

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**S.** \_\_\_\_\_

To extend expiring provisions and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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

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**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

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.

- 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.



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:

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



“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           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

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

3 (2) OWNERSHIP INTEREST.—Section 45(d)(8)  
4 is amended by adding at the end the following new  
5 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.”.

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

22 “(iii) PRODUCTION AND SALE.—The  
23 owner of a facility producing steel industry  
24 fuel shall be treated as producing and sell-  
25 ing 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.”.





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 redesignig-  
23 nating 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(e) 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(e)(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       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 **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 ticee, 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.**

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9 of 2010 are repealed and the Employee Retirement In-  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

13 (b) ELECTIVE SPECIAL RELIEF RULES.—

14 (1) AMENDMENT TO ERISA.—Section 304(b) of  
15 the Employee Retirement Income Security Act of  
16 1974, as in effect after the application of subsection  
17 (a), is amended by adding at the end the following  
18 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:

<b>Plan year after the plan year in which the net investment loss was incurred</b>	<b>Allocable portion of net investment loss</b>
1st .....	1/2
2nd .....	0
3rd .....	1/6
4th .....	1/6
5th .....	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(e) or under section 432(e) 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



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-

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

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

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

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

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

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

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

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

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

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

1                   rangement is a criminally fraudulent  
2                   investment arrangement shall be made  
3                   under rules substantially similar to  
4                   the rules prescribed by the Secretary  
5                   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:

<b>Plan year after the plan year in which the net investment loss was incurred</b>	<b>Allocable portion of net investment loss</b>
1st .....	1/2
2nd .....	0
3rd .....	1/6
4th .....	1/6
5th .....	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 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(e) or under section 305(e) 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).

## 100

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

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.—

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                   “(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 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           “(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:

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

11 (e) CONFORMING AMENDMENTS.—

12           (1) Subsection (d) of section 731 is amended by  
13 inserting “section 710(b)(4) (relating to distribu-  
14 tions of partnership property),” after “to the extent  
15 otherwise provided by”.

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

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

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

23 (f) EFFECTIVE DATE.—

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 redesi-  
19 gnating 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 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.





1 104(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)—

17 (i) in the matter preceding clause (i)  
18 by striking “apportioned under sections  
19 104(b) and 144 of title 23, United States  
20 Code,” and inserting “specified in section  
21 105(a)(2) of title 23, United States Code  
22 (except the high priority projects pro-  
23 gram),”; and

24 (ii) in clause (ii) by striking “appor-  
25 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)”; and

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”;  
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           (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 successor 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 requirements of section 553 of title 5, United  
2 States Code—

3 “(i) specify priority criteria for award-  
4 ing grants to States during fiscal year  
5 2011; and

6 “(ii) adjust the percentage limitation  
7 applicable under subparagraph (B) with  
8 respect to the total amount payable to a  
9 single State for fiscal year 2011.”; and

10 (F) in paragraph (6), by inserting “or for  
11 expenditures described in paragraph (3)(C)(iv)”  
12 before the period.

13 (2) CONFORMING AMENDMENTS.—Section 2101  
14 of division B of the American Recovery and Rein-  
15 vestment Act of 2009 (Public Law 111–5) is amend-  
16 ed—

17 (A) in subsection (a)(2)—

18 (i) by striking “2010” and inserting  
19 “2011”; and

20 (ii) by striking all that follows “re-  
21 pealed” and inserting a period; and

22 (B) in subsection (d)(1), by striking  
23 “2010” and inserting “2011”.

24 (b) MODIFICATION OF GRANT REQUIREMENTS.—

1           (1) IN GENERAL.—Effective October 1, 2010,  
2           section 403(c) of the Social Security Act (42 U.S.C.  
3           603(c)), as amended by subsection (a), is amend-  
4           ed—

5                   (A) in paragraph (3)(A)—

6                           (i) by striking “RELATED TO CASE-  
7                           LOAD INCREASES” in the heading and in-  
8                           serting “RELATED TO INCREASED EXPEND-  
9                           ITURES”;

10                           (ii) by striking clause (ii) and 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 ties of State programs funded under this part and other  
20 State programs funded with qualified State expenditures  
21 (as defined in section 409(a)(7)(B)(i)). The report shall  
22 include, with respect to each such program, the program  
23 name, a description of program activities, the program  
24 purpose, the program eligibility criteria, the sources of

1 program funding, the number of program beneficiaries,  
2 sanction policies, and any program work requirements.”.

3 (d) DESCRIPTION OF STATE ASSISTANCE PRO-  
4 GRAMS.—Section 402(a)(1)(B) (42 U.S.C. 602(a)(1)(B))  
5 is amended by adding at the end the following new clause:

6 “(v) The document shall include, to  
7 the extent applicable with respect to each  
8 program that provides assistance that will  
9 be funded under this part or with qualified  
10 State expenditures (as defined in section  
11 409(a)(7)(B)(i)), a description of—

12 “(I) the applicable financial and  
13 nonfinancial eligibility rules for assist-  
14 ance provided under the program, in-  
15 cluding income eligibility thresholds,  
16 the treatment of earnings, asset eligi-  
17 bility rules, and excluded forms of in-  
18 come;

19 “(II) the amount of assistance  
20 provided to needy families, and the  
21 methodology for determining assist-  
22 ance amounts; and

23 “(III) the applicable time limit  
24 policies, including the length of the  
25 time limit, exemption and extension

1 policies, and procedures for providing  
2 services to families reaching the time  
3 limit and who have lost assistance due  
4 to time limits.”.

5 **SEC. 645. STATE COURT IMPROVEMENT PROGRAM.**

6 (a) IN GENERAL.—Section 438 of the Social Security  
7 Act (42 U.S.C. 629h) is amended—

8 (1) by striking “2010” in subsection (c)(2)(A)  
9 and inserting “2011”;

10 (2) by adding at the end of subsection (e) the  
11 following flush sentence: “For fiscal year 2011, out  
12 of the amount reserved pursuant to section  
13 436(b)(2) for such fiscal year, there are available  
14 \$10,000,000 for grants referred to in subsection  
15 (b)(2)(B), and \$10,000,000 for grants referred to in  
16 subsection (b)(2)(C).”.

17 (b) APPROPRIATIONS.—Effective October 1, 2011,  
18 section 436 of the Social Security Act (42 U.S.C. 629f)  
19 is amended—

20 (1) in subsection (a)—

21 (A) by striking “2011” and inserting  
22 “2010”; and

23 (B) by inserting before the period the fol-  
24 lowing: “, and \$365,000,000 for fiscal year  
25 2011”; and

1           (2) by striking “\$10,000,000” in subsection  
2           (b)(2) and inserting “\$30,000,000”.

