billing covered inpatient drugs to State
5 Medicaid agencies in a manner that avoids
6 duplicate discounts pursuant to subsection
7 (a)(4)(A).

8 “(iv) The establishment of a single,
9 universal, and standardized identification
10 system by which each covered entity site
11 and each covered entity’s purchasing sta-
12 tus under sections 340B and this section
13 can be identified by manufacturers, dis-
14 tributors, covered entities, and the Sec-
15 retary for purposes of facilitating the or-
16 dering, purchasing, and delivery of covered
17 inpatient drugs under this section, includ-
18 ing the processing of chargebacks for such
19 drugs.

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

23 “(I) shall be assessed according
24 to standards and procedures estab-

1 lished in regulations promulgated by
2 the Secretary; and

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

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

15 “(I) the violation by a covered
16 entity of a requirement of this section
17 was repeated and knowing; and

18 “(II) imposition of a monetary
19 penalty would be insufficient to rea-
20 sonably ensure compliance with the
21 requirements of this section.

22 “(vii) The referral of matters, as ap-
23 propriate, to the Food and Drug Adminis-
24 tration, the Office of the Inspector General
25 of the Department of Health and Human

1 Services, or other Federal or State agen-
2 cies.

3 “(3) ADMINISTRATIVE DISPUTE RESOLUTION
4 PROCESS.—From amounts appropriated under sub-
5 section (f), the Secretary may establish and imple-
6 ment an administrative process for the resolution of
7 the following:

8 “(A) Claims by covered entities that manu-
9 facturers have violated the terms of their agree-
10 ment with the Secretary under subsection
11 (a)(1).

12 “(B) Claims by manufacturers that cov-
13 ered entities have violated subsection (a)(4)(A)
14 or (a)(4)(B).

15 “(e) AUDIT AND SANCTIONS.—

16 “(1) AUDIT.—From amounts appropriated
17 under subsection (f), the Inspector General of the
18 Department of Health and Human Services (re-
19 ferred to in this subsection as the ‘Inspector Gen-
20 eral’) shall audit covered entities under this section
21 to verify compliance with criteria for eligibility and
22 participation under this section, including the
23 antidiversion prohibitions under subsection
24 (a)(4)(B), and take enforcement action or provide
25 information to the Secretary who shall take action to

1 ensure program compliance, as appropriate. A cov-
2 ered entity shall provide to the Inspector General,
3 upon request, records relevant to such audits.

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

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

11 “(B) the effectiveness of antidiversion pro-
12 hibitions; and

13 “(C) the effectiveness of restrictions on in-
14 patient dispensing and administration.

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

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

23 (c) CONFORMING AMENDMENT TO SECTION 340B.—
24 Paragraph (1) of section 340B(a) of the Public Health
25 Service Act (42 U.S.C. 256b(a)) is amended by adding

1 at the end the following: “Such agreement shall further
2 require that, if the supply of a covered outpatient drug
3 is insufficient to meet demand, then the manufacturer
4 may use an allocation method that is reported in writing
5 to, and approved by, the Secretary and does not discrimi-
6 nate on the basis of the price paid by covered entities or
7 on any other basis related to the participation of an entity
8 in the program under this section. The agreement with
9 a manufacturer under this paragraph may, at the discre-
10 tion of the Secretary, be included in the agreement with
11 the same manufacturer under section 340B–1.”.

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

15 (1) in subsection (a)—

16 (A) in paragraph (1), in the first sentence,
17 by striking “and paragraph (6)” and inserting
18 “, paragraph (6), and paragraph (8)”; and

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

21 “(8) LIMITATION ON PRICES OF DRUGS PUR-
22 CHASED BY 340B–1-COVERED ENTITIES.—

23 “(A) AGREEMENT WITH SECRETARY.—A
24 manufacturer meets the requirements of this
25 paragraph if the manufacturer has entered into

1 an agreement with the Secretary that meets the
2 requirements of section 340B–1 of the Public
3 Health Service Act with respect to covered in-
4 patient drugs (as defined in such section) pur-
5 chased by a 340B–1-covered entity on or after
6 January 1, 2011.

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

12 (2) in subsection (c)(1)(C)(i)(I)—

13 (A) by striking “or” before “a covered en-
14 tity”; and

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

20 (e) CLARIFICATION OF EFFECTIVE DATE.—The
21 amendments made by paragraphs (1) through (3) of sec-
22 tion 2302 of Public Law 111–152 shall be effective as if
23 included in the enactment of Public Law 111–148.

1 **SEC. 507. CONTINUED INCLUSION OF ORPHAN DRUGS IN**
2 **DEFINITION OF COVERED OUTPATIENT**
3 **DRUGS WITH RESPECT TO CHILDREN’S HOS-**
4 **PITALS UNDER THE 340B DRUG DISCOUNT**
5 **PROGRAM.**

6 (a) DEFINITION OF COVERED OUTPATIENT DRUG.—

7 (1) AMENDMENT.—Subsection (e) of section
8 340B of the Public Health Service Act (42 U.S.C.
9 256b) is amended by striking “covered entities de-
10 scribed in subparagraph (M)” and inserting “covered
11 entities described in subparagraph (M) (other than
12 a children’s hospital described in subparagraph
13 (M))”.

14 (2) EFFECTIVE DATE.—The amendment made
15 by paragraph (1) shall take effect as if included in
16 the enactment of section 2302 of the Health Care
17 and Education Reconciliation Act of 2010 (Public
18 Law 111–152).

19 (b) TECHNICAL AMENDMENT.—Subparagraph (B) of
20 section 1927(a)(5) of the Social Security Act (42 U.S.C.
21 1396r–8(a)(5)) is amended by striking “and a children’s
22 hospital” and all that follows through the end of the sub-
23 paragraph and inserting a period.

1 **SEC. 508. CONFORMING AMENDMENT RELATED TO WAIVER**
2 **OF COINSURANCE FOR PREVENTIVE SERV-**
3 **ICES.**

4 Effective as if included in section 10501(i)(2)(A) of
5 Public Law 111–148, section 1833(a)(3)(A) of the Social
6 Security Act (42 U.S.C. 1395l(a)(3)(A)) is amended by
7 striking “section 1861(s)(10)(A)” and inserting “section
8 1861(ddd)(3)”.

9 **SEC. 509. CLARIFICATION OF EFFECTIVE DATE OF PART B**
10 **SPECIAL ENROLLMENT PERIOD FOR DIS-**
11 **ABLED TRICARE BENEFICIARIES.**

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

15 “(2) EFFECTIVE DATE.—The amendment made
16 by paragraph (1) shall apply to elections made after
17 the date of the enactment of this Act.”.

18 **SEC. 510. ADJUSTMENT TO MEDICARE PAYMENT LOCAL-**
19 **ITIES.**

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

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

25 “(A) IN GENERAL.—

1 “(i) REVISION.—Subject to clause (ii)
2 and notwithstanding the previous provi-
3 sions of this subsection, for services fur-
4 nished on or after January 1, 2012, the
5 Secretary shall revise the fee schedule
6 areas used for payment under this section
7 applicable to the State of California using
8 the Metropolitan Statistical Area (MSA)
9 iterative Geographic Adjustment Factor
10 methodology as follows:

11 “(I) The Secretary shall con-
12 figure the physician fee schedule areas
13 using the Metropolitan Statistical
14 Areas (each in this paragraph referred
15 to as an ‘MSA’), as defined by the Di-
16 rector of the Office of Management
17 and Budget as of the date of the en-
18 actment of this paragraph, as the
19 basis for the fee schedule areas.

20 “(II) For purposes of this clause,
21 the Secretary shall treat all areas not
22 included in an MSA as a single rest-
23 of-State MSA and any reference in
24 this paragraph to an MSA shall be

1 deemed to include a reference to such
2 rest-of-State MSA.

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

8 “(IV) In the first iteration, the
9 Secretary shall compare the GAF of
10 the highest cost MSA in the State to
11 the weighted-average GAF of all the
12 remaining MSAs in the State. If the
13 ratio of the GAF of the highest cost
14 MSA to the weighted-average of the
15 GAF of remaining lower cost MSAs is
16 1.05 or greater, the highest cost MSA
17 shall be a separate fee schedule area.

18 “(V) In the next iteration, the
19 Secretary shall compare the GAF of
20 the MSA with the second-highest
21 GAF to the weighted-average GAF of
22 the all the remaining MSAs (excluding
23 MSAs that become separate fee sched-
24 ule areas). If the ratio of the second-
25 highest MSA’s GAF to the weighted-

1 average of the remaining lower cost
2 MSAs is 1.05 or greater, the second-
3 highest MSA shall be a separate fee
4 schedule area.

5 “(VI) The iterative process shall
6 continue until the ratio of the GAF of
7 the MSA with highest remaining GAF
8 to the weighted-average of the remain-
9 ing MSAs with lower GAFs is less
10 than 1.05, and the remaining group of
11 MSAs with lower GAFs shall be treat-
12 ed as a single rest-of-State fee sched-
13 ule area.

14 “(VII) For purposes of the
15 iterative process described in this
16 clause, if two MSAs have identical
17 GAFs, they shall be combined.

18 “(ii) TRANSITION.—For services fur-
19 nished on or after January 1, 2012, and
20 before January 1, 2017, in the State of
21 California, after calculating the work, prac-
22 tice expense, and malpractice geographic
23 indices that would otherwise be determined
24 under clauses (i), (ii), and (iii) of para-
25 graph (1)(A) for a fee schedule area deter-

1 mined under clause (i), if the index for a
2 county within a fee schedule area is less
3 than the index that would otherwise be in
4 effect for such county, the Secretary shall
5 instead apply the index that would other-
6 wise be in effect for such county.

