AMENDMENT NO._______ Calendar No._______

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—111th Cong., 2d Sess.

H. R. 4213

An Act to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

Referred to the Committee on _________________ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT In the Nature of a Substitute intended to be proposed by Mr. BAUCUS

Viz:

1 In lieu of the matter proposed to be inserted, insert
2 the following:

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 “American Jobs and Closing Tax Loopholes Act of 2010”.
7 (b) Amendment of 1986 Code.—Except as otherwise expressly provided, whenever in titles I, II, and IV of this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a
section or other provision of the Internal Revenue Code of 1986.

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

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

TITLE I—INFRASTRUCTURE INCENTIVES

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

TITLE II—EXTENSION OF EXPIRING PROVISIONS

Subtitle A—Energy

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

Subtitle B—Individual Tax Relief

PART I—MISCELLANEOUS PROVISIONS

Sec. 221. Deduction for certain expenses of elementary and secondary school teachers.
Sec. 222. Additional standard deduction for State and local real property taxes.
Sec. 223. Deduction of State and local sales taxes.
Sec. 224. Contributions of capital gain real property made for conservation purposes.
Sec. 225. Above-the-line deduction for qualified tuition and related expenses.
Sec. 226. Tax-free distributions from individual retirement plans for charitable purposes.
Sec. 227. Look-thru of certain regulated investment company stock in determining gross estate of nonresidents.
Sec. 228. First-time homebuyer credit.

PART II—LOW-INCOME HOUSING CREDITS

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

Subtitle C—Business Tax Relief

Sec. 241. Research credit.
Sec. 242. Indian employment tax credit.
Sec. 243. New markets tax credit.
Sec. 244. Railroad track maintenance credit.
Sec. 245. Mine rescue team training credit.
Sec. 246. Employer wage credit for employees who are active duty members of the uniformed services.
Sec. 247. 5-year depreciation for farming business machinery and equipment.
Sec. 248. 15-year straight-line cost recovery for qualified leasehold improvements, qualified restaurant buildings and improvements, and qualified retail improvements.
Sec. 249. 7-year recovery period for motorsports entertainment complexes.
Sec. 250. Accelerated depreciation for business property on an Indian reservation.
Sec. 251. Enhanced charitable deduction for contributions of food inventory.
Sec. 252. Enhanced charitable deduction for contributions of book inventories to public schools.
Sec. 253. Enhanced charitable deduction for corporate contributions of computer inventory for educational purposes.
Sec. 254. Election to expense mine safety equipment.
Sec. 255. Special expensing rules for certain film and television productions.
Sec. 256. Expensing of environmental remediation costs.
Sec. 257. Deduction allowable with respect to income attributable to domestic production activities in Puerto Rico.
Sec. 258. Modification of tax treatment of certain payments to controlling exempt organizations.
Sec. 259. Exclusion of gain or loss on sale or exchange of certain brownfield sites from unrelated business income.
Sec. 260. Timber REIT modernization.
Sec. 261. Treatment of certain dividends of regulated investment companies.
Sec. 262. RIC qualified investment entity treatment under FIRPTA.
Sec. 263. Exceptions for active financing income.
Sec. 264. Look-thru treatment of payments between related controlled foreign corporations under foreign personal holding company rules.
Sec. 265. Basis adjustment to stock of S corps making charitable contributions of property.
Sec. 266. Empowerment zone tax incentives.
Sec. 267. Tax incentives for investment in the District of Columbia.
Sec. 268. Renewal community tax incentives.
Sec. 269. Temporary increase in limit on cover over of rum excise taxes to Puerto Rico and the Virgin Islands.
Sec. 270. Payment to American Samoa in lieu of extension of economic development credit.
Sec. 271. Election to temporarily utilize unused AMT credits determined by domestic investment.
Sec. 272. 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—BUDGETARY PROVISIONS

Sec. 301. Budgetary provisions.

TITLE IV—REVENUE OFFSETS

Subtitle A—Foreign Provisions

Sec. 401. Rules to prevent splitting foreign tax credits from the income to which they relate.
Sec. 402. Denial of foreign tax credit with respect to foreign income not subject to United States taxation by reason of covered asset acquisitions.
Sec. 403. Separate application of foreign tax credit limitation, etc., to items sourced under treaties.
Sec. 404. Limitation on the amount of foreign taxes deemed paid with respect to section 956 inclusions.
Sec. 405. Special rule with respect to certain redemptions by foreign subsidiaries.
Sec. 406. Modification of affiliation rules for purposes of rules allocating interest expense.
Sec. 407. Termination of special rules for interest and dividends received from persons meeting the 80-percent foreign business requirements.
Sec. 408. Source rules for income on guarantees.
Sec. 409. Limitation on extension of statute of limitations for failure to notify Secretary of certain foreign transfers.
Subtitle B—Personal Service Income Earned in Pass-thru Entities

Sec. 411. Partnership interests transferred in connection with performance of services.
Sec. 412. Income of partners for performing investment management services treated as ordinary income received for performance of services.
Sec. 413. Employment tax treatment of professional service businesses.

Subtitle C—Corporate Provisions

Sec. 421. Treatment of securities of a controlled corporation exchanged for assets in certain reorganizations.
Sec. 422. Taxation of boot received in reorganizations.

Subtitle D—Other Provisions

Sec. 431. Modifications with respect to Oil Spill Liability Trust Fund.
Sec. 432. Time for payment of corporate estimated taxes.
Sec. 433. Denial of deduction for punitive damages.

TITLE V—UNEMPLOYMENT, HEALTH, AND OTHER ASSISTANCE

Subtitle A—Unemployment Insurance and Other Assistance

Sec. 501. Extension of unemployment insurance provisions.
Sec. 502. Coordination of emergency unemployment compensation with regular compensation.
Sec. 503. Extension of the Emergency Contingency Fund.
Sec. 504. Requiring States to not reduce regular compensation in order to be eligible for funds under the emergency unemployment compensation program.

Subtitle B—Health Provisions

Sec. 511. Extension of section 508 reclassifications.
Sec. 512. Repeal of delay of RUG-IV.
Sec. 513. Limitation on reasonable costs payments for certain clinical diagnostic laboratory tests furnished to hospital patients in certain rural areas.
Sec. 514. Funding for claims reprocessing.
Sec. 515. Medicaid and CHIP technical corrections.
Sec. 516. Addition of inpatient drug discount program to 340B drug discount program.
Sec. 517. Continued inclusion of orphan drugs in definition of covered outpatient drugs with respect to children’s hospitals under the 340B drug discount program.
Sec. 518. Conforming amendment related to waiver of coinsurance for preventive services.
Sec. 519. Clarification of effective date of part B special enrollment period for disabled TRICARE beneficiaries.
Sec. 520. Adjustment to Medicare payment localities.
Sec. 521. Extension of ARRA increase in FMAP.
Sec. 522. Clarification for affiliated hospitals for distribution of additional residency positions.

TITLE VI—OTHER PROVISIONS
Sec. 601. Extension of national flood insurance program.
Sec. 602. Allocation of geothermal receipts.
Sec. 603. Small business loan guarantee enhancement extensions.
Sec. 604. Emergency agricultural disaster assistance.
Sec. 605. Summer employment for youth.
Sec. 606. Housing Trust Fund.
Sec. 608. Appropriation of funds for final settlement of claims from In re Black Farmers Discrimination Litigation.
Sec. 609. 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. 610. Extension of use of 2009 poverty guidelines.
Sec. 611. Refunds disregarded in the administration of Federal programs and federally assisted programs.
Sec. 612. State court improvement program.
Sec. 613. Qualifying timber contract options.
Sec. 614. Extension and flexibility for certain allocated surface transportation programs.
Sec. 615. Community College and Career Training Grant Program.
Sec. 616. Extensions of duty suspensions on cotton shirting fabrics and related provisions.
Sec. 617. Modification of Wool Apparel Manufacturers Trust Fund.
Sec. 618. Department of Commerce Study.
Sec. 619. ARRA planning and reporting.
Sec. 620. Amendment of Travel Promotion Act of 2009.
Sec. 621. Limitation on penalty for failure to disclose reportable transactions based on resulting tax benefits.
Sec. 622. Report on tax shelter penalties and certain other enforcement actions.

TITLE VII—TRANSPARENCY REQUIREMENTS FOR FOREIGN-HELD DEBT

Sec. 701. Short title.
Sec. 702. Definitions.
Sec. 703. Sense of Congress.
Sec. 704. Quarterly report on risks posed by foreign holdings of debt instruments of the United States.
Sec. 705. Annual report on risks posed by the Federal debt of the United States.
Sec. 706. Corrective action to address unacceptable and unsustainable risks to United States national security and economic stability.

TITLE VIII—TRANSPARENCY REQUIREMENTS FOR FOREIGN-HELD DEBT

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

TITLE IX—OFFICE OF THE HOMEOWNER ADVOCATE

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

TITLE I—INFRASTRUCTURE INCENTIVES

SEC. 101. EXTENSION OF BUILD AMERICA BONDS.

(a) In general.—Subparagraph (B) of section 54AA(d)(1) is amended by striking “January 1, 2011” and inserting “January 1, 2013”.