3           **Subtitle E—Unemployment**  
4           **Compensation Program Integrity**

5           **SEC. 651. PERMISSIBLE USES OF UNEMPLOYMENT FUND**  
6                           **MONEYS FOR PROGRAM INTEGRITY PUR-**  
7                           **POSES.**

8           (a) WITHDRAWAL STANDARD IN THE INTERNAL  
9           REVENUE CODE.—Section 3304(a)(4) of the Internal  
10          Revenue Code of 1986 is amended—

11           (1) in subparagraph (F), by striking “and” at  
12          the end; and

13           (2) by inserting after subparagraph (G) the fol-  
14          lowing new subparagraphs:

15                   “(H) of those payments of benefits from a  
16                   State’s unemployment fund that are determined  
17                   to have been made in error and are subse-  
18                   quently recovered by the State, the State may,  
19                   immediately following receipt of such recovered  
20                   amount, deposit a percent of such recovered  
21                   amount, as specified in State law (but not to  
22                   exceed 5 percent), in a fund from which moneys  
23                   may be withdrawn for—

1                   “(i) the payment of costs of deterring,  
2                   detecting, and collecting erroneous pay-  
3                   ments to individuals;

4                   “(ii) purposes relating to the  
5                   misclassification of employees as inde-  
6                   pendent contractors, implementation of  
7                   provisions of State law implementing sec-  
8                   tion 303(k) of the Social Security Act, or  
9                   other provisions of State law relating to  
10                  employer fraud or evasion of contributions;  
11                  or

12                  “(iii) payment to the Secretary of the  
13                  Treasury to the credit of the State’s ac-  
14                  count in the Unemployment Trust Fund;  
15                  and

16                  “(I) of those payments of contributions (or  
17                  payments in lieu of contributions) that are col-  
18                  lected as a result of an investigation and assess-  
19                  ment by the State agency, the State may, im-  
20                  mediately following receipt of such payments,  
21                  deposit a percentage of such payments, as spec-  
22                  ified in State law (but not to exceed 5 percent),  
23                  in a fund (which may be the same fund de-  
24                  scribed in subparagraph (H)) from which mon-  
25                  eys may be withdrawn for the purposes de-

1           scribed in clauses (i) through (iii) of subpara-  
2           graph (H);”.

3           (b) DEFINITION OF UNEMPLOYMENT FUND.—Sec-  
4           tion 3306(f) of the Internal Revenue Code of 1986 is  
5           amended by striking all that follows “(exclusive of ex-  
6           penses of administration)” and inserting “, except as oth-  
7           erwise provided in section 3304(a)(4) of the Social Secu-  
8           rity Act or any other provision of Federal law.”.

9           (c) WITHDRAWAL STANDARD IN SOCIAL SECURITY  
10          ACT.—Section 303(a)(5) of the Social Security Act (42  
11          U.S.C. 503(a)(5)) is amended by striking all that follows  
12          “payment of unemployment compensation, exclusive of ex-  
13          penses of administration,” and inserting “except as other-  
14          wise provided in this section, section 3304(a)(4) of the In-  
15          ternal Revenue Code of 1986, or any other provision of  
16          Federal law; and”.

17          (d) IMMEDIATE DEPOSIT REQUIREMENTS.—

18                 (1) INTERNAL REVENUE CODE REQUIRE-  
19                 MENT.—Paragraph (3) of section 3304(a) of the In-  
20                 ternal Revenue Code of 1986 is amended to read as  
21                 follows:

22                         “(3) all money received in the unemployment  
23                         fund of the State shall immediately upon such re-  
24                         ceipt be paid over to the Secretary of the Treasury  
25                         to the credit of the Unemployment Trust Fund es-

1        established by section 904 of the Social Security Act  
2        (42 U.S.C. 1104), except for—

3                “(A) refunds of sums erroneously paid into  
4                the unemployment fund of the State;

5                “(B) refunds paid in accordance with the  
6                provisions of section 3305(b); and

7                “(C) amounts deposited in a State fund  
8                pursuant to subparagraph (H) or (I) of para-  
9                graph (4);”.

10        (2) SOCIAL SECURITY ACT REQUIREMENT.—

11        Section 303(a)(4) of the Social Security Act (42  
12        U.S.C. 503(a)(4)) is amended by striking “(except  
13        for refunds” and all that follows through “Federal  
14        Unemployment Tax Act” and inserting “(except as  
15        otherwise provided in this section, section  
16        3304(a)(3) of the Internal Revenue Code of 1986, or  
17        any other provision of Federal law)”.

18        (e) APPLICATION TO FEDERAL PAYMENTS.—

19                (1) IN GENERAL.—As a condition for admin-  
20                istering any unemployment compensation program of  
21                the United States (as defined in paragraph (2)) as  
22                an agent of the United States, a State shall, with re-  
23                spect to erroneous payments made under such pro-  
24                grams by the State, use the authority provided  
25                under subparagraph (H) of section 3304(a)(4) of

1 the Internal Revenue Code of 1986, as added by  
2 subsection (a), in the same manner as such author-  
3 ity is used with respect to erroneous payments made  
4 under the State unemployment compensation law.  
5 With respect to erroneous Federal payments recov-  
6 ered consistent with the authority under such sub-  
7 paragraph (H), the State shall immediately deposit  
8 the same percentage of the recovered payments into  
9 the same State fund as provided in the State law  
10 implementing such section 3304(a)(4).

11 (2) DEFINITION.—For purposes of this sub-  
12 section, the term “unemployment compensation pro-  
13 gram of the United States” means—

14 (A) unemployment compensation for Fed-  
15 eral civilian employees under subchapter I of  
16 chapter 85 of title 5, United States Code;

17 (B) unemployment compensation for ex-  
18 servicemembers under subchapter II of chapter  
19 85 of title 5, United States Code;

20 (C) trade readjustment allowances under  
21 sections 231 through 234 of the Trade Act of  
22 1974 (19 U.S.C. 2291-2294);

23 (D) disaster unemployment assistance  
24 under section 410(a) of the Robert T. Stafford



1 Disaster Relief and Emergency Assistance Act  
2 (42 U.S.C. 5177(a));

3 (E) any Federal temporary extension of  
4 unemployment compensation;

5 (F) any Federal program which increases  
6 the weekly amount of unemployment compensa-  
7 tion payable to individuals; and

8 (G) any other Federal program providing  
9 for the payment of unemployment compensa-  
10 tion.

11 **SEC. 652. MANDATORY PENALTY ASSESSMENT ON FRAUD**  
12 **CLAIMS.**

13 (a) IN GENERAL.—Section 303(a) of the Social Secu-  
14 rity Act (42 U.S.C. 503(a)) is amended—

15 (1) in paragraph (10), by striking the period at  
16 the end of subparagraph (B) and inserting “; and”;  
17 and

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

20 “(11)(A) At the time the State agency deter-  
21 mines an erroneous payment from its unemployment  
22 fund was made to an individual due to fraud com-  
23 mitted by such individual, the assessment of a pen-  
24 alty on the individual in an amount of not less than

1 15 percent of the amount of the erroneous payment;  
2 and

3 “(B) The immediate deposit of all assessments  
4 paid pursuant to subparagraph (A) in a fund in the  
5 State from which moneys may be withdrawn for the  
6 purposes described in clauses (i) through (iii) of sub-  
7 paragraph (H) of section 3304(a)(4) of the Internal  
8 Revenue Code of 1986, which may be the same fund  
9 as the fund established under subparagraphs (H) or  
10 (I) of such section 3304(a)(4).”.