7 “(B) SUBSEQUENT REVISIONS.—After the
8 transition described in subparagraph (A)(ii),
9 not less than every 3 years the Secretary shall
10 review and update the fee schedule areas using
11 the methodology described in subparagraph
12 (A)(i) and any updated MSAs as defined by the
13 Director of the Office of Management and
14 Budget. The Secretary shall review and make
15 any changes pursuant to such reviews concu-
16 rent with the application of the periodic review
17 of the adjustment factors required under para-
18 graph (1)(C) for California.

19 “(C) REFERENCES TO FEE SCHEDULE
20 AREAS.—Effective for services furnished on or
21 after January 1, 2012, for the State of Cali-
22 fornia, any reference in this section to a fee
23 schedule area shall be deemed a reference to a
24 fee schedule area established in accordance with
25 this paragraph.”.

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

6 **SEC. 511. CLARIFICATION FOR AFFILIATED HOSPITALS FOR**
7 **DISTRIBUTION OF ADDITIONAL RESIDENCY**
8 **POSITIONS.**

9 Effective as if included in the enactment of section
10 5503(a) of Public Law 111–148, section 1886(h)(8) of the
11 Social Security Act (42 U.S.C. 1395ww(h)(8)), as added
12 by such section 5503(a), is amended by adding at the end
13 the following new subparagraph:

14 “(I) AFFILIATION.—The provisions of this
15 paragraph shall be applied to hospitals which
16 are members of the same affiliated group (as
17 defined by the Secretary under paragraph
18 (4)(H)(ii)) and the reference resident level for
19 each such hospital shall be the reference resi-
20 dent level with respect to the cost reporting pe-
21 riod that results in the smallest difference be-
22 tween the reference resident level and the other-
23 wise applicable resident limit.”.

1 TITLE VI—OTHER PROVISIONS

2 Subtitle A—General Provisions

3 SEC. 601. ALLOCATION OF GEOTHERMAL RECEIPTS.

4 Notwithstanding any other provision of law, for fiscal
5 year 2010 only, all funds received from sales, bonuses,
6 royalties, and rentals under the Geothermal Steam Act of
7 1970 (30 U.S.C. 1001 et seq.) shall be deposited in the
8 Treasury, of which—

9 (1) 50 percent shall be used by the Secretary
10 of the Treasury to make payments to States within
11 the boundaries of which the leased land and geo-
12 thermal resources are located;

13 (2) 25 percent shall be used by the Secretary
14 of the Treasury to make payments to the counties
15 within the boundaries of which the leased land or
16 geothermal resources are located; and

17 (3) 25 percent shall be deposited in miscella-
18 neous receipts.

19 SEC. 602. EMPLOYMENT FOR YOUTH.

20 There is appropriated, out of any funds in the Treas-
21 ury not otherwise appropriated, for an additional amount
22 for “Department of Labor—Employment and Training
23 Administration—Training and Employment Services” for
24 activities under the Workforce Investment Act of 1998
25 (“WIA”), \$1,000,000,000 shall be available for obligation

1 on the date of enactment of this Act for grants to States
2 for youth activities, including summer employment for
3 youth: *Provided*, That no portion of such funds shall be
4 reserved to carry out section 127(b)(1)(A) of the WIA:
5 *Provided further*, That for purposes of section
6 127(b)(1)(C)(iv) of the WIA, funds available for youth ac-
7 tivities shall be allotted as if the total amount available
8 for youth activities in the fiscal year does not exceed
9 \$1,000,000,000: *Provided further*, That with respect to the
10 youth activities provided with such funds, section
11 101(13)(A) of the WIA shall be applied by substituting
12 “age 24” for “age 21”: *Provided further*, That the work
13 readiness performance indicator described in section
14 136(b)(2)(A)(ii)(I) of the WIA shall be the only measure
15 of performance used to assess the effectiveness of summer
16 employment for youth provided with such funds: *Provided*
17 *further*, That an amount that is not more than 1 percent
18 of such amount may be used for the administration, man-
19 agement, and oversight of the programs, activities, and
20 grants carried out with such funds, including the evalua-
21 tion of the use of such funds: *Provided further*, That funds
22 available under the preceding proviso, together with funds
23 described in section 801(a) of division A of the American
24 Recovery and reinvestment Act of 2009 (Public Law 111–
25 5), and funds provided in such Act under the heading

1 “Department of Labor–Departmental Management–Sala-
2 ries and Expenses”, shall remain available for obligation
3 through September 30, 2011.

4 **SEC. 603. HOUSING TRUST FUND.**

5 (a) FUNDING.—There is hereby appropriated for the
6 Housing Trust Fund established pursuant to section 1338
7 of the Federal Housing Enterprises Financial Safety and
8 Soundness Act of 1992 (12 U.S.C. 4568),
9 \$1,065,000,000, for use under such section: *Provided*,
10 That of the total amount provided under this heading,
11 \$65,000,000 shall be available to the Secretary of Housing
12 and Urban Development only for incremental project-
13 based voucher assistance to be allocated to States to be
14 used solely in conjunction with grant funds awarded under
15 such section 1338, pursuant to the formula established
16 under section 1338 and taking into account different per
17 unit subsidy needs among states, as determined by the
18 Secretary.

19 (b) AMENDMENTS.—Section 1338 of the Federal
20 Housing Enterprises Financial Safety and Soundness Act
21 of 1992 (12 U.S.C. 4568) is amended—

22 (1) in subsection (c)—

23 (A) in paragraph (4)(A) by inserting after
24 the period at the end the following: “Notwith-
25 standing any other provision of law, for the fis-

1 cal year following enactment of this sentence
2 and thereafter, the Secretary may make such
3 notice available only on the Internet at the ap-
4 propriate government website or websites or
5 through other electronic media, as determined
6 by the Secretary.”;

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

9 (C) in paragraph (7)(A)—

10 (i) by striking “section
11 1335(a)(2)(B)” and inserting “section
12 1335(a)(1)(B)”; and

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

15 (2) by adding at the end the following new sub-
16 section:

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

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

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

6 (b) **DEFINITIONS.**—In this section:

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

10 (2) **LAND CONSOLIDATION PROGRAM.**—The
11 term “Land Consolidation Program” means a pro-
12 gram conducted in accordance with the Settlement
13 and the Indian Land Consolidation Act (25 U.S.C.
14 2201 et seq.) under which the Secretary may pur-
15 chase fractional interests in trust or restricted land.

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

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

22 (5) **SECRETARY.**—The term “Secretary” means
23 the Secretary of the Interior.

24 (6) **SETTLEMENT.**—The term “Settlement”
25 means the Class Action Settlement Agreement dated

1 December 7, 2009, in the Litigation, as modified by
2 the parties to the Litigation.

3 (7) TRUST ADMINISTRATION CLASS.—The term
4 “Trust Administration Class” means the Trust Ad-
5 ministration Class as defined in the Settlement.

6 (c) PURPOSE.—The purpose of this section is to au-
7 thorize the Settlement.

8 (d) AUTHORIZATION.—The Settlement is authorized,
9 ratified, and confirmed.

10 (e) JURISDICTIONAL PROVISIONS.—

11 (1) IN GENERAL.—Notwithstanding the limita-
12 tion of jurisdiction of district courts contained in
13 section 1346(a)(2) of title 28, United States Code,
14 the United States District Court for the District of
15 Columbia shall have jurisdiction over the claims as-
16 serted in the Amended Complaint for purposes of
17 the Settlement.

18 (2) CERTIFICATION OF TRUST ADMINISTRATION
19 CLASS.—

20 (A) IN GENERAL.—Notwithstanding the
21 requirements of the Federal Rules of Civil Pro-
22 cedure, the court overseeing the Litigation may
23 certify the Trust Administration Class.

24 (B) TREATMENT.—On certification under
25 subparagraph (A), the Trust Administration

1 Class shall be treated as a class under Federal
2 Rule of Civil Procedure 23(b)(3) for purposes
3 of the Settlement.

4 (f) TRUST LAND CONSOLIDATION.—

5 (1) TRUST LAND CONSOLIDATION FUND.—

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

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

16 (i) to conduct the Land Consolidation
17 Program; and

18 (ii) for other costs specified in the
19 Settlement.

20 (C) DEPOSITS.—

21 (i) IN GENERAL.—On final approval
22 (as defined in the Settlement) of the Set-
23 tlement, the Secretary of the Treasury
24 shall deposit in the Trust Land Consolida-
25 tion Fund \$2,000,000,000 of the amounts

1 appropriated by section 1304 of title 31,
2 United States Code.

3 (ii) CONDITIONS MET.—The condi-
4 tions described in section 1304 of title 31,
5 United States Code, shall be considered to
6 be met for purposes of clause (i).

7 (D) TRANSFERS.—In a manner designed
8 to encourage participation in the Land Consoli-
9 dation Program, the Secretary may transfer, at
10 the discretion of the Secretary, not more than
11 \$60,000,000 of amounts in the Trust Land
12 Consolidation Fund to the Indian Education
13 Scholarship Holding Fund established under
14 paragraph 2.

15 (2) INDIAN EDUCATION SCHOLARSHIP HOLDING
16 FUND.—

17 (A) ESTABLISHMENT.—On the final ap-
18 proval (as defined in the Settlement) of the Set-
19 tlement, there shall be established in the Treas-
20 ury of the United States a fund, to be known
21 as the “Indian Education Scholarship Holding
22 Fund”.