(b) Extension of payments to issuers.—

(1) In general.—Section 6431 is amended—

(A) by striking “January 1, 2011” in sub-section (a) and inserting “January 1, 2013”;

and

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

(2) Conforming amendments.—Subsection (g) of section 54AA is amended—

(A) by striking “January 1, 2011” and inserting “January 1, 2013”; and
(B) by striking “QUALIFIED BONDS ISSUED BEFORE 2011” in the heading and inserting “CERTAIN QUALIFIED BONDS”.

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

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

“(1) IN GENERAL.—The Secretary”;

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

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

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

<table>
<thead>
<tr>
<th>Calendar Year</th>
<th>Applicable Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009 or 2010</td>
<td>35 percent</td>
</tr>
<tr>
<td>2011</td>
<td>32 percent</td>
</tr>
<tr>
<td>2012</td>
<td>30 percent</td>
</tr>
</tbody>
</table>

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

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

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

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

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

“(B) Applicable percentage.—In the case of a refunding bond referred to in subparagraph (A), the applicable percentage with respect to such bond under section 6431(b) shall be the lowest percentage specified in paragraph (2) of such section.

“(C) Determination of average maturity.—For purposes of subparagraph (A)(i), average maturity shall be determined in accordance with section 147(b)(2)(A).”
(e) C LARIFICATION RELATED TO LEVEES AND FLOOD CONTROL PROJECTS.—Subparagraph (A) of section 54AA(g)(2) is amended by inserting “(including capital expenditures for levees and other flood control projects)” after “capital expenditures”.

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

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

(1) In general.—Paragraph (3) of section 146(g) is amended by inserting “(4), (5),” after “(2),”.

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

(b) Tax-exempt Issuance by Indian Tribal Governments.—

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

“(4) Exception for bonds for water and sewage facilities.—Paragraph (2) shall not apply to an exempt facility bond 95 percent or more of the net proceeds (as defined in section 150(a)(3)) of
which are to be used to provide facilities described
in paragraph (4) or (5) of section 142(a).”.

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

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

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

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

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

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

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

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

(2) by striking “AND 2010” in the heading and
inserting “, 2010, AND 2011”.
(c) Effective Date.—The amendments made by this section shall apply to obligations issued after December 31, 2010.

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

(a) Extension of Recovery Zone Bond Authority.—Section 1400U–2(b)(1) and section 1400U–3(b)(1)(B) are each amended by striking “January 1, 2011” and inserting “January 1, 2012”.

(b) Additional Allocations of Recovery Zone Bond Authority Based on Unemployment.—Section 1400U–1 is amended by adding at the end the following new subsection:

“(c) Allocation of 2010 Recovery Zone Bond Limitations Based on Unemployment.—

“(1) In general.—The Secretary shall allocate the 2010 national recovery zone economic development bond limitation and the 2010 national recovery zone facility bond limitation among the States in the proportion that each such State’s 2009 unemployment number bears to the aggregate of the 2009 unemployment numbers for all of the States.

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

“(3) ALLOCATIONS BY STATES.—

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

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

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

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

“(C) Waiver of Suballocations.—A
county or municipality may waive any portion
of an allocation made under this paragraph. A
county or municipality shall be treated as hav-
ing waived any portion of an allocation made
under this paragraph which has not been allo-
cated to a bond issued before May 1, 2011. Any
allocation waived (or treated as waived) under
this subparagraph may be used or reallocated
by the State.

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

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

“(5) 2010 NATIONAL LIMITATIONS.—

“(A) RECOVERY ZONE ECONOMIC DEVELO-
PMENT BONDS.—The 2010 national recovery
zone economic development bond limitation is
$10,000,000,000. Any allocation of such limita-
tion under this subsection shall be treated for
purposes of section 1400U–2 in the same man-
ner as an allocation of national recovery zone
economic development bond limitation.

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

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

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

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

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

(b) Effective Date.—The amendments made by this section shall apply to credits determined with respect
1 to qualified equity investments (as defined in section
2 45D(b) of the Internal Revenue Code of 1986) initially
3 made after March 15, 2010.

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

7 Clause (iv) of section 149(b)(3)(A) is amended by
8 striking “December 31, 2010” and inserting “December
9 31, 2011”.

10 SEC. 107. EXTENSION OF TEMPORARY SMALL ISSUER
11 RULES FOR ALLOCATION OF TAX-EXEMPT IN-
12 TEREST EXPENSE BY FINANCIAL INSTITU-
13 TIONS.

14 (a) In General.—Clauses (i), (ii), and (iii) of sec-
15 tion 265(b)(3)(G) are each amended by striking “or
16 2010” and inserting “, 2010, or 2011”.

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

20 (c) Effective Date.—The amendments made by
21 this section shall apply to obligations issued after Decem-
TITLE II—EXTENSION OF EXPIRING PROVISIONS
Subtitle A—Energy

SEC. 201. ALTERNATIVE MOTOR VEHICLE CREDIT FOR NEW QUALIFIED HYBRID MOTOR VEHICLES OTHER THAN PASSENGER AUTOMOBILES AND LIGHT TRUCKS.

(a) In General.—Paragraph (3) of section 30B(k) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

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

SEC. 202. INCENTIVES FOR BIODIESEL AND RENEWABLE DIESEL.

(a) Credits for Biodiesel and Renewable Diesel Used as Fuel.—Subsection (g) of section 40A is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) Excise Tax Credits and Outlay Payments for Biodiesel and Renewable Diesel Fuel Mixtures.—

(1) Paragraph (6) of section 6426(c) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.
(2) Subparagraph (B) of section 6427(e)(6) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(c) Effective Date.—The amendments made by this section shall apply to fuel sold or used after December 31, 2009.

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

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

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

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

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

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

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

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

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

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

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

and

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

(c) CLARIFICATIONS.—

(1) STEEL INDUSTRY FUEL.—Subclause (I) of section 45(e)(7)(C)(i) is amended by inserting “, a blend of coal and petroleum coke, or other coke feedstock” after “on coal”.
(2) Ownership Interest.—Section 45(d)(8) is amended by adding at the end the following new flush sentence:

“With respect to a facility producing steel industry fuel, no person (including a ground lessor, customer, supplier, or technology licensor) shall be treated as having an ownership interest in the facility or as otherwise entitled to the credit allowable under subsection (a) with respect to such facility if such person’s rent, license fee, or other entitlement to net payments from the owner of such facility is measured by a fixed dollar amount or a fixed amount per ton, or otherwise determined without regard to the profit or loss of such facility.”.

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

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

(d) Specified Credit for Purposes of Alter-
native Minimum Tax Exclusion.—Subclause (II) of
section 38(c)(4)(B)(iii) is amended by inserting “(in the
case of a refined coal production facility producing steel
industry fuel, during the credit period set forth in section
45(e)(8)(D)(ii)(II))” after “service”.

(e) Effective Dates.—

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

(2) Clarifications.—The amendments made
by subsection (c) shall take effect as if included in
the amendments made by the Energy Improvement
SEC. 205. CREDIT FOR PRODUCING FUEL FROM COKE OR COKE GAS.

(a) In General.—Paragraph (1) of section 45K(g) is amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(b) Effective Date.—The amendment made by this section shall apply to facilities placed in service after December 31, 2009.

SEC. 206. NEW ENERGY EFFICIENT HOME CREDIT.

(a) In General.—Subsection (g) of section 45L is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

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

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

(a) Alternative Fuel Credit.—Paragraph (5) of section 6426(d) is amended by striking “after December 31, 2009” and all that follows and inserting “after—

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

“(B) December 31, 2010, in the case of fuels described in subparagraph (A), (C), (F), or (G) of paragraph (2), and
“(C) December 31, 2009, in any other case.”.

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

(c) PAYMENT AUTHORITY.—
(1) IN GENERAL.—Paragraph (6) of section 6427(e) is amended by striking “and” at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting “, and”, and by adding at the end the following new subparagraph:
“(E) any alternative fuel or alternative fuel mixture (as so defined) involving fuel described in subparagraph (A), (C), (F), or (G) of section 6426(d)(2) sold or used after December 31, 2010.”.
(2) CONFORMING AMENDMENT.—Subparagraph (C) of section 6427(e)(6) is amended by inserting “or (E)” after “subparagraph (D)”.

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

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

SEC. 208. SPECIAL RULE FOR SALES OR DISPOSITIONS TO IMPLEMENT FERC OR STATE ELECTRIC RESTRUCTURING POLICY FOR QUALIFIED ELECTRIC UTILITIES.

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

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

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

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

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

“(II) to be independent from market participants or to be an independent transmission company within the meaning of such Commission’s rules applicable to independent transmission providers, and”.

(2) RELATED PERSONS.—Paragraph (4) of section 451(i) is amended by adding at the end the following flush sentence:

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

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to dispositions after December 31, 2009.
    (2) MODIFICATIONS.—The amendments made by subsection (b) shall apply to dispositions after the date of the enactment of this Act.

SEC. 209. SUSPENSION OF LIMITATION ON PERCENTAGE DEPLETION FOR OIL AND GAS FROM MARGINAL WELLS.