11 (b) APPLICATION TO FEDERAL PAYMENTS.—As a  
12 condition for administering any unemployment compensa-  
13 tion program of the United States (as defined in section  
14 651(e)(2)) as an agent of the United States, if the State  
15 determines that an erroneous payment was made by the  
16 State to an individual under any such program due to  
17 fraud committed by such individual, the State shall assess  
18 a penalty on such individual and deposit any such penalty  
19 received in the same manner as the State assesses and  
20 deposits such penalties under provisions of State law im-  
21 plementing section 303(a)(11) of the Social Security Act,  
22 as added by subsection (a).

23 (c) EFFECTIVE DATE.—

24 (1) IN GENERAL.—Except as provided in para-  
25 graph (2), the amendments made by this section

1 shall apply to erroneous payments established after  
2 the end of the 2-year period beginning on the date  
3 of the enactment of this Act.

4 (2) **AUTHORITY.**—A State may amend its State  
5 law to apply such amendments to erroneous pay-  
6 ments established prior to the end of the period de-  
7 scribed in paragraph (1).

8 **SEC. 653. PROHIBITION ON NONCHARGING DUE TO EM-**  
9 **PLOYER FAULT.**

10 (a) **IN GENERAL.**—Section 3303 of the Internal Rev-  
11 enue Code is amended—

12 (1) by striking subsections (f) and (g); and

13 (2) by inserting after subsection (e) the fol-  
14 lowing new subsection:

15 “(f) **PROHIBITION ON NONCHARGING DUE TO EM-**  
16 **PLOYER FAULT.**—A State law shall be treated as meeting  
17 the requirements of subsection (a)(1) only if such law pro-  
18 vides that an employer’s account shall not be relieved of  
19 charges relating to a payment from the State unemploy-  
20 ment fund if—

21 “(1) the State agency determines that the pay-  
22 ment was made because the employer, or an agent  
23 of the employer, was at fault for failing to respond  
24 timely or adequately to the request of the agency for

1 information relating to the claim for compensation;  
2 and

3 “(2) the State agency determines that the em-  
4 ployer or agent has established a pattern of failing  
5 to respond timely or adequately to such requests.”.

6 (b) EFFECTIVE DATE.—The amendments made by  
7 this section shall apply to erroneous payments established  
8 after the end of the 2-year period beginning on the date  
9 of the enactment of this Act.

10 **SEC. 654. COLLECTION OF PAST-DUE, LEGALLY ENFORCE-**  
11 **ABLE STATE DEBTS.**

12 (a) UNEMPLOYMENT COMPENSATION DEBTS.—Sec-  
13 tion 6402(f) of the Internal Revenue Code is amended—

14 (1) in the heading, by striking “RESULTING  
15 FROM FRAUD”;

16 (2) by striking paragraphs (3) and (8) and re-  
17 designating paragraphs (4) through (7) as para-  
18 graphs (3) through (6), respectively;

19 (3) in paragraph (3), as so redesignated—

20 (A) in subparagraph (A), by striking “by  
21 certified mail with return receipt”;

22 (B) in subparagraph (B), by striking “due  
23 to fraud” and inserting “is not a covered unem-  
24 ployment compensation debt”;

1 (C) in subparagraph (C), by striking “due  
2 to fraud” and inserting “ is not a covered un-  
3 employment compensation debt”; and

4 (4) in paragraph (4), as so redesignated—

5 (A) in subparagraph (A)—

6 (i) by inserting “or the person’s fail-  
7 ure to report earnings” after “due to  
8 fraud”; and

9 (ii) by striking “for not more than 10  
10 years”; and

11 (B) in subparagraph (B)—

12 (i) by striking “due to fraud”; and

13 (ii) by striking “for not more than 10  
14 years”.

15 (b) EFFECTIVE DATE.—The amendments made by  
16 this section shall apply to refunds payable under section  
17 6402 of the Internal Revenue Code of 1986 on or after  
18 the date of the enactment of this Act.

19 **SEC. 655. TREATMENT OF SHORT-TIME COMPENSATION**  
20 **PROGRAMS.**

21 (a) DEFINITION.—Section 3306 of the Internal Rev-  
22 enue Code of 1986 is amended by adding at the end the  
23 following new subsection:

24 (1) IN GENERAL.—

1       “(v) SHORT-TIME COMPENSATION PROGRAM.—For  
2 purposes of this chapter, the term ‘short-time compensa-  
3 tion program’ means a program under which—

4           “(1) the participation of an employer is vol-  
5 untary;

6           “(2) an employer reduces the number of hours  
7 worked by employees in lieu of temporary layoffs;

8           “(3) such employees whose workweeks have  
9 been reduced by at least 10 percent, and by not  
10 more than the percentage, if any, that is determined  
11 by the State to be appropriate, are eligible for unem-  
12 ployment compensation;

13           “(4) the amount of unemployment compensa-  
14 tion payable to any such employee is a pro rata por-  
15 tion of the unemployment compensation which would  
16 be payable to the employee if such employee were to-  
17 tally unemployed;

18           “(5) such employees are not required to meet  
19 the availability for work or work search test require-  
20 ments while collecting short-time compensation bene-  
21 fits, but are required to be available for their normal  
22 workweek;

23           “(6) eligible employees may participate in an  
24 employer-sponsored training program to enhance job

1 skills if such program has been approved by the  
2 State agency;

3 “(7) the State agency shall require an employer  
4 to certify that the employer will continue to provide  
5 health benefits, and retirement benefits under a de-  
6 fined benefit plan (as defined in section 414(j)) and  
7 contributions under a defined contribution plan (as  
8 defined in section 414(i)) to any employee whose  
9 workweek is reduced under the program under the  
10 same terms and conditions as though the workweek  
11 of such employee had not been reduced;

12 “(8) the State agency shall require an employer  
13 (or an employers’ association which is party to a col-  
14 lective bargaining agreement) to submit a written  
15 plan describing the manner in which the require-  
16 ments of this subsection will be implemented and  
17 containing such other information as the Secretary  
18 of Labor determines is appropriate;

19 “(9) in the case of employees represented by a  
20 union, the appropriate official of the union has  
21 agreed to the terms of the written plan submitted by  
22 the employer and implementation is consistent with  
23 employer obligations under the National Labor Rela-  
24 tions Act; and

1           “(10) only such other provisions are included in  
2 the State law as the Secretary of Labor determines  
3 appropriate for purposes of a short-term compensa-  
4 tion program.”.

5           (2) EFFECTIVE DATE.—

6           (A) IN GENERAL.—Except as provided in  
7 subparagraph (B), the amendment made by  
8 paragraph (1) shall take effect on the date of  
9 the enactment of this Act.

10           (B) DELAY PERMITTED.—In the case of a  
11 State that is administering a short-time com-  
12 pensation program as of the date of the enact-  
13 ment of this Act and the State law cannot be  
14 administered consistent with the amendment  
15 made by paragraph (1), such amendment shall  
16 take effect on the earlier of—

17           (i) the date the State changes its  
18 State law in order to be consistent with  
19 such amendment; or

20           (ii) the date that is 2 years after the  
21 date of the enactment of this Act.

22           (b) CONFORMING AMENDMENTS.—

23           (1) INTERNAL REVENUE CODE OF 1986.—Sub-  
24 paragraph (E) of section 3304(a)(4) of the Internal



1 Revenue Code of 1986 is amended to read as fol-  
2 lows:

3 “(E) amounts may be withdrawn for the  
4 payment of short-time compensation under a  
5 short-time compensation program (as defined in  
6 section 3306(v));”.