23 (B) AVAILABILITY.—Notwithstanding any
24 other provision of law governing competition,
25 public notification, or Federal procurement or

1 assistance, amounts in the Indian Education
2 Scholarship Holding Fund shall be made avail-
3 able, without further appropriation, to the Sec-
4 retary to contribute to an Indian Education
5 Scholarship Fund, as described in the Settle-
6 ment, to provide scholarships for Native Ameri-
7 cans.

8 (3) ACQUISITION OF TRUST OR RESTRICTED
9 LAND.—The Secretary may acquire, at the discre-
10 tion of the Secretary and in accordance with the
11 Land Consolidation Program, any fractional interest
12 in trust or restricted land.

13 (4) TREATMENT OF UNLOCATABLE PLAIN-
14 TIFFS.—A Plaintiff the whereabouts of whom are
15 unknown and who, after reasonable efforts by the
16 Secretary, cannot be located during the 5 year pe-
17 riod beginning on the date of final approval (as de-
18 fined in the Settlement) of the Settlement shall be
19 considered to have accepted an offer made pursuant
20 to the Land Consolidation Program.

21 (g) TAXATION AND OTHER BENEFITS.—

22 (1) INTERNAL REVENUE CODE.—For purposes
23 of the Internal Revenue Code of 1986, amounts re-
24 ceived by an individual Indian as a lump sum or a
25 periodic payment pursuant to the Settlement—

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

3 (B) shall not be taken into consideration
4 for purposes of applying any provision of the
5 Internal Revenue Code of 1986 that takes into
6 account excludable income in computing ad-
7 justed gross income or modified adjusted gross
8 income, including section 86 of that Code (re-
9 lating to Social Security and tier 1 railroad re-
10 tirement benefits).

11 (2) OTHER BENEFITS.—Notwithstanding any
12 other provision of law, for purposes of determining
13 initial eligibility, ongoing eligibility, or level of bene-
14 fits under any Federal or federally assisted program,
15 amounts received by an individual Indian as a lump
16 sum or a periodic payment pursuant to the Settle-
17 ment shall not be treated for any household member,
18 during the 1-year period beginning on the date of re-
19 ceipt—

20 (A) as income for the month during which
21 the amounts were received; or

22 (B) as a resource.

1 **SEC. 605. APPROPRIATION OF FUNDS FOR FINAL SETTLE-**
2 **MENT OF CLAIMS FROM IN RE BLACK FARM-**
3 **ERS DISCRIMINATION LITIGATION.**

4 (a) DEFINITIONS.—In this section:

5 (1) SETTLEMENT AGREEMENT.—The term
6 “Settlement Agreement” means the settlement
7 agreement dated February 18, 2010 (including any
8 modifications agreed to by the parties and approved
9 by the court under that agreement) between certain
10 plaintiffs, by and through their counsel, and the Sec-
11 retary of Agriculture to resolve, fully and forever,
12 the claims raised or that could have been raised in
13 the cases consolidated in *In re Black Farmers Dis-*
14 *crimination Litigation*, No. 08–511 (D.D.C.), in-
15 cluding Pigford claims asserted under section 14012
16 of the Food, Conservation, and Energy Act of 2008
17 (Public Law 110–246; 122 Stat. 2209).

18 (2) PIGFORD CLAIM.—The term “Pigford
19 claim” has the meaning given that term in section
20 14012(a)(3) of the Food, Conservation, and Energy
21 Act of 2008 (Public Law 110–246; 122 Stat. 2210).

22 (b) APPROPRIATION OF FUNDS.—There is hereby ap-
23 propriated to the Secretary of Agriculture
24 \$1,150,000,000, to remain available until expended, to
25 carry out the terms of the Settlement Agreement if the
26 Settlement Agreement is approved by a court order that

1 is or becomes final and nonappealable. The funds appro-
2 priated by this subsection are in addition to the
3 \$100,000,000 of funds of the Commodity Credit Corpora-
4 tion made available by section 14012(i) of the Food, Con-
5 servation, and Energy Act of 2008 (Public Law 110–246;
6 122 Stat. 2212) and shall be available for obligation only
7 after those Commodity Credit Corporation funds are fully
8 obligated. If the Settlement Agreement is not approved as
9 provided in this subsection, the \$100,000,000 of funds of
10 the Commodity Credit Corporation made available by sec-
11 tion 14012(i) of the Food, Conservation, and Energy Act
12 of 2008 shall be the sole funding available for Pigford
13 claims.

14 (c) USE OF FUNDS.—The use of the funds appro-
15 priated by subsection (b) shall be subject to the express
16 terms of the Settlement Agreement.

17 (d) TREATMENT OF REMAINING FUNDS.—If any of
18 the funds appropriated by subsection (b) are not obligated
19 and expended to carry out the Settlement Agreement, the
20 Secretary of Agriculture shall return the unused funds to
21 the Treasury and may not make the unused funds avail-
22 able for any purpose related to section 14012 of the Food,
23 Conservation, and Energy Act of 2008, for any other set-
24 tlement agreement executed in *In re Black Farmers Dis-*

1 *crimination Litigation*, No. 08–511 (D.D.C.), or for any
2 other purpose.

3 (e) RULES OF CONSTRUCTION.—Nothing in this sec-
4 tion shall be construed as requiring the United States, any
5 of its officers or agencies, or any other party to enter into
6 the Settlement Agreement or any other settlement agree-
7 ment. Nothing in this section shall be construed as cre-
8 ating the basis for a Pigford claim.

9 (f) CONFORMING AMENDMENTS.—Section 14012 of
10 the Food, Conservation, and Energy Act of 2008 (Public
11 Law 110–246; 122 Stat. 2209) is amended—

12 (1) in subsection (c)(1)—

13 (A) by striking “subsection (h)” and in-
14 serting “subsection (g)”; and

15 (B) by striking “subsection (i)” and insert-
16 ing “subsection (h)”;

17 (2) by striking subsection (e);

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

20 (4) in subsection (i)—

21 (A) by striking “(1) IN GENERAL.—Of the
22 funds” and inserting “Of the funds”; and

23 (B) by striking paragraph (2);

24 (5) by striking subsection (j); and

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

4 **SEC. 606. EXPANSION OF ELIGIBILITY FOR CONCURRENT**
5 **RECEIPT OF MILITARY RETIRED PAY AND**
6 **VETERANS' DISABILITY COMPENSATION TO**
7 **INCLUDE ALL CHAPTER 61 DISABILITY RE-**
8 **TIREES REGARDLESS OF DISABILITY RATING**
9 **PERCENTAGE OR YEARS OF SERVICE.**

10 (a) PHASED EXPANSION CONCURRENT RECEIPT.—
11 Subsection (a) of section 1414 of title 10, United States
12 Code, is amended to read as follows:

13 “(a) PAYMENT OF BOTH RETIRED PAY AND DIS-
14 ABILITY COMPENSATION.—

15 “(1) PAYMENT OF BOTH REQUIRED.—

16 “(A) IN GENERAL.—Subject to subsection
17 (b), a member or former member of the uni-
18 formed services who is entitled for any month
19 to retired pay and who is also entitled for that
20 month to veterans' disability compensation for a
21 qualifying service-connected disability (in this
22 section referred to as a ‘qualified retiree’) is en-
23 titled to be paid both for that month without
24 regard to sections 5304 and 5305 of title 38.

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

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

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

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

21 “(D) TEMPORARY PHASE-IN EXCEPTION
22 FOR CERTAIN CHAPTER 61 DISABILITY RETIR-
23 EES; TERMINATION.—Subject to subsection (b),
24 during the period beginning on January 1,
25 2011, and ending on September 30, 2012, sub-

1 section (c) shall not apply to a qualified retiree
2 described in subparagraph (B) or (C) of para-
3 graph (2).

4 “(2) QUALIFYING SERVICE-CONNECTED DIS-
5 ABILITY DEFINED.—In this section:

6 “(A) 50 PERCENT RATING THRESHOLD.—

7 In the case of a member or former member re-
8 ceiving retired pay under any provision of law
9 other than chapter 61 of this title, or under
10 chapter 61 with 20 years or more of service
11 otherwise creditable under section 1405 or com-
12 puted under section 12732 of this title, the
13 term ‘qualifying service-connected disability’
14 means a service-connected disability or com-
15 bination of service-connected disabilities that is
16 rated as not less than 50 percent disabling by
17 the Secretary of Veterans Affairs. However,
18 during the period specified in paragraph (1)(D),
19 members or former members receiving retired
20 pay under chapter 61 with 20 years or more of
21 creditable service computed under section
22 12732 of this title, but not otherwise entitled to
23 retired pay under any other provision of this
24 title, shall qualify in accordance with subpara-
25 graphs (B) and (C).

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

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

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

21 “(iii) January 1, 2013, rated 60 per-
22 cent or 50 percent.

23 “(C) ELIMINATION OF RATING THRESH-
24 OLD.—In the case of a member or former mem-
25 ber receiving retired pay under chapter 61 re-

1 regardless of being otherwise eligible for retire-
2 ment, the term ‘qualifying service-connected
3 disability’ means a service-connected disability
4 or combination of service-connected disabilities
5 that is rated by the Secretary of Veterans Af-
6 fairs at the disabling level specified in one of
7 the following clauses (which, subject to para-
8 graph (3), is effective on or after the date speci-
9 fied in the applicable clause):

10 “(i) January 1, 2014, rated 40 per-
11 cent or 30 percent.