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

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

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

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

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

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

“(A) in the case of any component placed in service after the date which is 90 days after the date of the enactment of the American Jobs and Closing Tax Loopholes Act of 2010, such component meets the criteria for such components established by the 2010 Energy Star Program Requirements for Residential Windows, Doors, and Skylights, Version 5.0 (or any subsequent version of such requirements which is in effect after January 4, 2010),

“(B) in the case of any component placed in service after the date of the enactment of the American Jobs and Closing Tax Loopholes Act
of 2010 and on or before the date which is 90
days after such date, such component meets the
criteria described in subparagraph (A) or is
equal to or below a U factor of 0.30 and SHGC
of 0.30, and
“(C) in the case of any component which
is a garage door, such component is equal to or
below a U factor of 0.30 and SHGC of 0.30.”.

(b) Effective Date.—The amendment made by
this section shall apply to property placed in service after
the date of the enactment of this Act.

Subtitle B—Individual Tax Relief

PART I—MISCELLANEOUS PROVISIONS

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

(a) In General.—Subparagraph (D) of section
62(a)(2) is amended by striking “or 2009” and inserting
“2009, or 2010”.

(b) Effective Date.—The amendment made by
this section shall apply to taxable years beginning after
December 31, 2009.
SEC. 222. ADDITIONAL STANDARD DEDUCTION FOR STATE AND LOCAL REAL PROPERTY TAXES.

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

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

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

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

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

SEC. 224. CONTRIBUTIONS OF CAPITAL GAIN REAL PROPERTY MADE FOR CONSERVATION PURPOSES.

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

(b) CONTRIBUTIONS BY CERTAIN CORPORATE FARMERS AND RANCHERS.—Clause (iii) of section 170(b)(2)(B) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

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

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

(a) **In General.**—Subsection (e) of section 222 is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

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

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

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

(2) the credit which would be allowed to the taxpayer for such taxable year under section 25A of such Code (determined without regard to sections 25A(e) and 26 of such Code).
SEC. 226. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS FOR CHARITABLE PURPOSES.

(a) In General.—Subparagraph (F) of section 408(d)(8) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

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

SEC. 227. LOOK-THRU OF CERTAIN REGULATED INVESTMENT COMPANY STOCK IN DETERMINING GROSS ESTATE OF NONRESIDENTS.

(a) In General.—Paragraph (3) of section 2105(d) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) Effective Date.—The amendment made by this section shall apply to estates of decedents dying after December 31, 2009.

SEC. 228. FIRST-TIME HOMEBUYER CREDIT.

(a) In General.—Paragraph (2) of section 36(h) is amended by striking “paragraph (1) shall be applied by substituting ‘July 1, 2010’” and inserting “and who purchases such residence before October 1, 2010, paragraph (1) shall be applied by substituting ‘October 1, 2010’”.

b) Effective Date.—The amendment made by this section shall apply to elections made before January 1, 2011, for taxable years ending after December 31, 2010.
(b) Conforming Amendment.—Subparagraph (B) of section 36(h)(3) is amended by inserting “and for ‘October 1, 2010’ ” after “for ‘July 1, 2010’ ”.

(c) Effective Date.—The amendments made by subsections (a) and (b) shall apply to residences purchased after June 30, 2010.

PART II—LOW-INCOME HOUSING CREDITS

SEC. 231. ELECTION FOR DIRECT PAYMENT OF LOW-INCOME HOUSING CREDIT FOR 2010.

(a) In General.—Section 42 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

“(n) Election for Direct Payment of Credit.—

“(1) In General.—The housing credit agency of each State shall be allowed a credit in an amount equal to such State’s 2010 low-income housing refundable credit election amount, which shall be payable by the Secretary as provided in paragraph (5).

“(2) 2010 Low-Income Housing Refundable Credit Election Amount.—For purposes of this subsection, the term ‘2010 low-income housing refundable credit election amount’ means, with respect to any State, such amount as the State may elect
which does not exceed 85 percent of the product
of—

“(A) the sum of—

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

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

“(B) 10.

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

“(3) Coordination with non-refundable credit.—For purposes of this section, the amounts described in clauses (i) through (iv) of subsection (h)(3)(C) with respect to any State for 2010 shall each be reduced by so much of such amount as is taken into account in determining the amount of the credit allowed with respect to such State under paragraph (1).

“(4) Special rule for basis.—Basis of a qualified low-income building shall not be reduced by the amount of any payment made under this subsection.

“(5) Payment of credit; use to finance low-income buildings.—The Secretary shall pay to the housing credit agency of each State an amount equal to the credit allowed under paragraph (1). Rules similar to the rules of subsections (c) and (d) of section 1602 of the American Recovery and Reinvestment Tax Act of 2009 shall apply with respect to any payment made under this paragraph, except that such subsection (d) shall be applied by substituting ‘January 1, 2012’ for ‘January 1, 2011’.”.
(b) CONFORMING AMENDMENT.—Section 1324(b)(2) of title 31, United States Code, is amended by inserting "42(n)," after "36C,"

SEC. 232. LOW-INCOME HOUSING GRANT ELECTION.

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

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

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

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

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

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

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

Subtitle C—Business Tax Relief

SEC. 241. RESEARCH CREDIT.

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

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

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 2009.
SEC. 242. INDIAN EMPLOYMENT TAX CREDIT.

(a) In General.—Subsection (f) of section 45A is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

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

SEC. 243. NEW MARKETS TAX CREDIT.

(a) In General.—Subparagraph (F) of section 45D(f)(1) is amended by inserting “and 2010” after “2009”.

(b) Conforming Amendment.—Paragraph (3) of section 45D(f) is amended by striking “2014” and inserting “2015”.

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

SEC. 244. RAILROAD TRACK MAINTENANCE CREDIT.

(a) In General.—Subsection (f) of section 45G is amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(b) Effective Date.—The amendment made by this section shall apply to expenditures paid or incurred in taxable years beginning after December 31, 2009.
SEC. 245. MINE RESCUE TEAM TRAINING CREDIT.

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

(b) CREDIT ALLOWABLE AGAINST AMT.—Subparagraph (B) of section 38(c)(4), as amended by section 105, is amended—

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

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

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

(c) EFFECTIVE DATE.—

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

(2) ALLOWANCE AGAINST AMT.—The amendments made by subsection (b) shall apply to credits determined for taxable years beginning after December 31, 2009, and to carrybacks of such credits.
SEC. 246. EMPLOYER WAGE CREDIT FOR EMPLOYEES WHO ARE ACTIVE DUTY MEMBERS OF THE UNIFORMED SERVICES.

(a) In General.—Subsection (f) of section 45P is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

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

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

(a) In General.—Clause (vii) of section 168(e)(3)(B) is amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(b) Effective Date.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

SEC. 248. 15-YEAR STRAIGHT-LINE COST RECOVERY FOR QUALIFIED LEASEHOLD IMPROVEMENTS, QUALIFIED RESTAURANT BUILDINGS AND IMPROVEMENTS, AND QUALIFIED RETAIL IMPROVEMENTS.

(a) In General.—Clauses (iv), (v), and (ix) of section 168(e)(3)(E) are each amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(b) Conforming Amendments.—
(1) Clause (i) of section 168(e)(7)(A) is amended by striking “if such building is placed in service after December 31, 2008, and before January 1, 2010,”.

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

(c) Effective Date.—The amendments made by this section shall apply to property placed in service after December 31, 2009.

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

(a) In General.—Subparagraph (D) of section 168(i)(15) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) Effective Date.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

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

(a) In General.—Paragraph (8) of section 168(j) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) Effective Date.—The amendment made by this section shall apply to property placed in service after December 31, 2009.
SEC. 251. ENHANCED CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD INVENTORY.

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

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

SEC. 252. ENHANCED CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF BOOK INVENTORIES TO PUBLIC SCHOOLS.

(a) In General.—Clause (iv) of section 170(e)(3)(D) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

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

SEC. 253. ENHANCED CHARITABLE DEDUCTION FOR CORPORATE CONTRIBUTIONS OF COMPUTER INVENTORY FOR EDUCATIONAL PURPOSES.

(a) In General.—Subparagraph (G) of section 170(e)(6) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) Effective Date.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2009.
SEC. 254. ELECTION TO EXPENSE MINE SAFETY EQUIPMENT.

(a) In General.—Subsection (g) of section 179E is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) Effective Date.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

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

(a) In General.—Subsection (f) of section 181 is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

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

SEC. 256. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

(a) In General.—Subsection (h) of section 198 is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) Effective Date.—The amendment made by this section shall apply to expenditures paid or incurred after December 31, 2009.
SEC. 257. DEDUCTION ALLOWABLE WITH RESPECT TO INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES IN PUERTO RICO.

(a) In General.—Subparagraph (C) of section 199(d)(8) is amended—

(1) by striking “first 4 taxable years” and inserting “first 5 taxable years”; and

(2) by striking “January 1, 2010” and inserting “January 1, 2011”.

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

SEC. 258. MODIFICATION OF TAX TREATMENT OF CERTAIN PAYMENTS TO CONTROLLING EXEMPT ORGANIZATIONS.