7 (2) UNEMPLOYMENT COMPENSATION AMEND-  
8 MENTS OF 1992.—Subsections (b) through (d) of sec-  
9 tion 401 of the Unemployment Compensation  
10 Amendments of 1992 (26 U.S.C. 3304 note) are re-  
11 pealed.

12 **SEC. 656. STATE USE OF COMPENSATING BALANCES AND**  
13 **INTEREST EARNED ON CLEARING ACCOUNT**  
14 **TO PAY ASSOCIATED BANKING COSTS.**

15 (a) IMMEDIATE DEPOSIT REQUIREMENT.—Section  
16 3304(a)(3) of the Internal Revenue Code of 1986, as  
17 amended by section 651(d)(1), is amended—

18 (1) in subparagraph (B), by striking “and” at  
19 the end;

20 (2) in subparagraph (C), by inserting “and”  
21 after the semicolon at the end; and

22 (3) by adding at the end the following new sub-  
23 paragraph:

24 “(D) such portion of the money as may be  
25 necessary to generate earnings credit or actual

1 interest earnings sufficient to pay reasonable  
2 charges for banking services related to such  
3 money and for services provided by a bank in  
4 connection with the receipt and processing of  
5 direct remittances from employers;”.

6 (b) WITHDRAWAL STANDARD.—Section 3304(a)(4)  
7 of the Internal Revenue Code of 1986, as amended by sec-  
8 tion 651(a), is amended—

9 (1) in subparagraph (H)(iii), by striking “and”  
10 at the end;

11 (2) in subparagraph (I), by inserting “and”  
12 after the semicolon at the end; and

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

15 “(J) earnings credit or actual interest  
16 earnings on money not immediately paid over to  
17 the Secretary of the Treasury pursuant to para-  
18 graph (3) may be used to pay reasonable  
19 charges for banking services related to money  
20 received in the unemployment fund and for  
21 services provided by a bank in connection with  
22 the receipt and processing of direct remittances  
23 from employers;”.

1 (c) CONFORMING AMENDMENT.—Section 1201(a)(3)  
2 of the Social Security Act (42 U.S.C. 1321(a)(3)) is  
3 amended—

4 (1) in subparagraph (B), by striking “and” at  
5 the end;

6 (2) in subparagraph (C), by striking the period  
7 at the end and inserting “, and”; and

8 (3) by adding at the end the following new sub-  
9 paragraph:

10 “(D) any amounts set aside to pay reason-  
11 able charges for banking services consistent  
12 with paragraphs (3) and (4) of section 3304(a)  
13 of the Internal Revenue Code of 1986 shall not  
14 be taken into account for purposes of subpara-  
15 graph (B).”.

16 **SEC. 657. REPORTING OF FIRST DAY OF EARNINGS TO DI-**  
17 **RECTORY OF NEW HIRES.**

18 (a) ADDITION OF REQUIREMENT.—Section  
19 453A(b)(1)(A) of the Social Security Act (42 U.S.C.  
20 653a(b)(1)(A)) is amended by inserting “the date services  
21 for remuneration were first performed by the employee,”  
22 after “of the employee,”.

23 (b) CONFORMING AMENDMENT; REPORTING FORMAT  
24 AND METHOD.—Section 453A(c) of the Social Security  
25 Act (42 U.S.C. 653a(c)) is amended by inserting “, to the

1 extent practicable,” after “Each report required by sub-  
2 section (b) shall”.

3 (c) EFFECTIVE DATE.—

4 (1) IN GENERAL.—Subject to paragraph (2),  
5 the amendments made by this section shall take ef-  
6 fect 6 months after the date of the enactment of this  
7 Act.

8 (2) COMPLIANCE TRANSITION PERIOD.—If the  
9 Secretary of Health and Human Services determines  
10 that State legislation (other than legislation appro-  
11 priating funds) is required in order for a State plan  
12 under part D of title IV of the Social Security Act  
13 to meet the additional requirements imposed by the  
14 amendment made by subsection (a), the plan shall  
15 not be regarded as failing to meet such requirements  
16 before the first day of the second calendar quarter  
17 beginning after the close of the first regular session  
18 of the State legislature that begins after the effective  
19 date of such amendment. If the State has a 2-year  
20 legislative session, each year of the session is deemed  
21 to be a separate regular session of the State legisla-  
22 ture.

1 **SEC. 658. DEDUCTION OF OBLIGATIONS FOR CUSTODIAL**  
2 **PARENTS.**

3 (a) AUTHORIZATION TO DEDUCT SUPPORT FOR CUS-  
4 TODIAL PARENTS FROM UNEMPLOYMENT COMPENSA-  
5 TION.—

6 (1) IN GENERAL.—Section 303(e) of the Social  
7 Security Act (42 U.S.C. 503(e)) is amended—

8 (A) by striking “child support obligations”  
9 each place it appears and inserting “support  
10 obligations”; and

11 (B) in paragraph (1), in the matter fol-  
12 lowing subparagraph (B), by striking “only in-  
13 cludes obligations” and inserting “is limited to  
14 obligations established with respect to a child or  
15 a custodial parent of such child”.

16 (2) TECHNICAL AMENDMENT.—Section  
17 303(e)(2)(A)(iii)(III) of the Social Security Act (42  
18 U.S.C. 503(e)(2)(A)(iii)(III)) is amended by striking  
19 “section 462(e)” and inserting “section 459(i)(5)”.

20 (b) EFFECTIVE DATE.—

21 (1) IN GENERAL.—Except as provided in para-  
22 graph (2), the amendments made by this section  
23 shall apply to weeks of unemployment beginning  
24 after the end of the 2-year period beginning on the  
25 date of the enactment of this Act.

1           (2) **AUTHORITY.**—A State may amend its State  
2 law to provide for deducting and withholding  
3 amounts from unemployment compensation in ac-  
4 cordance with the amendments made by this section  
5 prior to end of the period described in paragraph  
6 (1).

7 **SEC. 659. ADVISORY COUNCIL ON UNEMPLOYMENT COM-**  
8 **PENSATION.**

9           (a) **IN GENERAL.**—Section 908 of the Social Security  
10 Act (42 U.S.C. 1108) is amended by striking subsections  
11 (a), (b), and (c) and inserting the following new sub-  
12 sections:

13           “(a) **ESTABLISHMENT.**—The Secretary of Labor may  
14 periodically establish an advisory council to be known as  
15 the Advisory Council on Unemployment Compensation (re-  
16 ferred to in this section as the ‘Council’).

17           “(b) **FUNCTION.**—Each Council shall, to the extent  
18 directed by the Secretary of Labor, evaluate specific as-  
19 pects of the unemployment compensation program, which  
20 may include the purpose, goals, effects on economic sta-  
21 bilization (including countercyclical effects), coverage,  
22 trust fund solvency, administrative performance, payment  
23 integrity and any other aspects of the program as the Sec-  
24 retary of Labor deems necessary.

25           “(c) **MEMBERS.**—

1           “(1) PRESIDENTIAL APPOINTMENTS.—Each  
2 Council shall consist of 9 members appointed by the  
3 President.

4           “(2) VACANCY.—A vacancy in any Council shall  
5 be filled by appointment in accordance with para-  
6 graph (1).