12 “(ii) January 1, 2015, any rating.

13 “(3) LIMITED DURATION.—Notwithstanding
14 the effective date specified in each clause of subpara-
15 graphs (B) and (C) of paragraph (2), the clause—

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

20 “(B) shall not apply beyond the termi-
21 nation date specified in paragraph (1)(D).”.

22 (b) CONFORMING AMENDMENT TO SPECIAL RULES
23 FOR CHAPTER 61 DISABILITY RETIREES.—Subsection (b)
24 of such section is amended to read as follows:

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

4 “(1) GENERAL REDUCTION RULE.—The retired
5 pay of a member retired under chapter 61 of this
6 title is subject to reduction under sections 5304 and
7 5305 of title 38, but only to the extent that the
8 amount of the members retired pay under chapter
9 61 of this title exceeds the amount of retired pay to
10 which the member would have been entitled under
11 any other provision of law based upon the member’s
12 service in the uniformed services if the member had
13 not been retired under chapter 61 of this title.

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

16 “(A) BEFORE TERMINATION DATE.—If a
17 member with a qualifying service-connected dis-
18 ability (as defined in subsection (a)(2)) is re-
19 tired under chapter 61 of this title, but is not
20 otherwise entitled to retired pay under any
21 other provision of this title, and the termination
22 date specified in subsection (a)(1)(D) has not
23 occurred, the retired pay of the member is sub-
24 ject to reduction under sections 5304 and 5305
25 of title 38, but only to the extent that the

1 amount of the member's retired pay under
2 chapter 61 of this title exceeds the amount
3 equal to 2½ percent of the member's years of
4 creditable service multiplied by the member's
5 retired pay base under section 1406(b)(1) or
6 1407 of this title, whichever is applicable to the
7 member.

8 “(B) AFTER TERMINATION DATE.—Sub-
9 section (a) does not apply to a member de-
10 scribed in subparagraph (A) if the termination
11 date specified in subsection (a)(1)(D) has oc-
12 curred.”.

13 (c) CONFORMING AMENDMENT TO FULL CONCUR-
14 RENT RECEIPT PHASE-IN.—Subsection (c) of such section
15 is amended by striking “the second sentence of”.

16 (d) CLERICAL AMENDMENTS.—

17 (1) SECTION HEADING.—The heading of such
18 section is amended to read as follows:

19 “§ 1414. **Concurrent receipt of retired pay and vet-**
20 **erans' disability compensation**”.

21 (2) TABLE OF SECTIONS.—The table of sections
22 at the beginning of chapter 71 of such title is
23 amended by striking the item related to section 1414
24 and inserting the following new item:

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

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

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

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

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

12 “(a) IN GENERAL.—Notwithstanding any other pro-
13 vision of law, any refund (or advance payment with respect
14 to a refundable credit) made to any individual under this
15 title shall not be taken into account as income, and shall
16 not be taken into account as resources for a period of 12
17 months from receipt, for purposes of determining the eligi-
18 bility of such individual (or any other individual) for bene-
19 fits or assistance (or the amount or extent of benefits or
20 assistance) under any Federal program or under any State
21 or local program financed in whole or in part with Federal
22 funds.

23 “(b) TERMINATION.—Subsection (a) shall not apply
24 to any amount received after December 31, 2010.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
2 for such subchapter is amended by adding at the end the
3 following new item:

“Sec. 6409. Refunds disregarded in the administration of Federal programs
and federally assisted programs.”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to amounts received after Decem-
6 ber 31, 2009.

7 **SEC. 608. QUALIFYING TIMBER CONTRACT OPTIONS.**

8 (a) DEFINITIONS.—In this section:

9 (1) QUALIFYING CONTRACT.—The term “quali-
10 fying contract” means a contract that has not been
11 terminated by the Bureau of Land Management for
12 the sale of timber on lands administered by the Bu-
13 reau of Land Management that meets all of the fol-
14 lowing criteria:

15 (A) The contract was awarded during the
16 period beginning on January 1, 2005, and end-
17 ing on December 31, 2008.

18 (B) There is unharvested volume remain-
19 ing for the contract.

20 (C) The contract is not a salvage sale.

21 (D) The Secretary determined there is not
22 an urgent need to harvest under the contract
23 due to deteriorating timber conditions that de-
24 veloped after the award of the contract.

1 (2) SECRETARY.—The term “Secretary” means
2 the Secretary of the Interior, acting through the Di-
3 rector of Bureau of Land Management.

4 (3) TIMBER PURCHASER.—The term “timber
5 purchaser” means the party to the qualifying con-
6 tract for the sale of timber from lands administered
7 by the Bureau of Land Management.

8 (b) MARKET-RELATED CONTRACT EXTENSION OP-
9 TION.—Upon a timber purchaser’s written request, the
10 Secretary may make a one-time modification to the quali-
11 fying contract to add 3 years to the contract expiration
12 date if the written request—

13 (1) is received by the Secretary not later than
14 90 days after the date of enactment of this Act; and

15 (2) contains a provision releasing the United
16 States from all liability, including further consider-
17 ation or compensation, resulting from the modifica-
18 tion under this subsection of the term of a qualifying
19 contract.

20 (c) REPORTING.—Not later than 6 months after the
21 date of the enactment of this Act, the Secretary shall sub-
22 mit to Congress a report detailing a plan and timeline to
23 promulgate new regulations authorizing the Bureau of
24 Land Management to extend timber contracts due to
25 changes in market conditions.

1 (d) REGULATIONS.—Not later than 2 years after the
2 date of the enactment of this Act, the Secretary shall pro-
3 mulgate new regulations authorizing the Bureau of Land
4 Management to extend timber contracts due to changes
5 in market conditions.

6 (e) NO SURRENDER OF CLAIMS.—This section shall
7 not have the effect of surrendering any claim by the
8 United States against any timber purchaser that arose
9 under a timber sale contract, including a qualifying con-
10 tract, before the date on which the Secretary adjusts the
11 contract term under subsection (b).

12 **SEC. 609. EXTENSION AND FLEXIBILITY FOR CERTAIN AL-**
13 **LOCATED SURFACE TRANSPORTATION PRO-**
14 **GRAMS.**

15 (a) MODIFICATION OF ALLOCATION RULES.—Section
16 411(d) of the Surface Transportation Extension Act of
17 2010 (Public Law 111–147; 124 Stat. 80) is amended—

18 (1) in paragraph (1)—

19 (A) in the matter preceding subparagraph

20 (A)—

21 (i) by striking “1301, 1302,”; and

22 (ii) by striking “1198, 1204,”; and

23 (B) in subparagraph (A)—

24 (i) in the matter preceding clause (i)

25 by striking “apportioned under sections

1 104(b) and 144 of title 23, United States
2 Code,” and inserting “specified in section
3 105(a)(2) of title 23, United States Code
4 (except the high priority projects pro-
5 gram),”; and

6 (ii) in clause (ii) by striking “appor-
7 tioned under such sections of such Code”
8 and inserting “specified in such section
9 105(a)(2) (except the high priority projects
10 program)”;

11 (2) in paragraph (2)—

12 (A) in the matter preceding subparagraph

13 (A)—

14 (i) by striking “1301, 1302,”; and

15 (ii) by striking “1198, 1204,”; and

16 (B) in subparagraph (A)—

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

(ii) in clause (ii) by striking “appor-
tioned under such sections of such Code”

1 and inserting “specified in such section
2 105(a)(2) (except the high priority projects
3 program)”;

4 (3) by adding at the end the following:

5 “(5) PROJECTS OF NATIONAL AND REGIONAL
6 SIGNIFICANCE AND NATIONAL CORRIDOR INFRA-
7 STRUCTURE IMPROVEMENT PROGRAMS.—

8 “(A) REDISTRIBUTION AMONG STATES.—
9 Notwithstanding sections 1301(m) and 1302(e)
10 of SAFETEA-LU (119 Stat. 1202 and 1205),
11 the Secretary shall apportion funds authorized
12 to be appropriated under subsection (b) for the
13 projects of national and regional significance
14 program and the national corridor infrastruc-
15 ture improvement program among all States
16 such that each State’s share of the funds so ap-
17 portioned is equal to the State’s share for fiscal
18 year 2009 of funds apportioned or allocated for
19 the programs specified in section 105(a)(2) of
20 title 23, United States Code.

21 “(B) DISTRIBUTION AMONG PROGRAMS.—
22 Funds apportioned to a State pursuant to sub-
23 paragraph (A) shall be—

24 “(i) made available to the State for
25 the programs specified in section 105(a)(2)

1 of title 23, United States Code (except the
2 high priority projects program), and in the
3 same proportion for each such program
4 that—

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

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

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

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

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

1 (d) SAVINGS CLAUSE.—

2 (1) IN GENERAL.—For fiscal year 2010 and for
3 the period beginning on October 1, 2010, and ending
4 on December 31, 2010, the amount of funds appor-
5 tioned to each State under section 411(d) of the
6 Surface Transportation Extension Act of 2010
7 (Public Law 111–147) that is determined by the
8 amount that the State received or was authorized to
9 receive for fiscal year 2009 to carry out the projects
10 of national and regional significance program and
11 national corridor infrastructure improvement pro-
12 gram shall be the greater of—

13 (A) the amount that the State was author-
14 ized to receive under section 411(d) of the Sur-
15 face Transportation Extension Act of 2010 with
16 respect to each such program according to the
17 provisions of that Act, as in effect on the day
18 before the date of enactment of this Act; or

19 (B) the amount that the State is author-
20 ized to receive under section 411(d) of the Sur-
21 face Transportation Extension Act of 2010 with
22 respect to each such program pursuant to the
23 provisions of that Act, as amended by the
24 amendments made by this section.