(a) In General.—Clause (iv) of section 512(b)(13)(E) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) Effective Date.—The amendment made by this section shall apply to payments received or accrued after December 31, 2009.
SEC. 259. EXCLUSION OF GAIN OR LOSS ON SALE OR EX-
CHANGE OF CERTAIN BROWNFIELD SITES
FROM UNRELATED BUSINESS INCOME.
(a) In General.—Subparagraph (K) of section
512(b)(19) is amended by striking “December 31, 2009”
and inserting “December 31, 2010”.
(b) Effective Date.—The amendment made by
this section shall apply to property acquired after Decem-
ber 31, 2009.
SEC. 260. TIMBER REIT MODERNIZATION.
(a) In General.—Paragraph (8) of section 856(c)
is amended by striking “means” and all that follows and
inserting “means December 31, 2010.”.
(b) Conforming Amendments.—
(1) Subparagraph (I) of section 856(c)(2) is
amended by striking “the first taxable year begin-
ning after the date of the enactment of this subpara-
graph” and inserting “a taxable year beginning on
or before the termination date”.
(2) Clause (iii) of section 856(c)(5)(H) is
amended by inserting “in taxable years beginning”
after “dispositions”.
(3) Clause (v) of section 857(b)(6)(D) is
amended by inserting “in a taxable year beginning”
after “sale”.

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

(c) Effective Date.—The amendments made by this section shall apply to taxable years ending after May 22, 2009.

SECT. 261. TREATMENT OF CERTAIN DIVIDENDS OF REGULATED INVESTMENT COMPANIES.

(a) In General.—Paragraphs (1)(C) and (2)(C) of section 871(k) are each amended by striking “December 31, 2009” and inserting “December 31, 2010”.

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

SECT. 262. RIC QUALIFIED INVESTMENT ENTITY TREATMENT UNDER FIRPTA.

(a) In General.—Clause (ii) of section 897(h)(4)(A) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) Effective Date.—

(1) In General.—The amendment made by subsection (a) shall take effect on January 1, 2010. Notwithstanding the preceding sentence, such amendment shall not apply with respect to the withholding requirement under section 1445 of the Inter-
nal Revenue Code of 1986 for any payment made before the date of the enactment of this Act.

(2) Amounts withheld on or before date of enactment.—In the case of a regulated investment company—

(A) which makes a distribution after December 31, 2009, and before the date of the enactment of this Act; and

(B) which would (but for the second sentence of paragraph (1)) have been required to withhold with respect to such distribution under section 1445 of such Code,

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

SEC. 263. EXCEPTIONS FOR ACTIVE FINANCING INCOME.

(a) In general.—Sections 953(e)(10) and 954(h)(9) are each amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(b) Conforming amendment.—Section 953(e)(10) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(c) Effective date.—The amendments made by this section shall apply to taxable years of foreign corpora-
SEC. 264. LOOK-THRU TREATMENT OF PAYMENTS BETWEEN RELATED CONTROLLED FOREIGN CORPORATIONS UNDER FOREIGN PERSONAL HOLDING COMPANY RULES.

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

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

SEC. 265. BASIS ADJUSTMENT TO STOCK OF S CORPS MAKING CHARITABLE CONTRIBUTIONS OF PROPERTY.

(a) IN GENERAL.—Paragraph (2) of section 1367(a) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2009.
SEC. 266. EMPOWERMENT ZONE TAX INCENTIVES.

(a) In General.—Section 1391 is amended—

(1) by striking “December 31, 2009” in subsection (d)(1)(A)(i) and inserting “December 31, 2010”; and

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

(b) Increased Exclusion of Gain on Stock of Empowerment Zone Businesses.—Subparagraph (C) of section 1202(a)(2) is amended—

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

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

(c) Treatment of Certain Termination Dates Specified in Nominations.—In the case of a designation of an empowerment zone the nomination for which included a termination date which is contemporaneous with the date specified in subparagraph (A)(i) of section 1391(d)(1) of the Internal Revenue Code of 1986 (as in effect before the enactment of this Act), subparagraph (B) of such section shall not apply with respect to such designation unless, after the date of the enactment of this section, the entity which made such nomination reconfirms such termination date, or amends the nomination to provide for a new termination date, in such manner as the

(a) In general.—Subsection (f) of section 1400 is amended by striking “December 31, 2009” each place it appears and inserting “December 31, 2010”.

(b) Tax-exempt DC Empowerment Zone bonds.—Subsection (b) of section 1400A is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(c) Zero-percent capital gains rate.—

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

(2) Limitation on period of gains.—

(A) In general.—Paragraph (2) of section 1400B(e) is amended—

(i) by striking “December 31, 2014” and inserting “December 31, 2015”; and
(ii) by striking “2014” in the heading and inserting “2015”.

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

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

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to periods after December 31, 2009.

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

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

(4) HOMEBUYER CREDIT.—The amendment made by subsection (d) shall apply to homes purchased after December 31, 2009.
SEC. 268. RENEWAL COMMUNITY TAX INCENTIVES.

(a) In General.—Subsection (b) of section 1400E is amended—

(1) by striking “December 31, 2009” in paragraphs (1)(A) and (3) and inserting “December 31, 2010”; and

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

(b) Zero-percent Capital Gains Rate.—

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

(2) Limitation on Period of Gains.—Paragraph (2) of section 1400F(c) is amended—

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

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

(3) Clerical Amendment.—Subsection (d) of section 1400F is amended by striking “and ‘December 31, 2014’ for ‘December 31, 2014’”.

(c) Commercial Revitalization Deduction.—

(1) In General.—Subsection (g) of section 1400I is amended by striking “December 31, 2009” and inserting “December 31, 2010”.
(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 1400I(d)(2) is amended by striking “after 2001 and before 2010” and inserting “which begins after 2001 and before the date referred to in subsection (g)”.

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

(e) TREATMENT OF CERTAIN TERMINATION DATES SPECIFIED IN NOMINATIONS.—In the case of a designation of a renewal community the nomination for which included a termination date which is contemporaneous with the date specified in subparagraph (A) of section 1400E(b)(1) of the Internal Revenue Code of 1986 (as in effect before the enactment of this Act), subparagraph (B) of such section shall not apply with respect to such designation unless, after the date of the enactment of this section, the entity which made such nomination reconfirms such termination date, or amends the nomination to provide for a new termination date, in such manner as the Secretary of the Treasury (or the Secretary’s designee) may provide.

(f) EFFECTIVE DATES.—
(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to periods after December 31, 2009.

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

(3) COMMERCIAL REVITALIZATION DEDUCTION.—

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

(B) CONFORMING AMENDMENT.—The amendment made by subsection (c)(2) shall apply to calendar years beginning after December 31, 2009.

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

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

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distilled spirits brought into the United States after December 31, 2009.
SEC. 270. PAYMENT TO AMERICAN SAMOA IN LIEU OF EXTENSION OF ECONOMIC DEVELOPMENT CREDIT.

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

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

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

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

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

``(2) AMT CREDIT ADJUSTMENT AMOUNT.—

For purposes of paragraph (1), the term ‘AMT credit adjustment amount’ means, the lesser of—
“(A) 50 percent of a corporation’s minimum tax credit for its first taxable year beginning after December 31, 2009, determined under subsection (b), or

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

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

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

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

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

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

“(7) No Double Benefit.—

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

“(B) Special Rules with Respect to Taxpayers Previously Electing Applicable Net Operating Losses.—In the case of a corporation which made an election under sub-
paragraph (H) of section 172(b)(1) and elects the application of this subsection—

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

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

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

“(I) the statutory period for the assessment of any deficiency attributable to such revocation shall not expire before the end of the 3-year pe-
period beginning on the date of the election to have this subsection apply, and “(II) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

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

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

(b) CONFORMING AMENDMENTS.—

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

(2) Section 1324(b)(2) of title 31, United States Code, is amended by inserting “53(g),” after “53(e),”.
(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

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

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

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

(2) Given the escalating public debt, a critical examination of this use of taxpayer dollars is essential.

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

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

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

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

(d) CONTENTS OF REPORT.—Such reports shall contain the following:

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

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

(3) An analysis of the overall success of the tax expenditure in achieving such purpose, and evidence supporting such analysis.
(4) An analysis of the extent to which further extending the tax expenditure, or making it permanent, would contribute to achieving such purpose.

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

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

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

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

(9) A brief description of any interactions (actual or potential) with other tax expenditures or direct spending programs in the same or related budget function worthy of further study.

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

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

Subtitle D—Temporary Disaster Relief Provisions

PART I—NATIONAL DISASTER RELIEF

SEC. 281. WAIVER OF CERTAIN MORTGAGE REVENUE BOND REQUIREMENTS.

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

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

(e) TECHNICAL AMENDMENT.—Subsection (k) of section 143 is amended by redesignating the second para-
graph (12) (relating to special rules for residences de-
stroyed in federally declared disasters) as paragraph (13).

(d) **Effective Dates.**—

(1) **In General.**—Except as otherwise pro-
vided in this subsection, the amendment made by
this section shall apply to bonds issued after Decem-
ber 31, 2009.