7           “(3) CHAIRMAN.—The President shall des-  
8 ignate a member of the Council to serve as its  
9 Chairman.”.

10       (b) REPORT.—Subsection (f) of section 908 of the  
11 Social Security Act (42 U.S.C. 1108 (f)) is amended to  
12 read as follows:

13       “(f) REPORT.—The Council shall submit, at such  
14 times as the Secretary of Labor may specify, to the Presi-  
15 dent through the Secretary of Labor reports setting forth  
16 the findings of the Council together with and any rec-  
17 ommendations the Council determines are appropriate.”.

18 **SEC. 660. AMENDMENT TO THE FEDERAL-STATE EXTENDED**

19 **BENEFITS PROGRAM.**

20       (a) IN GENERAL.—Section 202(a)(3)(E) of the Fed-  
21 eral-State Extended Unemployment Compensation Act of  
22 1970 (26 U.S.C. 3304 note) is amended by striking clause  
23 (ii) and inserting the following:

1                   “(ii) the individual maintains tangible  
2                   evidence that he has engaged in such an  
3                   effort during such week; and

4                   “(iii) the individual provides such tan-  
5                   gible evidence to the State agency upon re-  
6                   quest.

7                   The Secretary shall prescribe requirements for  
8                   State agencies to randomly audit a minimum  
9                   number of claims each week to determine com-  
10                  pliance with this subparagraph”.

11               (b) EFFECTIVE DATE.—

12                   (1) IN GENERAL.—Except as provided in para-  
13                  graph (2), the amendment made by this section shall  
14                  apply to weeks of unemployment beginning after the  
15                  end of the 2-year period beginning on the date of the  
16                  enactment of this Act.

17                   (2) AUTHORITY.—A State may amend its State  
18                  law to provide for the administration of the Federal-  
19                  State extended benefits program in accordance with  
20                  the amendment made by this section prior to the  
21                  end of the period described in paragraph (1).

22   **SEC. 661. OPERATING INSTRUCTIONS AND REGULATIONS.**

23                  The Secretary of Labor may prescribe any operating  
24                  instructions or regulations necessary to carry out the pro-  
25                  visions of, and amendments made by, this subtitle to the



1 extent that responsibility for the administration of such  
2 provision or amendment is vested in the Secretary of  
3 Labor.

## 4 **Subtitle F—Custom User Fees**

### 5 **SEC. 665. CUSTOMS USER FEES.**

6 Section 13031(j)(3) of the Consolidated Omnibus  
7 Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3))  
8 is amended—

9 (1) in subparagraph (A), by striking “December  
10 10, 2018” and inserting “December 31, 2019”; and

11 (2) in subparagraph (B)(i), by striking “No-  
12 vember 30, 2018” and inserting “September 30,  
13 2019”.

## 14 **TITLE VII—TRANSPARENCY RE-** 15 **QUIREMENTS FOR FOREIGN-** 16 **HELD DEBT**

### 17 **SEC. 701. SHORT TITLE.**

18 This title may be cited as the “Foreign-Held Debt  
19 Transparency and Threat Assessment Act”.

### 20 **SEC. 702. DEFINITIONS.**

21 In this title:

22 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**  
23 **TEES.**—The term “appropriate congressional com-  
24 mittees” means the following:

1           (A) The Committee on Armed Services, the  
2           Committee on Foreign Relations, the Com-  
3           mittee on Finance, and the Committee on the  
4           Budget of the Senate.

5           (B) The Committee on Armed Services,  
6           the Committee on Foreign Affairs, the Com-  
7           mittee on Ways and Means, and the Committee  
8           on the Budget of the House of Representatives.

9           (2) DEBT INSTRUMENTS OF THE UNITED  
10          STATES.—The term “debt instruments of the United  
11          States” means all bills, notes, and bonds issued or  
12          guaranteed by the United States or by an entity of  
13          the United States Government, including any Gov-  
14          ernment-sponsored enterprise.

15 **SEC. 703. SENSE OF CONGRESS.**

16          It is the sense of Congress that—

17           (1) the growing Federal debt of the United  
18           States has the potential to jeopardize the national  
19           security and economic stability of the United States;

20           (2) the increasing dependence of the United  
21           States on foreign creditors has the potential to make  
22           the United States vulnerable to undue influence by  
23           certain foreign creditors in national security and  
24           economic policymaking;

1           (3) the People's Republic of China is the largest  
2 foreign creditor of the United States, in terms of its  
3 overall holdings of debt instruments of the United  
4 States;

5           (4) the current level of transparency in the  
6 scope and extent of foreign holdings of debt instru-  
7 ments of the United States is inadequate and needs  
8 to be improved, particularly regarding the holdings  
9 of the People's Republic of China;

10          (5) through the People's Republic of China's  
11 large holdings of debt instruments of the United  
12 States, China has become a super creditor of the  
13 United States;

14          (6) under certain circumstances, the holdings of  
15 the People's Republic of China could give China a  
16 tool with which China can try to manipulate the do-  
17 mestic and foreign policymaking of the United  
18 States, including the United States relationship with  
19 Taiwan;

20          (7) under certain circumstances, if the People's  
21 Republic of China were to be displeased with a given  
22 United States policy or action, China could attempt  
23 to destabilize the United States economy by rapidly  
24 divesting large portions of China's holdings of debt  
25 instruments of the United States; and

1           (8) the People's Republic of China's expansive  
2           holdings of such debt instruments of the United  
3           States could potentially pose a direct threat to the  
4           United States economy and to United States na-  
5           tional security. This potential threat is a significant  
6           issue that warrants further analysis and evaluation.

7   **SEC. 704. QUARTERLY REPORT ON RISKS POSED BY FOR-**  
8                           **EIGN HOLDINGS OF DEBT INSTRUMENTS OF**  
9                           **THE UNITED STATES.**

10          (a) QUARTERLY REPORT.—Not later than March 31,  
11          June 30, September 30, and December 31 of each year,  
12          the President shall submit to the appropriate congres-  
13          sional committees a report on the risks posed by foreign  
14          holdings of debt instruments of the United States, in both  
15          classified and unclassified form.

16          (b) MATTERS TO BE INCLUDED.—Each report sub-  
17          mitted under this section shall include the following:

18                 (1) The most recent data available on foreign  
19                 holdings of debt instruments of the United States,  
20                 which data shall not be older than the date that is  
21                 7 months preceding the date of the report.

22                 (2) The country of domicile of all foreign credi-  
23                 tors who hold debt instruments of the United States.

24                 (3) The total amount of debt instruments of the  
25                 United States that are held by the foreign creditors,

1 broken out by the creditors' country of domicile and  
2 by public, quasi-public, and private creditors.

3 (4) For each foreign country listed in para-  
4 graph (3)—

5 (A) an analysis of the country's purpose in  
6 holding debt instruments of the United States  
7 and long-term intentions with regard to such  
8 debt instruments;

9 (B) an analysis of the current and foresee-  
10 able risks to the long-term national security and  
11 economic stability of the United States posed by  
12 each country's holdings of debt instruments of  
13 the United States; and

14 (C) a specific determination of whether the  
15 level of risk identified under subparagraph (B)  
16 is acceptable or unacceptable.