1 (2) OBLIGATION AUTHORITY.—For fiscal year
2 2010, the amount of obligation authority distributed
3 to each State shall be the greater of—

4 (A) the amount that the State was author-
5 ized to receive pursuant to section 120(a)(4)(A)
6 (as it pertains to the Appalachian Development
7 Highway System program) of title I of division
8 A of the Consolidated Appropriations Act, 2010
9 (Public Law 111–117) and sections
10 120(a)(4)(B) and 120(a)(6) of such title, as of
11 the day before the date of enactment of this
12 Act; or

13 (B) the amount that the State is author-
14 ized to receive pursuant to section 120(a)(4)(A)
15 (as it pertains to the Appalachian Development
16 Highway System program) of title I of division
17 A of the Consolidated Appropriations Act, 2010
18 (Public Law 111–117) and sections
19 120(a)(4)(B) and 120(a)(6) of such title, as of
20 the date of enactment of this Act.

21 (3) AUTHORIZATION OF APPROPRIATIONS.—
22 There is authorized to be appropriated out of the
23 Highway Trust Fund (other than the Mass Transit
24 Account) such sums as may be necessary to carry
25 out this subsection.

1 (4) INCREASE IN OBLIGATION LIMITATION.—

2 The limitation under the heading “Federal-aid High-
3 ways (Limitation on Obligations) (Highway Trust
4 Fund)” in Public Law 111–117 is increased by such
5 sums as may be necessary to carry out this sub-
6 section.

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

12 (6) AMOUNTS.—The dollar amount specified in
13 section 105(d)(1) of title 23, United States Code,
14 the dollar amount specified in section 120(a)(4)(B)
15 of title I of division A of the Consolidated Appro-
16 priations Act, 2010 (Public Law 111–117), and the
17 dollar amount specified in section 120(b)(10) of
18 such title shall each be increased as necessary to
19 carry out this subsection.

20 **SEC. 610. COMMUNITY COLLEGE AND CAREER TRAINING**
21 **GRANT PROGRAM.**

22 (a) IN GENERAL.—Section 278(a) of the Trade Act
23 of 1974 (19 U.S.C. 2372(a)) is amended by adding at the
24 end the following:

1 “(3) RULE OF CONSTRUCTION.—For purposes
2 of this section, any reference to ‘workers’, ‘workers
3 eligible for training under section 236’, or any other
4 reference to workers under this section shall be
5 deemed to include individuals who are, or are likely
6 to become, eligible for unemployment compensation
7 as defined in section 85(b) of the Internal Revenue
8 Code of 1986, or who remain unemployed after ex-
9 hausting all rights to such compensation.”.

10 (b) DEFINITION OF ELIGIBLE INSTITUTION.—Sec-
11 tion 278(b)(1) of the Trade Act of 1974 (19 U.S.C.
12 2372(b)(1)) is amended—

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

15 (2) by striking “1002” and inserting
16 “1001(a)”.

17 (c) AUTHORIZATION OF APPROPRIATIONS.—Section
18 279 of the Trade Act of 1974 (19 U.S.C. 2372a) is
19 amended—

20 (1) in subsection (a), by striking the last sen-
21 tence; and

22 (2) by adding at the end the following:

23 “(c) ADMINISTRATIVE AND RELATED COSTS.—The
24 Secretary may retain not more than 5 percent of the funds
25 appropriated under subsection (b) for each fiscal year to

1 administer, evaluate, and establish reporting systems for
2 the Community College and Career Training Grant pro-
3 gram under section 278.

4 “(d) SUPPLEMENT NOT SUPPLANT.—Funds appro-
5 priated under subsection (b) shall be used to supplement
6 and not supplant other Federal, State, and local public
7 funds expended to support community college and career
8 training programs.

9 “(e) AVAILABILITY.—Funds appropriated under sub-
10 section (b) shall remain available for the fiscal year for
11 which the funds are appropriated and the subsequent fis-
12 cal year.”.

13 **SEC. 611. EXTENSIONS OF DUTY SUSPENSIONS ON COTTON**
14 **SHIRTING FABRICS AND RELATED PROVI-**
15 **SIONS.**

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

20 (1) Heading 9902.52.08 (relating to woven fab-
21 rics of cotton).

22 (2) Heading 9902.52.09 (relating to woven fab-
23 rics of cotton).

24 (3) Heading 9902.52.10 (relating to woven fab-
25 rics of cotton).

1 (4) Heading 9902.52.11 (relating to woven fab-
2 rics of cotton).

3 (5) Heading 9902.52.12 (relating to woven fab-
4 rics of cotton).

5 (6) Heading 9902.52.13 (relating to woven fab-
6 rics of cotton).

7 (7) Heading 9902.52.14 (relating to woven fab-
8 rics of cotton).

9 (8) Heading 9902.52.15 (relating to woven fab-
10 rics of cotton).

11 (9) Heading 9902.52.16 (relating to woven fab-
12 rics of cotton).

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

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

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

19 (13) Heading 9902.52.20 (relating to woven
20 fabrics of cotton).

21 (14) Heading 9902.52.21 (relating to woven
22 fabrics of cotton).

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

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

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

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

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

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

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

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

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

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

19 (b) EXTENSION OF DUTY REFUNDS AND PIMA COT-
20 TON TRUST FUND; MODIFICATION OF AFFIDAVIT RE-
21 QUIREMENTS.—Section 407 of title IV of division C of the
22 Tax Relief and Health Care Act of 2006 (Public Law 109–
23 432; 120 Stat. 3060) is amended—

24 (1) in subsection (b)—

1 (A) in paragraph (1), by striking
2 “amounts determined by the Secretary” and all
3 that follows through “5208.59.80” and insert-
4 ing “amounts received in the general fund that
5 are attributable to duties received since Janu-
6 ary 1, 2004, on articles classified under heading
7 5208”; and

8 (B) in paragraph (2), by striking “October
9 1, 2008” and inserting “December 31, 2013”;
10 (2) in subsection (d)—

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

13 (B) in paragraph (1), by inserting “during
14 the year in which the affidavit is filed and”
15 after “imported cotton fabric”; and
16 (3) in subsection (f)—

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

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

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

1 **SEC. 612. MODIFICATION OF WOOL APPAREL MANUFAC-**
2 **TURERS TRUST FUND.**

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

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

9 (1) TRANSFER OF AMOUNTS.—

10 (A) IN GENERAL.—Not later than 30 days
11 after the date of the enactment of this Act, the
12 Secretary of the Treasury shall transfer to the
13 Wool Apparel Manufacturers Trust Fund, out
14 of the general fund of the Treasury of the
15 United States, amounts determined by the Sec-
16 retary of the Treasury to be equivalent to
17 amounts received in the general fund that are
18 attributable to the duty received on articles
19 classified under chapter 62 of the Harmonized
20 Tariff Schedule of the United States, subject to
21 the limitation in subparagraph (B).

22 (B) LIMITATION.—The Secretary of the
23 Treasury shall not transfer more than the
24 amount determined by the Secretary to be nec-
25 essary for—

1 (i) U.S. Customs and Border Protec-
2 tion to make payments to eligible manufac-
3 turers under section 4002(c)(3) of the Mis-
4 cellaneous Trade and Technical Correc-
5 tions Act of 2004 so that the amount of
6 such payments, when added to any other
7 payments made to eligible manufacturers
8 under section 4002(c)(3) of such Act for
9 calendar year 2010, equal the total amount
10 of payments authorized to be provided to
11 eligible manufacturers under section
12 4002(c)(3) of such Act for calendar year
13 2010; and

14 (ii) the Secretary of Commerce to pro-
15 vide grants to eligible manufacturers under
16 section 4002(c)(6) of the Miscellaneous
17 Trade and Technical Corrections Act of
18 2004 so that the amounts of such grants,
19 when added to any other grants made to
20 eligible manufacturers under section
21 4002(c)(6) of such Act for calendar year
22 2010, equal the total amount of grants au-
23 thorized to be provided to eligible manufac-
24 turers under section 4002(c)(6) of such
25 Act for calendar year 2010.

1 (2) PAYMENT OF AMOUNTS.—U.S. Customs
2 and Border Protection shall make payments de-
3 scribed in paragraph (1) to eligible manufacturers
4 not later than 30 days after such transfer of
5 amounts from the general fund of the Treasury of
6 the United States to the Wool Apparel Manufactur-
7 ers Trust Fund. The Secretary of Commerce shall
8 promptly provide grants described in paragraph (1)
9 to eligible manufacturers after such transfer of
10 amounts from the general fund of the Treasury of
11 the United States to the Wool Apparel Manufactur-
12 ers Trust Fund.

13 (c) RULE OF CONSTRUCTION.—The amendment
14 made by subsection (a) shall not be construed to affect
15 the availability of amounts transferred to the Wool Ap-
16 parel Manufacturers Trust Fund before the date of the
17 enactment of this Act.

18 **SEC. 613. DEPARTMENT OF COMMERCE STUDY.**

19 Not later than 180 days after the date of enactment
20 of this Act, the Secretary of Commerce shall report to
21 Congress detailing—

22 (1) the pattern of job loss in the New England,
23 Mid-Atlantic, and Midwest States over the past 20
24 years;

- 1 (2) the role of the off-shoring of manufacturing
2 jobs in overall job loss in the regions; and
3 (3) recommendations to attract industries and
4 bring jobs to the region.