(2) **Residences destroyed in federally
declared disasters.**—The amendments made by
subsection (b) shall apply with respect to disasters
occurring after December 31, 2009.

(3) **Technical Amendment.**—The amendment
made by subsection (c) shall take effect as if in-
cluded in section 709 of the Tax Extenders and Al-

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

(a) **In General.**—Subclause (I) of section
165(h)(3)(B)(i) is amended by striking “January 1,
2010” and inserting “January 1, 2011”.

(b) **$500 Limitation.**—Paragraph (1) of section
165(h) is amended by striking “December 31, 2009” and
inserting “December 31, 2010”.

(c) **Effective Date.**—
65

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
5 (2) $500 limitation.—The amendment made
6 by subsection (b) shall apply to taxable years begin-
7 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
13 (b) Effective date.—The amendment made by
14 this section shall apply to disasters occurring after Decem-

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

18 (a) In general.—Subclause (I) of section
19 172(j)(1)(A)(i) is amended by striking “January 1, 2010”
20 and inserting “January 1, 2011”.
21
22 (b) Effective date.—The amendment made by
23 this section shall apply to losses attributable to disasters
24 occurring after December 31, 2009.
SEC. 285. EXPENSING OF QUALIFIED DISASTER EXPENSES.

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

(b) Effective Date.—The amendment made by this section shall apply to expenditures on account of disasters occurring after December 31, 2009.

PART II—REGIONAL PROVISIONS

Subpart A—New York Liberty Zone

SEC. 291. SPECIAL DEPRECIATION ALLOWANCE FOR NON-RESIDENTIAL AND RESIDENTIAL REAL PROPERTY.

(a) In General.—Subparagraph (A) of section 1400L(b)(2) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) Effective Date.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

SEC. 292. TAX-EXEMPT BOND FINANCING.

(a) In General.—Subparagraph (D) of section 1400L(d)(2) is amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(b) Effective Date.—The amendment made by this section shall apply to bonds issued after December 31, 2009.
Subpart B—GO Zone

SEC. 295. INCREASE IN REHABILITATION CREDIT.

(a) In General.—Subsection (h) of section 1400N is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) Effective Date.—The amendment made by this section shall apply to amounts paid or incurred after December 31, 2009.

SEC. 296. WORK OPPORTUNITY TAX CREDIT WITH RESPECT TO CERTAIN INDIVIDUALS AFFECTED BY HURRICANE KATRINA FOR EMPLOYERS INSIDE DISASTER AREAS.

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

(b) Effective Date.—The amendment made by subsection (a) shall apply to individuals hired after August 27, 2009.

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

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

SEC. 301. BUDGETARY PROVISIONS.

(a) STATUTORY PAYGO.—The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled ‘Budgetary Effects of PAYGO Legislation’ for this Act, jointly submitted for printing in the Congressional Record by the Chairmen of the House and Senate Budget Committees, provided that such statement has been submitted prior to the vote on passage in the House acting first on this conference report or amendment between the Houses.

(b) EMERGENCY DESIGNATIONS.—Section 501 and 521—

(1) are designated as an emergency requirement pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010 (Public Law 111–139; 2 U.S.C. 933(g));

(2) in the House of Representatives, are designated as an emergency for purposes of pay-as-you-go principles; and

(3) in the Senate, are designated as an emergency requirement pursuant to section 403(a) of S.
Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

**TITLE IV—REVENUE OFFSETS**

Subtitle A—Foreign Provisions

SEC. 401. RULES TO PREVENT SPLITTING FOREIGN TAX CREDITS FROM THE INCOME TO WHICH THEY RELATE.

(a) In General.—Subpart A of part III of subchapter N of chapter 1 is amended by adding at the end the following new section:

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“SEC. 909. SUSPENSION OF TAXES AND CREDITS UNTIL RELATED INCOME TAKEN INTO ACCOUNT.

“(a) In General.—If there is a foreign tax credit splitting event with respect to a foreign income tax paid or accrued by the taxpayer, such tax shall not be taken into account for purposes of this title before the taxable year in which the related income is taken into account under this chapter by the taxpayer.

“(b) Special Rules With Respect to Section 902 Corporations.—If there is a foreign tax credit splitting event with respect to a foreign income tax paid or accrued by a section 902 corporation, such tax shall not be taken into account—

“(1) for purposes of section 902 or 960, or
“(2) for purposes of determining earnings and
profits under section 964(a),
before the taxable year in which the related income is
taken into account under this chapter by such section 902
corporation or a domestic corporation which meets the
ownership requirements of subsection (a) or (b) of section
902 with respect to such section 902 corporation.
“(c) SPECIAL RULES.—For purposes of this sec-
tion—
“(1) APPLICATION TO PARTNERSHIPS, ETC.—In
the case of a partnership, subsections (a) and (b)
shall be applied at the partner level. Except as oth-
erwise provided by the Secretary, a rule similar to
the rule of the preceding sentence shall apply in the
case of any S corporation or trust.
“(2) TREATMENT OF FOREIGN TAXES AFTER
SUSPENSION.—In the case of any foreign income tax
not taken into account by reason of subsection (a)
or (b), except as otherwise provided by the Sec-
retary, such tax shall be so taken into account in the
taxable year referred to in such subsection (other
than for purposes of section 986(a)) as a foreign in-
come tax paid or accrued in such taxable year.
“(d) DEFINITIONS.—For purposes of this section—
"(1) Foreign tax credit splitting event.—There is a foreign tax credit splitting event with respect to a foreign income tax if the related income is (or will be) taken into account under this chapter by a covered person.

"(2) Foreign income tax.—The term ‘foreign income tax’ means any income, war profits, or excess profits tax paid or accrued to any foreign country or to any possession of the United States.

"(3) Related income.—The term ‘related income’ means, with respect to any portion of any foreign income tax, the income (or, as appropriate, earnings and profits) to which such portion of foreign income tax relates.

"(4) Covered person.—The term ‘covered person’ means, with respect to any person who pays or accrues a foreign income tax (hereafter in this paragraph referred to as the ‘payor’)—

"(A) any entity in which the payor holds, directly or indirectly, at least a 10 percent ownership interest (determined by vote or value),

"(B) any person which holds, directly or indirectly, at least a 10 percent ownership interest (determined by vote or value) in the payor,
“(C) any person which bears a relationship to the payor described in section 267(b) or 707(b), and
“(D) any other person specified by the Secretary for purposes of this paragraph.
“(5) Section 902 Corporation.—The term ‘section 902 corporation’ means any foreign corporation with respect to which one or more domestic corporations meets the ownership requirements of subsection (a) or (b) of section 902.
“(e) Regulations.—The Secretary may issue such regulations or other guidance as is necessary or appropriate to carry out the purposes of this section, including regulations or other guidance which provides—
“(1) appropriate exceptions from the provisions of this section, and
“(2) for the proper application of this section with respect to hybrid instruments.”.
(b) Clerical Amendment.—The table of sections for subpart A of part III of subchapter N of chapter 1 is amended by adding at the end the following new item:
“Sec. 909. Suspension of taxes and credits until related income taken into account.”.
(c) Effective Date.—The amendments made by this section shall apply to—
(1) foreign income taxes (as defined in section 909(d) of the Internal Revenue Code of 1986, as added by this section) paid or accrued after May 20, 2010; and

(2) foreign income taxes (as so defined) paid or accrued by a section 902 corporation (as so defined) on or before such date (and not deemed paid under section 902(a) or 960 of such Code on or before such date), but only for purposes of applying sections 902 and 960 with respect to periods after such date.

Section 909(b)(2) of the Internal Revenue Code of 1986, as added by this section, shall not apply to foreign income taxes described in paragraph (2).

SEC. 402. DENIAL OF FOREIGN TAX CREDIT WITH RESPECT TO FOREIGN INCOME NOT SUBJECT TO UNITED STATES TAXATION BY REASON OF COVERED ASSET ACQUISITIONS.

(a) In General.—Section 901 is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

“(m) Denial of Foreign Tax Credit With Respect to Foreign Income Not Subject to United States Taxation by Reason of Covered Asset Acquisitions.—
“(1) IN GENERAL.—In the case of a covered asset acquisition, the disqualified portion of any foreign income tax determined with respect to the income or gain attributable to the relevant foreign assets—

“(A) shall not be taken into account in determining the credit allowed under subsection (a), and

“(B) in the case of a foreign income tax paid by a section 902 corporation (as defined in section 909(d)(5)), shall not be taken into account for purposes of section 902 or 960.