17 (c) PUBLIC AVAILABILITY.—The President shall  
18 make each report required by subsection (a) available, in  
19 its unclassified form, to the public by posting it on the  
20 Internet in a conspicuous manner and location.

21 **SEC. 705. ANNUAL REPORT ON RISKS POSED BY THE FED-**  
22 **ERAL DEBT OF THE UNITED STATES.**

23 (a) IN GENERAL.—Not later than December 31 of  
24 each year, the Comptroller General of the United States  
25 shall submit to the appropriate congressional committees

1 a report on the risks to the United States posed by the  
2 Federal debt of the United States.

3 (b) CONTENT OF REPORT.—Each report submitted  
4 under this section shall include the following:

5 (1) An analysis of the current and foreseeable  
6 risks to the long-term national security and eco-  
7 nomic stability of the United States posed by the  
8 Federal debt of the United States.

9 (2) A specific determination of whether the lev-  
10 els of risk identified under paragraph (1) are sus-  
11 tainable.

12 (3) If the determination under paragraph (2) is  
13 that the levels of risk are unsustainable, specific rec-  
14 ommendations for reducing the levels of risk to sus-  
15 tainable levels, in a manner that results in a reduc-  
16 tion in Federal spending.

17 **SEC. 706. CORRECTIVE ACTION TO ADDRESS UNACCEPT-**  
18 **ABLE AND UNSUSTAINABLE RISKS TO**  
19 **UNITED STATES NATIONAL SECURITY AND**  
20 **ECONOMIC STABILITY.**

21 In any case in which the President determines under  
22 section 704(b)(4)(C) that a foreign country's holdings of  
23 debt instruments of the United States pose an unaccept-  
24 able risk to the long-term national security or economic

1 stability of the United States, the President shall, within  
2 30 days of the determination—

3 (1) formulate a plan of action to reduce the risk  
4 level to an acceptable and sustainable level, in a  
5 manner that results in a reduction in Federal spend-  
6 ing;

7 (2) submit to the appropriate congressional  
8 committees a report on the plan of action that in-  
9 cludes a timeline for the implementation of the plan  
10 and recommendations for any legislative action that  
11 would be required to fully implement the plan; and

12 (3) move expeditiously to implement the plan in  
13 order to protect the long-term national security and  
14 economic stability of the United States.

15 **TITLE VIII—TRANSPARENCY RE-**  
16 **QUIREMENTS FOR FOREIGN-**  
17 **HELD DEBT**

18 **SEC. 801. SHORT TITLE.**

19 This title may be cited as the “Foreign-Held Debt  
20 Transparency and Threat Assessment Act”.

21 **SEC. 802. DEFINITIONS.**

22 In this title:

23 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**  
24 **TEES.**—The term “appropriate congressional com-  
25 mittees” means the following:

1           (A) The Committee on Armed Services, the  
2           Committee on Foreign Relations, the Com-  
3           mittee on Finance, the Committee on Banking,  
4           Housing, and Urban Affairs, and the Com-  
5           mittee on the Budget of the Senate.

6           (B) The Committee on Armed Services,  
7           the Committee on Foreign Affairs, the Com-  
8           mittee on Ways and Means, the Committee on  
9           Financial Services, and the Committee on the  
10          Budget of the House of Representatives.

11          (2) DEBT INSTRUMENTS OF THE UNITED  
12          STATES.—The term “debt instruments of the United  
13          States” means all bills, notes, and bonds held by the  
14          public and issued or guaranteed by the United  
15          States or by an entity of the United States Govern-  
16          ment.

17 **SEC. 803. SENSE OF CONGRESS.**

18          It is the sense of Congress that—

19               (1) the growing Federal debt of the United  
20               States has the potential to jeopardize the national  
21               security and economic stability of the United States;

22               (2) large foreign holdings of debt instruments  
23               of the United States have the potential to make the  
24               United States vulnerable to undue influence by for-



1        eign creditors in national security and economic pol-  
2        icymaking;

3                (3) the People's Republic of China, Japan, and  
4        the United Kingdom are the 3 largest foreign hold-  
5        ers of debt instruments of the United States; and

6                (4) the current level of transparency in the  
7        scope and extent of foreign holdings of debt instru-  
8        ments of the United States is inadequate and needs  
9        to be improved.

10 **SEC. 804. ANNUAL REPORT ON RISKS POSED BY FOREIGN**  
11                       **HOLDINGS OF DEBT INSTRUMENTS OF THE**  
12                       **UNITED STATES.**

13        (a) ANNUAL REPORT.—Not later than March 31 of  
14 each year, the Secretary of the Treasury shall submit to  
15 the appropriate congressional committees a report on the  
16 risks posed by foreign holdings of debt instruments of the  
17 United States, in both classified and unclassified form.

18        (b) MATTERS TO BE INCLUDED.—Each report sub-  
19 mitted under this section shall include the following:

20                (1) The most recent data available on foreign  
21        holdings of debt instruments of the United States,  
22        which data shall not be older than the date that is  
23        9 months preceding the date of the report.

24                (2) The total amount of debt instruments of the  
25        United States that are held by foreign residents,

1 broken out by the residents' country of domicile and  
2 by public and private residents.

3 (3) An analysis of the current and foreseeable  
4 risks to the long-term national security and eco-  
5 nomic stability of the United States posed by foreign  
6 holdings of debt instruments of the United States.

7 (c) PUBLIC AVAILABILITY.—The Secretary of the  
8 Treasury shall make each report required by subsection  
9 (a) available, in its unclassified form, to the public by post-  
10 ing it on the Internet in a conspicuous manner and loca-  
11 tion.

12 **SEC. 805. ANNUAL REPORT ON RISKS POSED BY THE FED-**  
13 **ERAL DEBT OF THE UNITED STATES.**

14 (a) IN GENERAL.—Not later than March 31 of each  
15 year, the Comptroller General of the United States shall  
16 submit to the appropriate congressional committees a re-  
17 port on the risks to the United States posed by the Fed-  
18 eral debt of the United States.

19 (b) CONTENT OF REPORT.—Each report submitted  
20 under this section shall include the following:

21 (1) An analysis of the current and foreseeable  
22 risks to the long-term national security and eco-  
23 nomic stability of the United States posed by the  
24 Federal debt of the United States.

1           (2) Specific recommendations for reducing the  
2           levels of risk resulting from the Federal debt.

3 **SEC. 806. CORRECTIVE ACTION TO ADDRESS UNACCEPT-**  
4 **ABLE RISKS TO UNITED STATES NATIONAL**  
5 **SECURITY AND ECONOMIC STABILITY.**

6           If the President determines that foreign holdings of  
7 debt instruments of the United States pose an unaccept-  
8 able risk to the long-term national security or economic  
9 stability of the United States, the President shall, within  
10 30 days of the determination—

11           (1) formulate a plan of action to reduce such  
12 risk;

13           (2) submit to the appropriate congressional  
14 committees a report on the plan of action that in-  
15 cludes a timeline for the implementation of the plan  
16 and recommendations for any legislative action that  
17 would be required to fully implement the plan; and

18           (3) move expeditiously to implement the plan in  
19 order to protect the long-term national security and  
20 economic stability of the United States.