5 **SEC. 614. ARRA PLANNING AND REPORTING.**

6 Section 1512 of the American Recovery and Reinvest-
7 ment Act of 2009 (Public Law 111–5; 123 Stat. 287) is
8 amended—

9 (1) in subsection (d)—

10 (A) in the subsection heading, by inserting
11 “PLANS AND” after “AGENCY”;

12 (B) by striking “Not later than” and in-
13 serting the following:

14 “(1) DEFINITION.—In this subsection, the term
15 ‘covered program’ means a program for which funds
16 are appropriated under this division—

17 “(A) in an amount that is—

18 “(i) more than \$2,000,000,000; and

19 “(ii) more than 150 percent of the
20 funds appropriated for the program for fis-
21 cal year 2008; or

22 “(B) that did not exist before the date of
23 enactment of this Act.

24 “(2) PLANS.—Not later than July 1, 2010, the
25 head of each agency that distributes recovery funds

1 shall submit to Congress and make available on the
2 website of the agency a plan for each covered pro-
3 gram, which shall, at a minimum, contain—

4 “(A) a description of the goals for the cov-
5 ered program using recovery funds;

6 “(B) a discussion of how the goals de-
7 scribed in subparagraph (A) relate to the goals
8 for ongoing activities of the covered program, if
9 applicable;

10 “(C) a description of the activities that the
11 agency will undertake to achieve the goals de-
12 scribed in subparagraph (A);

13 “(D) a description of the total recovery
14 funding for the covered program and the recov-
15 ery funding for each activity under the covered
16 program, including identifying whether the ac-
17 tivity will be carried out using grants, con-
18 tracts, or other types of funding mechanisms;

19 “(E) a schedule of milestones for major
20 phases of the activities under the covered pro-
21 gram, with planned delivery dates;

22 “(F) performance measures the agency will
23 use to track the progress of each of the activi-
24 ties under the covered program in meeting the
25 goals described in subparagraph (A), including

1 performance targets, the frequency of measure-
2 ment, and a description of the methodology for
3 each measure;

4 “(G) a description of the process of the
5 agency for the periodic review of the progress of
6 the covered program towards meeting the goals
7 described in subparagraph (A); and

8 “(H) a description of how the agency will
9 hold program managers accountable for achiev-
10 ing the goals described in subparagraph (A).

11 “(3) REPORTS.—

12 “(A) IN GENERAL.—Not later than”; and
13 (C) by adding at the end the following:

14 “(B) REPORTS ON PLANS.—Not later than
15 30 days after the end of the calendar quarter
16 ending September 30, 2010, and every calendar
17 quarter thereafter during which the agency obli-
18 gates or expends recovery funds, the head of
19 each agency that developed a plan for a covered
20 program under paragraph (2) shall submit to
21 Congress and make available on a website of
22 the agency a report for each covered program
23 that—

24 “(i) discusses the progress of the
25 agency in implementing the plan;

1 “(ii) describes the progress towards
2 achieving the goals described in paragraph
3 (2)(A) for the covered program;

4 “(iii) discusses the status of each ac-
5 tivity carried out under the covered pro-
6 gram, including whether the activity is
7 completed;

8 “(iv) details the unobligated and un-
9 expired balances and total obligations and
10 outlays under the covered program;

11 “(v) discusses—

12 “(I) whether the covered program
13 has met the milestones for the covered
14 program described in paragraph
15 (2)(E);

16 “(II) if the covered program has
17 failed to meet the milestones, the rea-
18 sons why; and

19 “(III) any changes in the mile-
20 stones for the covered program, in-
21 cluding the reasons for the change;

22 “(vi) discusses the performance of the
23 covered program, including—

24 “(I) whether the covered program
25 has met the performance measures for

1 the covered program described in
2 paragraph (2)(F);

3 “(II) if the covered program has
4 failed to meet the performance meas-
5 ures, the reasons why; and

6 “(III) any trends in information
7 relating to the performance of the cov-
8 ered program; and

9 “(vii) evaluates the ability of the cov-
10 ered program to meet the goals of the cov-
11 ered program given the performance of the
12 covered program.”;

13 (2) in subsection (f)—

14 (A) by striking “Within 180 days” and in-
15 serting the following:

16 “(1) IN GENERAL.—Within 180 days”; and

17 (B) by adding at the end the following:

18 “(2) PENALTIES.—

19 “(A) IN GENERAL.—Subject to subpara-
20 graphs (B), (C), and (D), the Attorney General
21 may bring a civil action in an appropriate
22 United States district court against a recipient
23 of recovery funds from an agency that does not
24 provide the information required under sub-
25 section (c) or knowingly provides information

1 under subsection (c) that contains a material
2 omission or misstatement. In a civil action
3 under this paragraph, the court may impose a
4 civil penalty on a recipient of recovery funds in
5 an amount not more than \$250,000. Any
6 amounts received from a civil penalty under this
7 paragraph shall be deposited in the general
8 fund of the Treasury.

9 “(B) NOTIFICATION.—

10 “(i) IN GENERAL.—The head of an
11 agency shall provide a written notification
12 to a recipient of recovery funds from the
13 agency that fails to provide the informa-
14 tion required under subsection (c). A noti-
15 fication under this subparagraph shall pro-
16 vide the recipient with information on how
17 to comply with the necessary reporting re-
18 quirements and notice of the penalties for
19 failing to do so.

20 “(ii) LIMITATION.—A court may not
21 impose a civil penalty under subparagraph
22 (A) relating to the failure to provide infor-
23 mation required under subsection (c) if,
24 not later than 31 days after the date of the
25 notification under clause (i), the recipient

1 of the recovery funds provides the informa-
2 tion.

3 “(C) CONSIDERATIONS.—In determining
4 the amount of a penalty under this paragraph
5 for a recipient of recovery funds, a court shall
6 consider—

7 “(i) the number of times the recipient
8 has failed to provide the information re-
9 quired under subsection (c);

10 “(ii) the amount of recovery funds
11 provided to the recipient;

12 “(iii) whether the recipient is a gov-
13 ernment, nonprofit entity, or educational
14 institution; and

15 “(iv) whether the recipient is a small
16 business concern (as defined under section
17 3 of the Small Business Act (15 U.S.C.
18 632)), with particular consideration given
19 to businesses with not more than 50 em-
20 ployees.

21 “(D) APPLICABILITY.—This paragraph
22 shall apply to any report required to be sub-
23 mitted on or after the date of enactment of this
24 paragraph.

1 “(E) NONEXCLUSIVITY.—The imposition
2 of a civil penalty under this subsection shall not
3 preclude any other criminal, civil, or adminis-
4 trative remedy available to the United States or
5 any other person under Federal or State law.

6 “(3) TECHNICAL ASSISTANCE.—Each agency
7 distributing recovery funds shall provide technical
8 assistance, as necessary, to assist recipients of recov-
9 ery funds in complying with the requirements to pro-
10 vide information under subsection (c), which shall
11 include providing recipients with a reminder regard-
12 ing each reporting requirement.

13 “(4) PUBLIC LISTING.—

14 “(A) IN GENERAL.—Not later than 45
15 days after the end of each calendar quarter,
16 and subject to the notification requirements
17 under paragraph (2)(B), the Board shall make
18 available on the website established under sec-
19 tion 1526 a list of all recipients of recovery
20 funds that did not provide the information re-
21 quired under subsection (c) for the calendar
22 quarter.

23 “(B) CONTENTS.—A list made available
24 under subparagraph (A) shall, for each recipi-
25 ent of recovery funds on the list, include the

1 name and address of the recipient, the identi-
2 fication number for the award, the amount of
3 recovery funds awarded to the recipient, a de-
4 scription of the activity for which the recovery
5 funds were provided, and, to the extent known
6 by the Board, the reason for noncompliance.

7 “(5) REGULATIONS AND REPORTING.—

8 “(A) REGULATIONS.—Not later than 90
9 days after the date of enactment of this para-
10 graph, the Attorney General, in consultation
11 with the Director of the Office of Management
12 and Budget and the Chairperson, shall promul-
13 gate regulations regarding implementation of
14 this section.

15 “(B) REPORTING.—

16 “(i) IN GENERAL.—Not later than
17 July 1, 2010, and every 3 months there-
18 after, the Director of the Office of Man-
19 agement and Budget, in consultation with
20 the Chairperson, shall submit to Congress
21 a report on the extent of noncompliance by
22 recipients of recovery funds with the re-
23 porting requirements under this section.

24 “(ii) CONTENTS.—Each report sub-
25 mitted under clause (i) shall include—

1 “(I) information, for the quarter
2 and in total, regarding the number
3 and amount of civil penalties imposed
4 and collected under this subsection,
5 sorted by agency and program;

6 “(II) information on the steps
7 taken by the Federal Government to
8 reduce the level of noncompliance; and

9 “(III) any other information de-
10 termined appropriate by the Direc-
11 tor.”; and

12 (3) by adding at the end the following:

13 “(i) TERMINATION.—The reporting requirements
14 under this section shall terminate on September 30,
15 2013.”.

16 **SEC. 615. SURETY BONDS.**

17 Section 508(f) of division A of the American Recovery
18 and Reinvestment Act of 2009 (15 U.S.C. 694a note) is
19 repealed.