“(2) COVERED ASSET ACQUISITION.—For purposes of this section, the term ‘covered asset acquisition’ means—

“(A) a qualified stock purchase (as defined in section 338(d)(3)) to which section 338(a) applies,

“(B) any transaction which—

“(i) is treated as an acquisition of assets for purposes of this chapter, and

“(ii) is treated as the acquisition of stock of a corporation (or is disregarded) for purposes of the foreign income taxes of the relevant jurisdiction,
“(C) any acquisition of an interest in a partnership which has an election in effect under section 754, and
“(D) to the extent provided by the Secretary, any other similar transaction.
“(3) DISQUALIFIED PORTION.—For purposes of this section—
“(A) IN GENERAL.—The term ‘disqualified portion’ means, with respect to any covered asset acquisition, for any taxable year, the ratio (expressed as a percentage) of—
“(i) the aggregate basis differences (but not below zero) allocable to such taxable year under subparagraph (B) with respect to all relevant foreign assets, divided by
“(ii) the income on which the foreign income tax referred to in paragraph (1) is determined (or, if the taxpayer fails to substantiate such income to the satisfaction of the Secretary, such income shall be determined by dividing the amount of such foreign income tax by the highest marginal tax rate applicable to such income in the relevant jurisdiction).
“(B) ALLOCATION OF BASIS DIFFERENCE.—For purposes of subparagraph (A)(i)—

“(i) IN GENERAL.—The basis difference with respect to any relevant foreign asset shall be allocated to taxable years using the applicable cost recovery method under this chapter.

“(ii) SPECIAL RULE FOR DISPOSITION OF ASSETS.—Except as otherwise provided by the Secretary, in the case of the disposition of any relevant foreign asset—

“(I) the basis difference allocated to the taxable year which includes the date of such disposition shall be the excess of the basis difference with respect to such asset over the aggregate basis difference with respect to such asset which has been allocated under clause (i) to all prior taxable years, and

“(II) no basis difference with respect to such asset shall be allocated under clause (i) to any taxable year thereafter.
“(C) BASIS DIFFERENCE.—

“(i) IN GENERAL.—The term ‘basis difference’ means, with respect to any relevant foreign asset, the excess of—

“(I) the adjusted basis of such asset immediately after the covered asset acquisition, over

“(II) the adjusted basis of such asset immediately before the covered asset acquisition.

“(ii) BUILT-IN LOSS ASSETS.—In the case of a relevant foreign asset with respect to which the amount described in clause (i)(II) exceeds the amount described in clause (i)(I), such excess shall be taken into account under this subsection as a basis difference of a negative amount.

“(iii) SPECIAL RULE FOR SECTION 338 ELECTIONS.—In the case of a covered asset acquisition described in paragraph (2)(A), the covered asset acquisition shall be treated for purposes of this subparagraph as occurring at the close of the acquisition date (as defined in section 338(h)(2)).
“(4) Relevant foreign assets.—For purposes of this section, the term ‘relevant foreign asset’ means, with respect to any covered asset acquisition, any asset (including any goodwill, going concern value, or other intangible) with respect to such acquisition if income, deduction, gain, or loss attributable to such asset is taken into account in determining the foreign income tax referred to in paragraph (1).

“(5) Foreign income tax.—For purposes of this section, the term ‘foreign income tax’ means any income, war profits, or excess profits tax paid or accrued to any foreign country or to any possession of the United States.

“(6) Taxes allowed as a deduction, etc.—Sections 275 and 78 shall not apply to any tax which is not allowable as a credit under subsection (a) by reason of this subsection.

“(7) Regulations.—The Secretary may issue such regulations or other guidance as is necessary or appropriate to carry out the purposes of this subsection, including to exempt from the application of this subsection certain covered asset acquisitions, and relevant foreign assets with respect to which the basis difference is de minimis.”.
(b) Effective Date.—

(1) In General.—Except as provided in paragraph (2), the amendments made by this section shall apply to covered asset acquisitions (as defined in section 901(m)(2) of the Internal Revenue Code of 1986, as added by this section) after—

(A) May 20, 2010, if the transferor and the transferee are related; and

(B) the date of the enactment of this Act in any other case.

(2) Transition Rule.—The amendments made by this section shall not apply to any covered asset acquisition (as so defined) with respect to which the transferor and the transferee are not related if such acquisition is—

(A) made pursuant to a written agreement which was binding on May 20, 2010, and at all times thereafter,

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date; or

(C) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.
(3) RELATED PERSONS.—For purposes of this subsection, a person shall be treated as related to another person if the relationship between such persons is described in section 267 or 707(b) of the Internal Revenue Code of 1986.

SEC. 403. SEPARATE APPLICATION OF FOREIGN TAX CREDIT LIMITATION, ETC., TO ITEMS RESOURCED UNDER TREATIES.

(a) IN GENERAL.—Subsection (d) of section 904 is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

“(6) SEPARATE APPLICATION TO ITEMS RESOURCED UNDER TREATIES.—

“(A) IN GENERAL.—If—

“(i) without regard to any treaty obligation of the United States, any item of income would be treated as derived from sources within the United States,

“(ii) under a treaty obligation of the United States, such item would be treated as arising from sources outside the United States, and

“(iii) the taxpayer chooses the benefits of such treaty obligation,
sections (a), (b), and (c) of this section and
sections 902, 907, and 960 shall be applied sep-
arately with respect to each such item.

“(B) Coordination with other provi-
sions.—This paragraph shall not apply to any
item of income to which subsection (h)(10) or
section 865(h) applies.

“(C) Regulations.—The Secretary may
issue such regulations or other guidance as is
necessary or appropriate to carry out the pur-
poses of this paragraph, including regulations
or other guidance which provides that related
items of income may be aggregated for pur-
poses of this paragraph.”.

(b) Effective Date.—The amendments made by
this section shall apply to taxable years beginning after
the date of the enactment of this Act.

SEC. 404. LIMITATION ON THE AMOUNT OF FOREIGN TAXES

DEEMED PAID WITH RESPECT TO SECTION

956 INCLUSIONS.

(a) In General.—Section 960 is amended by adding
at the end the following new subsection:

“(c) Limitation With Respect to Section 956

Inclusions.—
“(1) In General.—If there is included under section 951(a)(1)(B) in the gross income of a domestic corporation any amount attributable to the earnings and profits of a foreign corporation which is a member of a qualified group (as defined in section 902(b)) with respect to the domestic corporation, the amount of any foreign income taxes deemed to have been paid during the taxable year by such domestic corporation under section 902 by reason of subsection (a) with respect to such inclusion in gross income shall not exceed the amount of the foreign income taxes which would have been deemed to have been paid during the taxable year by such domestic corporation if cash in an amount equal to the amount of such inclusion in gross income were distributed as a series of distributions (determined without regard to any foreign taxes which would be imposed on an actual distribution) through the chain of ownership which begins with such foreign corporation and ends with such domestic corporation.

“(2) Authority to Prevent Abuse.—The Secretary shall issue such regulations or other guidance as is necessary or appropriate to carry out the purposes of this subsection, including regulations or other guidance which prevent the inappropriate use
of the foreign corporation’s foreign income taxes not
deemed paid by reason of paragraph (1).”.

(b) Effective Date.—The amendment made by this section shall apply to acquisitions of United States property (as defined in section 956(e) of the Internal Revenue Code of 1986) after May 20, 2010.

SEC. 405. SPECIAL RULE WITH RESPECT TO CERTAIN REDEMPTIONS BY FOREIGN SUBSIDIARIES.

(a) In General.—Paragraph (5) of section 304(b) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

“(B) Special rule in case of foreign acquiring corporation.—In the case of any acquisition to which subsection (a) applies in which the acquiring corporation is a foreign corporation, no earnings and profits shall be taken into account under paragraph (2)(A) (and subparagraph (A) shall not apply) if more than 50 percent of the dividends arising from such acquisition (determined without regard to this subparagraph) would not—

“(i) be subject to tax under this chapter for the taxable year in which the dividends arise, or
“(ii) be includible in the earnings and profits of a controlled foreign corporation (as defined in section 957 and without regard to section 953(e)).”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to acquisitions after May 20, 2010.

SEC. 406. MODIFICATION OF AFFILIATION RULES FOR PURPOSES OF RULES ALLOCATING INTEREST EXPENSE.

(a) IN GENERAL.—Subparagraph (A) of section 864(e)(5) is amended by adding at the end the following:

“Notwithstanding the preceding sentence, a foreign corporation shall be treated as a member of the affiliated group if—

“(i) more than 50 percent of the gross income of such foreign corporation for the taxable year is effectively connected with the conduct of a trade or business within the United States, and

“(ii) at least 80 percent of either the vote or value of all outstanding stock of such foreign corporation is owned directly or indirectly by members of the affiliated group (determined with regard to this sentence).”.
(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 407. TERMINATION OF SPECIAL RULES FOR INTEREST AND DIVIDENDS RECEIVED FROM PERSONS MEETING THE 80-PERCENT FOREIGN BUSINESS REQUIREMENTS.

(a) IN GENERAL.—Paragraph (1) of section 861(a) is amended by striking subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(b) GRANDFATHER RULE WITH RESPECT TO WITHHOLDING ON INTEREST AND DIVIDENDS RECEIVED FROM PERSONS MEETING THE 80-PERCENT FOREIGN BUSINESS REQUIREMENTS.—

(1) IN GENERAL.—Subparagraph (B) of section 871(i)(2) is amended to read as follows:

“(B) The active foreign business percentage of—

“(i) any dividend paid by an existing 80/20 company, and

“(ii) any interest paid by an existing 80/20 company.”.