21 **TITLE IX—OFFICE OF THE**  
22 **HOMEOWNER ADVOCATE**

23 **SEC. 901. OFFICE OF THE HOMEOWNER ADVOCATE.**

24           (a) ESTABLISHMENT.—There is established in the  
25 Department of the Treasury an office to be known as the

1 “Office of the Homeowner Advocate” (in this title referred  
2 to as the “Office”).

3 (b) DIRECTOR.—

4 (1) IN GENERAL.—The Director of the Office of  
5 the Homeowner Advocate (in this title referred to as  
6 the “Director”) shall report directly to the Assistant  
7 Secretary of the Treasury for Financial Stability,  
8 and shall be entitled to compensation at the same  
9 rate as the highest rate of basic pay established for  
10 the Senior Executive Service under section 5382 of  
11 title 5, United States Code.

12 (2) APPOINTMENT.—The Director shall be ap-  
13 pointed by the Secretary, after consultation with the  
14 Secretary of the Department of Housing and Urban  
15 Development, and without regard to the provisions  
16 of title 5, United States Code, relating to appoint-  
17 ments in the competitive service or the Senior Exec-  
18 utive Service.

19 (3) QUALIFICATIONS.—An individual appointed  
20 under paragraph (2) shall have—

21 (A) experience as an advocate for home-  
22 owners; and

23 (B) experience dealing with mortgage  
24 servicers.

1           (4) RESTRICTION ON EMPLOYMENT.—An indi-  
2           vidual may be appointed as Director only if such in-  
3           dividual was not an officer or employee of either a  
4           mortgage servicer or the Department of the Treas-  
5           ury during the 4-year period preceding the date of  
6           such appointment.

7           (5) HIRING AUTHORITY.—The Director shall  
8           have the authority to hire staff, obtain support by  
9           contract, and manage the budget of the Office of the  
10          Homeowner Advocate.

11 **SEC. 902. FUNCTIONS OF THE OFFICE.**

12          (a) IN GENERAL.—It shall be the function of the Of-  
13          fice—

14               (1) to assist homeowners, housing counselors,  
15               and housing lawyers in resolving problems with the  
16               Home Affordable Modification Program of the Mak-  
17               ing Home Affordable initiative of the Secretary, au-  
18               thorized under the Emergency Economic Stabiliza-  
19               tion Act of 2008 (in this title referred to as the  
20               “Home Affordable Modification Program”)

21               (2) to identify areas, both individual and sys-  
22               tematic, in which homeowners, housing counselors,  
23               and housing lawyers have problems in dealings with  
24               the Home Affordable Modification Program;

1           (3) to the extent possible, to propose changes in  
2           the administrative practices of the Home Affordable  
3           Modification Program, to mitigate problems identi-  
4           fied under paragraph (2);

5           (4) to identify potential legislative changes  
6           which may be appropriate to mitigate such problems;  
7           and

8           (5) to implement other programs and initiatives  
9           that the Director deems important to assisting  
10          homeowners, housing counselors, and housing law-  
11          yers in resolving problems with the Home Affordable  
12          Modification Program, which may include—

13                (A) running a triage hotline for home-  
14                owners at risk of foreclosure;

15                (B) providing homeowners with access to  
16                housing counseling programs of the Department  
17                of Housing and Urban Development at no cost  
18                to the homeowner;

19                (C) developing Internet tools related to the  
20                Home Affordable Modification Program; and

21                (D) developing training and educational  
22                materials.

23          (b) AUTHORITY.—

24                (1) IN GENERAL.—Staff designated by the Di-  
25                rector shall have the authority to implement servicer

1 remedies, on a case-by-case basis, subject to the ap-  
2 proval of the Assistant Secretary of the Treasury for  
3 Financial Stability.

4 (2) RESOLUTION OF HOMEOWNER CON-  
5 CERNS.—The Office shall, to the extent possible, re-  
6 solve all homeowner concerns not later than 30 days  
7 after the opening of a case with such homeowner.

8 (c) COMMENCEMENT OF OPERATIONS.—The Office  
9 shall commence its operations, as required by this title,  
10 not later than 3 months after the date of enactment of  
11 this Act.

12 (d) SUNSET.—The Office shall cease operations as of  
13 the date on which the Home Affordable Modification Pro-  
14 gram ceases to operate.

15 **SEC. 903. RELATIONSHIP WITH EXISTING ENTITIES.**

16 (a) TRANSFER.—The Office shall coordinate and cen-  
17 tralize all complaint escalations relating to the Home Af-  
18 fordable Modification Program.

19 (b) HOTLINE.—The HOPE hotline (or any successor  
20 triage hotline) shall reroute all complaints relating to the  
21 Home Affordable Modification Program to the Office.

22 (c) COORDINATION.—The Office shall coordinate  
23 with the compliance office of the Office of Financial Sta-  
24 bility of the Department of the Treasury and the Home-

1 ownership Preservation Office of the Department of the  
2 Treasury.

3 **SEC. 904. RULE OF CONSTRUCTION.**

4 Nothing in this section shall prohibit a mortgage  
5 servicer from evaluating a homeowner for eligibility under  
6 the Home Affordable Foreclosure Alternatives Program  
7 while a case is still open with the Office of the Homeowner  
8 Advocate. Nothing in this section may be construed to re-  
9 lieve any loan services from otherwise applicable rules, di-  
10 rectives, or similar guidance under the Home Affordable  
11 Modification Program relating to the continuation or com-  
12 pletion of foreclosure proceedings.

13 **SEC. 905. REPORTS TO CONGRESS.**

14 (a) **TESTIMONY.**—The Director shall be available to  
15 testify before the Committee on Banking, Housing, and  
16 Urban Affairs of the Senate and the Committee on Finan-  
17 cial Services of the House of Representatives, not less fre-  
18 quently than 4 times a year, or at any time at the request  
19 of the Chairs of either committee.

20 (b) **REPORTS.**—Once annually, the Director shall  
21 provide a detailed report to Congress on the Home Afford-  
22 able Modification Program. Such report shall contain full  
23 and substantive analysis, in addition to statistical informa-  
24 tion, including, at a minimum—



1           (1) data and analysis of the types and volume  
2 of complaints received from homeowners, housing  
3 counselors, and housing lawyers, broken down by  
4 category of servicer, except that servicers may not be  
5 identified by name in the report;

6           (2) a summary of not fewer than 20 of the  
7 most serious problems encountered by Home Afford-  
8 able Modification Program participants, including a  
9 description of the nature of such problems;

10          (3) to the extent known, identification of the 10  
11 most litigated issues for Home Affordable Modifica-  
12 tion Program participants, including recommenda-  
13 tions for mitigating such disputes;

14          (4) data and analysis on the resolutions of the  
15 complaints received from homeowners, housing coun-  
16 selors, and housing lawyers;

17          (5) identification of any programs or initiatives  
18 that the Office has taken to improve the Home Af-  
19 fordable Modification Program;

20          (6) recommendations for such administrative  
21 and legislative action as may be appropriate to re-  
22 solve problems encountered by Home Affordable  
23 Modification Program participants; and

24          (7) such other information as the Director may  
25 deem advisable.