20 **SEC. 616. FUNDING FOR DEPLOYMENT OF RENEWABLE EN-**
21 **ERGY, ENERGY EFFICIENCY, AND ELECTRIC**
22 **POWER TRANSMISSION PROJECTS.**

23 Section 1703 of the Energy Policy Act of 2005 (42
24 U.S.C. 16513) is amended—

1 (1) in paragraph (1) by striking “The Sec-
2 retary” and inserting “Except as provided in sub-
3 section (f), the Secretary”;

4 “(2) by adding at the end the following:

5 “(f) AUTHORIZATION FOR CREDIT SUBSIDY.—

6 “(1) IN GENERAL.—The Secretary may make
7 guarantees under this section for the following cat-
8 egories of projects:

9 “(A) Renewable energy systems, including
10 incremental hydropower, that generate elec-
11 tricity or thermal energy.

12 “(B) Electric power transmission systems,
13 including upgrading and reconductoring
14 projects.

15 “(C) Leading edge biofuel projects that
16 will use technologies performing at the pilot- or
17 demonstration-scale that the Secretary deter-
18 mines are likely to become commercial tech-
19 nologies and will produce transportation fuels
20 that substantially reduce life-cycle greenhouse
21 gas emissions compared to other transportation
22 fuels.

23 “(D) Energy efficiency projects, including
24 projects to retrofit residential, commercial, and
25 industrial buildings, facilities, and equipment.

1 “(E) Facilities that manufacture compo-
2 nents related to the categories of projects in
3 subparagraphs (A) through (D).

4 “(2) MULTIPLE APPLICATIONS.—Notwith-
5 standing any other provision of law (including under
6 part 609.3(a) of title 10, Code of Federal Regula-
7 tions, or sucseessor regulations), a project applicant
8 or sponsor of an eligible project may submit an ap-
9 plication for more than 1 eligible project under this
10 subsection.

11 “(3) FUNDING.—From amounts in the Treas-
12 ury not otherwise appropriated, there is appro-
13 priated for the cost of guaranteed loans authorized
14 by this subsection \$1,500,000,000, to remain avail-
15 able until expended.”.

16 **Subtitle B—Extension of Trade** 17 **Adjustment Assistance**

18 **SEC. 621. SHORT TITLE.**

19 This subtitle may be cited as the “Trade Adjustment
20 Assistance Extension Act of 2010”.

21 **SEC. 622. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE.**

22 (a) IN GENERAL.—Section 1893 of the Trade and
23 Globalization Adjustment Assistance Act of 2009 (Public
24 Law 111–5; 123 Stat. 422) is amended by striking
25 “2011” each place it appears and inserting “2012”.

1 (b) CONFORMING AMENDMENTS.—

2 (1) Section 236(a)(2)(A) of the Trade Act of
3 1974 (19 U.S.C. 2296(a)(2)(A)) is amended—

4 (A) in clause (i), by striking “2009 and
5 2010” and inserting “2010 and 2011”; and

6 (B) in clause (ii)—

7 (i) by striking “2009 and 2010” and
8 inserting “2010 and 2011”; and

9 (ii) by striking “October 1, 2010, and
10 ending December 31, 2010” and inserting
11 “October 1, 2011, and ending December
12 31, 2011”.

13 (2) Section 245(a) of the Trade Act of 1974
14 (19 U.S.C. 2317(a)) is amended by striking “2010”
15 and inserting “2011”.

16 (3) Section 246(b)(1) of the Trade Act of 1974
17 (19 U.S.C. 2318(b)(1)) is amended by striking
18 “2010” and inserting “2011”.

19 (4) Section 255(a) of the Trade Act of 1974
20 (19 U.S.C. 2345(a)) is amended to read as follows:

21 “(a) IN GENERAL.—There are authorized to be ap-
22 propriated to the Secretary \$50,000,000 for each of the
23 fiscal years 2010 through 2011, and \$12,501,000 for the
24 period beginning October 1, 2011, and ending December
25 31, 2011, to carry out the provisions of this chapter.

1 Amounts appropriated pursuant to this subsection shall
2 remain available until expended.”.

3 (5) Section 275(f) of the Trade Act of 1974 (19
4 U.S.C. 2371d(f)) is amended by striking “2011”
5 and inserting “2012”.

6 (6) Section 276(c)(2) of the Trade Act of 1974
7 (19 U.S.C. 2371e(c)(2)) is amended—

8 (A) by striking “2009 and 2010” and in-
9 serting “2010 and 2011”; and

10 (B) by striking “October 1, 2010, and end-
11 ing December 31, 2010” and inserting “Octo-
12 ber 1, 2011, and ending December 31, 2011”.

13 (7) Section 277(c) of the Trade Act of 1974
14 (19 U.S.C. 2371f(c)) is amended—

15 (A) in paragraph (1)—

16 (i) by striking “2009 and 2010” and
17 inserting “2010 and 2011”; and

18 (ii) by striking “October 1, 2010, and
19 ending December 31, 2010” and inserting
20 “October 1, 2011, and ending December
21 31, 2011”; and

22 (B) by striking paragraph (2) and redesign-
23 ating paragraph (3) as paragraph (2).

1 (8) Section 278(e) of the Trade Act of 1974
2 (19 U.S.C. 2372(e)) is amended by striking “2011”
3 and inserting “2012”.

4 (9) Section 279A(h)(2) of the Trade Act of
5 1974 (19 U.S.C. 2373(h)(2)) is amended by striking
6 “2011” and inserting “2012”.

7 (10) Section 279B(a) of the Trade Act of 1974
8 (19 U.S.C. 2373a(a)) is amended—

9 (A) by striking “2009 and 2010” and in-
10 serting “2010 and 2011”; and

11 (B) by striking “October 1, 2010, and end-
12 ing December 31, 2010” and inserting “Octo-
13 ber 1, 2011, and ending December 31, 2011”.

14 (11) Section 285 of the Trade Act of 1974 (19
15 U.S.C. 2271 note) is amended by striking “2010”
16 each place it appears and inserting “2011”.

17 (12) Section 298(a) of the Trade Act of 1974
18 (19 U.S.C. 2401g(a)) is amended—

19 (A) by striking “2009 and 2010” and in-
20 serting “2010 and 2011”; and

21 (B) by striking “October 1, 2010, and end-
22 ing December 31, 2010” and inserting “Octo-
23 ber 1, 2011, and ending December 31, 2011”.

1 (13) The table of contents for the Trade Act of
2 1974 is amended by striking the item relating to
3 section 235 and inserting the following:

“Sec. 235. Employment and case management services.”.

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

6 **Subtitle C—Extension of Health**
7 **Coverage Improvement**

8 **SEC. 631. IMPROVEMENT OF THE AFFORDABILITY OF THE**
9 **CREDIT.**

10 (a) IN GENERAL.—Section 35(a) of the Internal Rev-
11 enue Code of 1986 is amended by striking “January 1,
12 2011” and inserting “January 1, 2012”.

13 (b) CONFORMING AMENDMENT.—Section 7527(b) of
14 such Code is amended by striking “January 1, 2011” and
15 inserting “January 1, 2012”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to coverage months beginning after
18 the date of the enactment of this Act.

19 **SEC. 632. PAYMENT FOR THE MONTHLY PREMIUMS PAID**
20 **PRIOR TO COMMENCEMENT OF THE AD-**
21 **VANCE PAYMENTS OF CREDIT.**

22 (a) IN GENERAL.—Section 7527(e) of the Internal
23 Revenue Code of 1986 is amended by striking “January
24 1, 2011” and inserting “January 1, 2012”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to coverage months beginning after
3 the date of the enactment of this Act.

4 **SEC. 633. TAA RECIPIENTS NOT ENROLLED IN TRAINING**
5 **PROGRAMS ELIGIBLE FOR CREDIT.**

6 (a) IN GENERAL.—Section 35(c)(2)(B) of the Inter-
7 nal Revenue Code of 1986 is amended by striking “Janu-
8 ary 1, 2011” and inserting “January 1, 2012”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 this section shall apply to coverage months beginning after
11 the date of the enactment of this Act.

12 **SEC. 634. TAA PRE-CERTIFICATION PERIOD RULE FOR PUR-**
13 **POSES OF DETERMINING WHETHER THERE IS**
14 **A 63-DAY LAPSE IN CREDITABLE COVERAGE.**

15 (a) IRC AMENDMENT.—Section 9801(c)(2)(D) of the
16 Internal Revenue Code of 1986 is amended by striking
17 “January 1, 2011” and inserting “January 1, 2012”.

18 (b) ERISA AMENDMENT.—Section 701(c)(2)(C) of
19 the Employee Retirement Income Security Act of 1974
20 (29 U.S.C. 1181(c)(2)(C)) is amended by striking “Janu-
21 ary 1, 2011” and inserting “January 1, 2012”.

22 (c) PHSA AMENDMENT.—Section 2701(c)(2)(C) of
23 the Public Health Service Act (42 U.S.C. 300gg(c)(2)(C))
24 is amended by striking “January 1, 2011” and inserting
25 “January 1, 2012”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to plan years beginning after the
3 date of the enactment of this Act.

4 **SEC. 635. CONTINUED QUALIFICATION OF FAMILY MEM-**
5 **BERS AFTER CERTAIN EVENTS.**

6 (a) IN GENERAL.—Section 35(g)(9) of the Internal
7 Revenue Code of 1986 is amended by striking “January
8 1, 2011” and inserting “January 1, 2012”.