(2) DEFINITIONS AND SPECIAL RULES.—Section 871 is amended by redesignating subsections (l)
and (m) as subsections (m) and (n), respectively, and by inserting after subsection (k) the following new subsection:

“(l) RULES RELATING TO EXISTING 80/20 COMPANIES.—For purposes of this subsection and subsection (i)(2)(B)—

“(1) EXISTING 80/20 COMPANY.—

“(A) IN GENERAL.—The term ‘existing 80/20 company’ means any corporation if—

“(i) such corporation met the 80-percent foreign business requirements of section 861(c)(1) (as in effect before the enactment of this subsection) for such corporation’s last taxable year beginning before January 1, 2011,

“(ii) such corporation meets the 80-percent foreign business requirements of subparagraph (B) with respect to each taxable year after the taxable year referred to in clause (i), and

“(iii) there has not been an addition of a substantial line of business with respect to such corporation after the date of the enactment of this subsection.
"(B) FOREIGN BUSINESS REQUIREMENTS.—

"(i) IN GENERAL.—A corporation meets the 80-percent foreign business requirements of this subparagraph if it is shown to the satisfaction of the Secretary that at least 80 percent of the gross income from all sources of such corporation for the testing period is active foreign business income.

"(ii) ACTIVE FOREIGN BUSINESS INCOME.—For purposes of clause (i), the term ‘active foreign business income’ means gross income which—

"(I) is derived from sources outside the United States (as determined under this subchapter), and

"(II) is attributable to the active conduct of a trade or business in a foreign country or possession of the United States.

"(iii) TESTING PERIOD.—For purposes of this subsection, the term ‘testing period’ means the 3-year period ending with the close of the taxable year of the
corporation preceding the payment (or such part of such period as may be applicable). If the corporation has no gross income for such 3-year period (or part thereof), the testing period shall be the taxable year in which the payment is made.

“(iv) Transition Rule.—In the case of a testing period which includes a taxable year beginning before January 1, 2011, for purposes of determining whether a corporation meets the 80 percent foreign business requirements of this subparagraph for such taxable year, the requirements of subparagraphs (A) and (B) of section 861(c)(1) (as in effect before the enactment of this subsection) shall apply in lieu of clause (i) to such taxable years.

“(2) Active Foreign Business Percentage.—The term ‘active foreign business percentage’ means, with respect to any existing 80/20 company, the percentage which—

“(A) the active foreign business income of such company for the testing period, is of

“(B) the gross income of such company for the testing period from all sources.
“(3) AGGREGATION RULES.—For purposes of applying paragraph (1) (other than subparagraphs (A)(i) and (B)(iv) thereof) and paragraph (2)—

“(A) IN GENERAL.—The corporation referred to in paragraph (1)(A) and all of such corporation’s subsidiaries shall be treated as one corporation.

“(B) SUBSIDIARIES.—For purposes of subparagraph (A), the term ‘subsidiary’ means any corporation in which the corporation referred to in subparagraph (A) owns (directly or indirectly) stock meeting the requirements of section 1504(a)(2) (determined by substituting ‘50 percent’ for ‘80 percent’ each place it appears and without regard to section 1504(b)(3)).

“(4) REGULATIONS.—The Secretary may issue such regulations or other guidance as is necessary or appropriate to carry out the purposes of this section, including regulations or other guidance which provide for the proper application of the aggregation rules described in paragraph (3).”.

(c) CONFORMING AMENDMENTS.—

(1) Section 861 is amended by striking subsection (c) and by redesignating subsections (d), (e), and (f) as subsections (e), (d), and (e), respectively.
(2) Paragraph (9) of section 904(h) is amended to read as follows:

“(9) TREATMENT OF CERTAIN DOMESTIC CORPORATIONS.—In the case of any dividend treated as not from sources within the United States under section 861(a)(2)(A), the corporation paying such dividend shall be treated for purposes of this sub-section as a United States-owned foreign corporation.”.

(3) Subsection (c) of section 2104 is amended in the last sentence by striking “or to a debt obligation of a domestic corporation” and all that follows and inserting a period.

(d) EFFECTIVE DATE.—

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

(2) GRANDFATHER RULE FOR OUTSTANDING DEBT OBLIGATIONS.—

(A) IN GENERAL.—The amendments made by this section shall not apply to payments of interest on obligations issued before the date of the enactment of this Act.
(B) Exception for Related Party Debt.—Subparagraph (A) shall not apply to any interest which is payable to a related person (determined under rules similar to the rules of section 954(d)(3)).

(C) Significant Modifications Treated as New Issues.—For purposes of subparagraph (A), a significant modification of the terms of any obligation (including any extension of the term of such obligation) shall be treated as a new issue.

SEC. 408. Source Rules for Income on Guarantees.

(a) Amounts Sourced Within the United States.—Subsection (a) of section 861 is amended by adding at the end the following new paragraph:

“(9) Guarantees.—Amounts received, directly or indirectly, from—

“(A) a noncorporate resident or domestic corporation for the provision of a guarantee of any indebtedness of such resident or corporation, or

“(B) any foreign person for the provision of a guarantee of any indebtedness of such person, if such amount is connected with income which is effectively connected (or treated as ef-
fectively connected) with the conduct of a trade
or business in the United States.”.

(b) Amounts Sourced Without the United States.—Subsection (a) of section 862 is amended by
striking “and” at the end of paragraph (7), by striking
the period at the end of paragraph (8) and inserting “;
and”, and by adding at the end the following new para-
graph:

“(9) amounts received for the provision of a
guarantee of indebtedness other than amounts which
are derived from sources within the United States as
provided in section 861(a)(9).”.

(c) Conforming Amendment.—Clause (ii) of sec-
tion 864(c)(4)(B) is amended by striking “dividends or in-
terest” and inserting “dividends, interest, or amounts re-
ceived for the provision of guarantees of indebtedness”.

(d) Effective Date.—The amendments made by
this section shall apply to guarantees issued after the date
of the enactment of this Act.

SEC. 409. LIMITATION ON EXTENSION OF STATUTE OF LIMI-
TATIONS FOR FAILURE TO NOTIFY SEC-
RETARY OF CERTAIN FOREIGN TRANSFERS.

(a) In General.—Paragraph (8) of section 6501(e)
is amended—
(1) by striking “In the case of any information” and inserting the following:

“(A) In general.—In the case of any information”; and

(2) by adding at the end the following:

“(B) Application to failures due to reasonable cause.—If the failure to furnish the information referred to in subparagraph (A) is due to reasonable cause and not willful neglect, subparagraph (A) shall apply only to the item or items related to such failure.”.

(b) Effective date.—The amendments made by this section shall take effect as if included in section 513 of the Hiring Incentives to Restore Employment Act.

Subtitle B—Personal Service Income Earned in Pass-thru Entities

Sec. 411. Partnership interests transferred in connection with performance of services.

(a) Modification to election to include partnership interest in gross income in year of transfer.—Subsection (e) of section 83 is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:
“(4) PARTNERSHIP INTERESTS.—Except as provided by the Secretary, in the case of any transfer of an interest in a partnership in connection with the provision of services to (or for the benefit of) such partnership—

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

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

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

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to interests in partnerships transferred after the date of the enactment of this Act.
SEC. 412. INCOME OF PARTNERS FOR PERFORMING INVESTMENT MANAGEMENT SERVICES TREATED AS ORDINARY INCOME RECEIVED FOR PERFORMANCE OF SERVICES.

(a) In General.—Part I of subchapter K of chapter 1 is amended by adding at the end the following new section:

“SEC. 710. SPECIAL RULES FOR PARTNERS PROVIDING INVESTMENT MANAGEMENT SERVICES TO PARTNERSHIP.

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

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

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

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

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

“(A) LIMITATION.—Any net loss with respect to such interest shall be allowed for any partnership taxable year only to the extent that such loss does not exceed the excess (if any) of—

“(i) the aggregate net income with respect to such interest for all prior partnership taxable years, over

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

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

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

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

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

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

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

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

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

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

“(b) DISPOSITIONS OF PARTNERSHIP INTERESTS.—
“(1) GAIN.—Any gain on the disposition of an investment services partnership interest shall be—

“(A) treated as ordinary income, and

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

“(2) LOSS.—Any loss on the disposition of an investment services partnership interest shall be treated as an ordinary loss to the extent of the excess (if any) of—

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

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

“(3) ELECTION WITH RESPECT TO CERTAIN EXCHANGES.—Paragraph (1)(B) shall not apply to the contribution of an investment services partnership interest to a partnership in exchange for an interest in such partnership if—

“(A) the taxpayer makes an irrevocable election to treat the partnership interest received in the exchange as an investment services partnership interest, and
“(B) the taxpayer agrees to comply with such reporting and recordkeeping requirements as the Secretary may prescribe.

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

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

“(A) the excess (if any) of—

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

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

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

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

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

“(6) APPLICATION OF SECTION 751.—

“(A) IN GENERAL.—In applying section 751, an investment services partnership interest shall be treated as an inventory item.
“(B) Exception for Certain Dispositions of Interests in a Publicly Traded Partnership.—Except as provided by the Secretary, this paragraph shall not apply in the case of any (direct or indirect) disposition of an interest in a publicly traded partnership (as defined in section 7704) which is not an investment services partnership interest in the hands of the person disposing of such interest (or the hands of the person holding such interest indirectly).