1 **SEC. 906. FUNDING.**

2       Amounts made available for the costs of administra-  
3 tion of the Home Affordable Modification Program that  
4 are not otherwise obligated shall be available to carry out  
5 the duties of the Office. Funding shall be maintained at  
6 levels adequate to reasonably carry out the functions of  
7 the Office.

8 **SEC. 907. PROHIBITION ON PARTICIPATION IN MAKING**  
9                   **HOME AFFORDABLE FOR BORROWERS WHO**  
10                   **STRATEGICALLY DEFAULT.**

11       No mortgage may be modified under the Making  
12 Home Affordable Program, or with any funds from the  
13 Troubled Asset Relief Program, unless the servicer of the  
14 mortgage loan has determined, in accordance with stand-  
15 ards and requirements established by the Secretary of the  
16 Treasury, that the mortgagor cannot afford to make pay-  
17 ments under the terms of the existing mortgage loan. The  
18 Secretary of the Treasury, in consultation with the Sec-  
19 retary of Housing and Urban Development, shall issue  
20 rules to carry out this section not later than 90 days after  
21 the date of enactment of this Act. This section shall not  
22 apply to any refinancing or modifications made under the  
23 “FHA Program Adjustments to Support Refinancings for  
24 Underwater Homeowners,” announced by the Department  
25 of the Treasury and the Department of Housing and  
26 Urban Development on March 26, 2010, as long as the

1 program continues to be structured so that borrowers par-  
2 ticipating in the FHA refinance program cannot be in de-  
3 fault on their primary mortgage at the time of refinance  
4 and their eligibility in the program is not helped if they  
5 are in default on their second mortgage, and thus lack  
6 a strategic reason to go into default on either their first  
7 or second mortgage to participate in the program.

8 **SEC. 908. PUBLIC AVAILABILITY OF INFORMATION.**

9 (a) PUBLIC AVAILABILITY OF DATA.—The Secretary  
10 of the Treasury shall revise the guidelines for the Home  
11 Affordable Modification Program of the Making Home Af-  
12 fordable initiative of the Secretary of the Treasury, au-  
13 thorized under the Emergency Economic Stabilization Act  
14 of 2008 (Public Law 110–343), to establish that the data  
15 collected by the Secretary of the Treasury from each mort-  
16 gage servicer and lender participating in the Program is  
17 made public in accordance with subsection (b).

18 (b) CONTENT.—Not more than 60 days after each  
19 monthly deadline for submission of data by mortgage  
20 servicers and lender participating in the program, the  
21 Treasury shall make all data tables available to the public  
22 at the individual record level. This data shall include but  
23 not be limited to—

1           (1) higher risk loans, including loans made in  
2           connection with any program to provide expanded  
3           loan approvals, shall be reported separately;

4           (2) disclose—

5                 (A) the rate or pace at which such mort-  
6                 gages are becoming seriously delinquent;

7                 (B) whether such rate or pace is increasing  
8                 or decreasing;

9                 (C) if there are certain subsets within the  
10                loans covered by this section that have greater  
11                or lesser rates or paces of delinquency; and

12                (D) if such subsets exist, the characteris-  
13                tics of such subset of mortgages;

14           (3) with respect to the loss mitigation efforts of  
15           the loan—

16                 (A) the processes and practices that the re-  
17                 porter has in effect to minimize losses on mort-  
18                 gages covered by this section; and

19                 (B) the manner and methods by which  
20                 such processes and practices are being mon-  
21                 itored for effectiveness;

22           (4) disclose, with respect to loans that are or  
23           become 60 or more days past due, (provided that for  
24           purposes of disclosure under this paragraph that  
25           each loan should have a unique number that is not

1 the same as any loan number the borrower, origi-  
2 nator, or servicer uses), the following attributes—

3 (A) the original loan amount;

4 (B) the current loan amount;

5 (C) the loan-to-value ratio and combined  
6 loan-to-value ratio, both at origination and cur-  
7 rently, and the number of liens on the property;

8 (D) the property valuation at the time of  
9 origination of the loan, and all subsequent prop-  
10 erty valuations and the date of each valuation;

11 (E) each relevant credit score of each bor-  
12 rower obtained at any time in connection with  
13 the loan, with the date of the credit score, to  
14 the extent allowed by existing law;

15 (F) whether the loan has any mortgage or  
16 other credit insurance or guarantee;

17 (G) the current interest rate on such loan;

18 (H) any rate caps and floors if the loan is  
19 an adjustable rate mortgage loan;

20 (I) the adjustable rate mortgage index or  
21 indices for such loan;

22 (J) whether the loan is currently past due,  
23 and if so how many days such loan is past due;

24 (K) the total number of days the loan has  
25 been past due at any time;

1           (L) whether the loan is subject to a balloon  
2           payment;

3           (M) the date of each modification of the  
4           loan;

5           (N) whether any amounts of loan principal  
6           has been deferred or written off, and if so, the  
7           date and amount of each deferral and the date  
8           and amount of each writedown;

9           (O) whether the interest rate was changed  
10          from a rate that could adjust to a fixed rate,  
11          and if so, the period of time for which the rate  
12          will be fixed;

13          (P) the amount by which the interest rate  
14          on the loan was reduced, and for what period  
15          of time it was reduced;

16          (Q) if the interest rate was reduced or  
17          fixed for a period of time less than the remain-  
18          ing loan term, on what dates, and to what  
19          rates, could the rate potentially increase in the  
20          future;

21          (R) whether the loan term was modified,  
22          and if so, whether it was extended or shortened,  
23          and by what amount of time;

1           (S) whether the loan is in the process of  
2           foreclosure or similar procedure, whether judi-  
3           cial or otherwise; and

4           (T) whether a foreclosure or similar proce-  
5           dure, whether judicial or otherwise, has been  
6           completed.

7           (c) GUIDELINES AND REGULATIONS.—The Secretary  
8           of the Treasury shall establish guidelines and regulations  
9           necessary—

10           (1) to ensure that the privacy of individual con-  
11           sumers is appropriately protected in the reports  
12           under this section;

13           (2) to make the data reported under this sub-  
14           section available on a public website with no cost to  
15           access the data, in a consistent format;

16           (3) to update the data no less frequently than  
17           monthly;

18           (4) to establish procedures for disclosing such  
19           data to the public on a public website with no cost  
20           to access the data; and

21           (5) to allow the Secretary to make such dele-  
22           tions as the Secretary may determine to be appro-  
23           priate to protect any privacy interest of any loan  
24           modification applicant, including the deletion or al-

1        teration of the applicant's name and identification  
2        number.

3        (d) EXCEPTION.—No data shall have to be disclosed  
4 if it voids or violates existing contracts between the Sec-  
5 retary of Treasury and mortgage servicers as part of the  
6 Making Home Affordable Program.

7                    **TITLE X—BUDGETARY**  
8                    **PROVISIONS**

9        **SEC. 1001. DETERMINATION OF BUDGETARY EFFECTS.**

10        The budgetary effects of this Act, for the purpose of  
11 complying with the Statutory Pay-As-You-Go Act of 2010,  
12 shall be determined by reference to the latest statement  
13 titled 'Budgetary Effects of PAYGO Legislation' for this  
14 Act, jointly submitted for printing in the Congressional  
15 Record by the Chairmen of the Senate Budget Committee,  
16 provided that such statement has been submitted prior to  
17 the vote on passage.