9 (b) CONFORMING AMENDMENT.—Section 173(f)(8)
10 of the Workforce Investment Act of 1998 (29 U.S.C.
11 2918(f)(8)) is amended by striking “January 1, 2011”
12 and inserting “January 1, 2012”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to months beginning after the date
15 of the enactment of this Act.

16 **SEC. 636. EXTENSION OF COBRA BENEFITS FOR CERTAIN**
17 **TAA-ELIGIBLE INDIVIDUALS AND PBGC RE-**
18 **CIPIENTS.**

19 (a) ERISA AMENDMENTS.—

20 (1) PBGC RECIPIENTS.—Section 602(2)(A)(v)
21 of the Employee Retirement Income Security Act of
22 1974 (29 U.S.C. 1162(2)(A)(v)) is amended by
23 striking “December 31, 2010” and inserting “De-
24 cember 31, 2011”.

1 (2) TAA-ELIGIBLE INDIVIDUALS.—Section
2 602(2)(A)(vi) of such Act (29 U.S.C.
3 1162(2)(A)(vi)) is amended by striking “December
4 31, 2010” and inserting “December 31, 2011”.

5 (b) IRC AMENDMENTS.—

6 (1) PBGC RECIPIENTS.—Section
7 4980B(f)(2)(B)(i)(V) of the Internal Revenue Code
8 of 1986 is amended by striking “December 31,
9 2010” and inserting “December 31, 2011”.

10 (2) TAA-ELIGIBLE INDIVIDUALS.—Section
11 4980B(f)(2)(B)(i)(VI) of such Code is amended by
12 striking “December 31, 2010” and inserting “De-
13 cember 31, 2011”.

14 (c) PHSA AMENDMENTS.—Section 2202(2)(A)(iv) of
15 the Public Health Service Act (42 U.S.C. 300bb-
16 2(2)(A)(iv)) is amended by striking “December 31, 2010”
17 and inserting “December 31, 2011”.

18 (d) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to periods of coverage which would
20 (without regard to the amendments made by this section)
21 end on or after December 31, 2010.

1 **SEC. 637. ADDITION OF COVERAGE THROUGH VOLUNTARY**
2 **EMPLOYEES' BENEFICIARY ASSOCIATIONS.**

3 (a) IN GENERAL.—Section 35(e)(1)(K) of the Inter-
4 nal Revenue Code of 1986 is amended by striking “Janu-
5 ary 1, 2011” and inserting “January 1, 2012”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 this section shall apply to coverage months beginning after
8 the date of the enactment of this Act.

9 **SEC. 638. NOTICE REQUIREMENTS.**

10 (a) IN GENERAL.—Section 7527(d)(2) of the Inter-
11 nal Revenue Code of 1986 is amended by striking “Janu-
12 ary 1, 2011” and inserting “January 1, 2012”.

13 (b) EFFECTIVE DATE.—The amendment made by
14 this section shall apply to certificates issued after the date
15 of the enactment of this Act.

16 **Subtitle D—TANF Provisions**

17 **SEC. 641. EXTENSION OF TEMPORARY ASSISTANCE FOR**
18 **NEEDY FAMILIES AND RELATED PROGRAMS.**

19 (a) IN GENERAL.—Activities authorized by part A of
20 title IV and section 1108(b) of the Social Security Act
21 (other than the Emergency Contingency Fund for State
22 Temporary Assistance for Needy Families Programs es-
23 tablished under subsection (c) of section 403 of such Act)
24 shall continue through September 30, 2011, in the manner
25 authorized for fiscal year 2010, and out of any money in
26 the Treasury of the United States not otherwise appro-

1 priated, there are hereby appropriated such sums as may
2 be necessary for such purpose. In the case of the activities
3 authorized by section 403(b) of such Act, the preceding
4 sentence shall be applied by substituting “September 30,
5 2012” for “September 30, 2011”. Grants and payments
6 may be made pursuant to this authority on a quarterly
7 basis through fiscal year 2011 at the level provided for
8 such activities for the corresponding quarter of fiscal year
9 2010, except that—

10 (1) in the case of healthy marriage promotion
11 and responsible fatherhood grants under section
12 403(a)(2) of such Act, such grants and payments
13 shall be made in accordance with the amendments
14 made by subsection (b) of this section;

15 (2) in the case of supplemental grants under
16 section 403(a)(3) of such Act, the total amount ap-
17 propriated for fiscal year 2011 shall not exceed
18 \$319,450,000; and

19 (3) in the case of the Contingency Fund for
20 State Welfare Programs established under sub-
21 section (b) of section 403 of such Act, grants and
22 payments may be made pursuant to this authority
23 on a quarterly basis through fiscal year 2012, and—

1 (A) the total amount appropriated for fis-
2 cal year 2011 shall not exceed \$292,550,000,
3 and

4 (B) the total amount appropriated for fis-
5 cal year 2012 shall not exceed \$612,000,000.

6 (b) HEALTHY MARRIAGE PROMOTION AND RESPON-
7 SIBLE FATHERHOOD GRANTS.—Section 403(a)(2) of the
8 Social Security Act (42 U.S.C. 603(a)(2)) is amended—

9 (1) in subparagraph (A)(iii),

10 (A) by striking subclause (III) and insert-
11 ing the following:

12 “(III) Marriage education, mar-
13 riage skills, and relationship improve-
14 ment programs, that may include
15 components designed to improve par-
16 enting skills, address or prevent sub-
17 stance abuse, address or prevent do-
18 mestic violence, improve financial
19 management, improve conflict resolu-
20 tion, or improve employment out-
21 comes, including job and career ad-
22 vancement.”; and

23 (B) by adding at the end the following:

24 “(IX) Such other activities as the
25 Secretary determines are reasonably

1 calculated to improve outcomes for
2 needy children and needy communities
3 through the promotion of healthy
4 marriages, if offered in conjunction
5 with any activity described in this
6 subparagraph.”;

7 (2) in subparagraph (C)(i), by striking
8 “\$50,000,000” and inserting “\$75,000,000”;

9 (3) by striking subparagraph (D) and inserting
10 the following:

11 “(D) APPROPRIATION.—Out of any money
12 in the Treasury of the United States not other-
13 wise appropriated, there are appropriated for
14 fiscal year 2011 for expenditure in accordance
15 with this paragraph—

16 “(i) \$75,000,000 for awarding funds
17 for the purpose of carrying out healthy
18 marriage promotion activities; and

19 “(ii) \$75,000,000 for awarding funds
20 for the purpose of carrying out activities
21 promoting responsible fatherhood.”; and

22 (4) in subparagraph (A)(ii), in the matter pre-
23 ceding subclause (I), by inserting “(or, in the case
24 of an entity seeking funding for carrying out both
25 healthy marriage promotion activities and activities

1 promoting responsible fatherhood, a combined appli-
2 cation)” after “an application”.

3 (c) CONFORMING AMENDMENTS.—

4 (1) Section 403(a)(3)(H)(ii) of the Social Secu-
5 rity Act (42 U.S.C. 603(a)(3)(H)(ii)) is amended by
6 striking “2010” and inserting “2011”.

7 (2) Section 403(b)(3)(C)(ii) of the Social Secu-
8 rity Act (42 U.S.C. 603(b)(3)(C)(ii)) is amended by
9 striking “2010” and inserting “2011”.

10 (3) Section 409(a)(7) of the Social Security Act
11 (42 U.S.C. 609(a)(7)) is amended—

12 (A) in subparagraph (A), by striking “or
13 2011” and inserting “2011, or 2012”; and

14 (B) in subparagraph (B)(ii), by striking
15 “2010” and inserting “2011”.

16 (d) NATIONAL RANDOM SAMPLE STUDY OF CHILD
17 WELFARE.—Activities authorized by section 429 of the
18 Social Security Act shall continue through September 30,
19 2011, in the manner authorized for fiscal year 2010, and
20 out of any money in the Treasury of the United States
21 not otherwise appropriated, there are hereby appropriated
22 such sums as may be necessary for such purpose. Grants
23 and payments may be made pursuant to this authority on
24 a quarterly basis through fiscal year 2011 at the level pro-

1 vided for such activities for the corresponding quarter of
2 fiscal year 2010.

3 (e) EFFECTIVE DATE.—This section and the amend-
4 ments made by this section take effect on October 1, 2010.

5 **SEC. 642. REINSTATEMENT OF FEDERAL MATCHING OF**
6 **STATE SPENDING OF CHILD SUPPORT INCEN-**
7 **TIVE PAYMENTS.**

8 (a) IN GENERAL.—Effective October 1, 2010, section
9 455(a)(1) of the Social Security Act (42 U.S.C. 655(a)(1))
10 is amended by striking “from amounts paid to the State
11 under section 458 or”.

12 (b) SUNSET.—Effective October 1, 2011, section
13 455(a)(1) of the Social Security Act (42 U.S.C. 655(a)(1))
14 is amended by inserting “from amounts paid to the State
15 under section 458 or” before “to carry out an agreement
16 which it has entered into pursuant to section 463”.

17 **SEC. 643. EXTENSION AND MODIFICATION OF THE TANF**
18 **EMERGENCY FUND.**

19 (a) EXTENSION.—

20 (1) IN GENERAL.—Section 403(c) of the Social
21 Security Act (42 U.S.C. 603(c)) is amended—

22 (A) in paragraph (2)(A), by inserting “,
23 and for fiscal year 2011, \$1,500,000,000” be-
24 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 quirements 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 redesign-
11 ating 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 tics 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 tablished 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.