“(c) Investment Services Partnership Interest.—For purposes of this section—

“(1) In General.—The term ‘investment services partnership interest’ means any interest in a partnership which is held (directly or indirectly) by any person if it was reasonably expected (at the time that such person acquired such interest) that such person (or any person related to such person) would provide (directly or, to the extent provided by the Secretary, indirectly) a substantial quantity of any of the following services with respect to assets held (directly or indirectly) by the partnership:
“(A) Advising as to the advisability of investing in, purchasing, or selling any specified asset.

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

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

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

“(2) SPECIFIED ASSET.—The term ‘specified asset’ means securities (as defined in section 475(c)(2) without regard to the last sentence thereof), real estate held for rental or investment, interests in partnerships, commodities (as defined in section 475(e)(2)), or options or derivative contracts with respect to any of the foregoing.

“(3) EXCEPTION FOR FAMILY FARMS.—The term ‘specified asset’ shall not include any farm used for farming purposes if such farm is held by a partnership all of the interests in which are held (directly or indirectly) by members of the same family. Terms used in the preceding sentence which are also used in section 2032A shall have the same meaning as when used in such section.
“(4) Exception for partnerships with pro rata allocations based on capital.—Except as provided by the Secretary, the term ‘investment services partnership interest’ shall not include any interest in a partnership if all distributions and all allocations of the partnership, and of any other partnership in which the partnership directly or indirectly holds an interest, are made pro rata on the basis of the capital contributions of each partner which constitute qualified capital interests under subsection (d).

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

“(d) Exception for certain capital interests.—

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

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

“(B) the allocations made to such other interests are significant compared to the allocations made to such qualified capital interest.

“(2) Authority to provide exceptions to allocation requirements.—To the extent provided by the Secretary in regulations or other guidance—

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

“(B) No or insignificant allocations to nonservice providers.—In any case in which the requirements of paragraph (1)(B) are not satisfied, items of income, gain, loss, and deduction shall not be taken into account under subsection (a) to the extent that such items are properly allocable under such regulations or other guidance to qualified capital interests.
“(C) Allocations to service providers’ qualified capital interests which are less than other allocations.—Allocations shall not be treated as failing to meet the requirement of paragraph (1)(A) merely because the allocations to the qualified capital interest represent a lower return than the allocations made to the other qualified capital interests referred to in such paragraph.

“(3) Special rule for changes in services.—In the case of an interest in a partnership which is not an investment services partnership interest and which, by reason of a change in the services with respect to assets held (directly or indirectly) by the partnership, would (without regard to the reasonable expectation exception of subsection (c)(1)) have become such an interest—

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

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

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

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

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

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

“(B) the distributive share of gain or loss that would have been so allocated to the investment services partnership interest of which such qualified capital interest is a part.

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

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

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

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

“(iii) the excess (if any) of—

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

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

“(B) ADJUSTMENT TO QUALIFIED CAPITAL INTEREST.—

“(i) DISTRIBUTIONS AND LOSSES.—

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

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

“(8) TREATMENT OF CERTAIN LOANS.—

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

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

“(e) OTHER INCOME AND GAIN IN CONNECTION
WITH INVESTMENT MANAGEMENT SERVICES.—
“(1) IN GENERAL.—If—
“(A) a person performs (directly or indi-
directly) investment management services for any
entity,
“(B) such person holds (directly or indi-
directly) a disqualified interest with respect to
such entity, and
“(C) the value of such interest (or pay-
ments thereunder) is substantially related to
the amount of income or gain (whether or not
realized) from the assets with respect to which
the investment management services are per-
formed,
any income or gain with respect to such interest shall be treated as ordinary income. Rules similar to the rules of subsections (a)(4) and (d) shall apply for purposes of this subsection.

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

“(A) Disqualified interest.—

“(i) In general.—The term ‘disqualified interest’ means, with respect to any entity—

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

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

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

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

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

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

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

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

“(i) a domestic C corporation, or

“(ii) a foreign corporation substantially all of the income of which is—

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

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

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

“(f) REGULATIONS.—The Secretary shall prescribe such regulations or other guidance as is necessary or appropriate to carry out the purposes of this section, including regulations or other guidance to—
“(1) provide modifications to the application of this section (including treating related persons as not related to one another) to the extent such modification is consistent with the purposes of this section,

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

“(3) coordinate this section with the other provisions of this title.

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

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

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

“(3) PRO RATA ALLOCATION TO ITEMS.—For purposes of applying subsections (a) and (e), the aggregate amount treated as ordinary income for any such taxable year shall be allocated ratably among the items of income, gain, loss, and deduction taken into account in determining such amount.
“(4) Special rule for recognition of gain.—Gain which (but for this section) would not be recognized shall be recognized by reason of subsection (b) only to the extent that such gain is treated as ordinary income after application of paragraph (2).

“(5) Coordination with limitation on losses.—For purposes of applying paragraph (2) of subsection (a) with respect to any net loss for any taxable year—

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

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

“(C) any net loss carried forward to the succeeding partnership taxable year under subparagraph (B) of such paragraph shall—
“(i) be taken into account in such succeeding year without reduction under this subsection, and

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

“(I) as an increase in net loss or as a reduction in net income (including below zero), as the case may be, and

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

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

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

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

“(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the term ‘applicable percentage’ means 75 percent.
“(B) Exception for disposition of assets held by investment services partnerships at least 5 years.—The applicable percentage shall be 50 percent with respect to any net income or net loss under subsection (a)(1) which is properly allocable to gain or loss from the disposition (or a distribution under subsection (b)(5)) of any asset (other than an investment services partnership interest) which has been held by the investment services partnership for at least 5 years.

“(C) Exception for disposition of investment services partnership interests held at least 5 years.—

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

“(I) net income or net loss under subsection (a)(1) which is properly allocable to gain or loss from the disposition (or a distribution under subsection (b)(5)) of an investment services partnership interest which has been held at least 5 years, and
“(II) gain or loss under subsection (b) on the disposition of an investment services partnership interest which has been held for at least 5 years, but only to the extent such gain or loss is attributable to assets held by the investment services partnership for at least 5 years.

“(ii) APPLICATION IN THE CASE OF TIERED PARTNERSHIPS, ETC.—For purposes of determining whether the assets of the investment services partnership have been held for at least 5 years under clause (i), an investment services partnership shall be treated as owning its proportionate share of the property of any other partnership in which it has held an investment services partnership interest for at least 5 years.

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

“(D) Treatment of Goodwill and Other Section 197 Intangibles.—For purposes of this paragraph, in the case of any section 197 intangible of an entity through which the services described in subsection (c)(1) are provided—

“(i) the holding period of such intangible shall not be less than the holding period of the investment services partnership interest in the partnership which holds such intangible, and

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

“(E) Valuation Methods.—The Secretary shall prescribe regulations or guidance which provide—

“(i) the acceptable valuation methods for purposes of this subparagraph, except that—

“(I) such methods shall not include any valuation method which is
inconsistent with the method used by
the taxpayer for other purposes (in-
cluding reporting asset valuations to
partners or potential partners in the
partnership or any related partner-
ship) if such inconsistent valuation
method would result in the treatment
of a greater amount of gain as attrib-
utable to a section 197 intangible
than would result under the valuation
method used by the taxpayer for such
other purposes, and

“(II) such methods shall in no
event treat gain from the disposition
of an investment services partnership
interest as attributable to a section
197 intangible if such gain would be
included in the amount of the dis-
tribution which the partner disposing
of such interest would receive if the
partnership sold (at the time of the
disposition) all of its assets at fair
market value and distributed the pro-
ceeds of such sale (reduced by the li-
abilities of the partnership) to its
partners in liquidation of the partnership,

“(ii) circumstances under which valuations are sufficiently independent to provide an accurate determination of fair market value, and

“(iii) any information required to be furnished to the Secretary by the parties to the disposition with respect to such valuation.

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

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

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

“(iii) APPLICATION TO DISQUALIFIED INTERESTS.—Rules similar to the rules of this paragraph shall apply with respect to income or gain with respect to a disqualified interest under subsection (e).
“(h) Cross Reference.—For 40 percent penalty on certain underpayments due to the avoidance of this section, see section 6662.”.

(b) Treatment for Purposes of Section 7704.—Subsection (d) of section 7704 is amended by adding at the end the following new paragraph:

“(6) Income from Investment Services Partnership Interests Not Qualified.—

“(A) In General.—Items of income and gain shall not be treated as qualifying income if such items are treated as ordinary income by reason of the application of section 710 (relating to special rules for partners providing investment management services to partnership). The preceding sentence shall not apply to any item described in paragraph (1)(E) (or so much of paragraph (1)(F) as relates to paragraph (1)(E)).

“(B) Special Rules for Certain Partnerships.—

“(i) Certain partnerships owned by real estate investment trusts.—Subparagraph (A) shall not apply in the case of a partnership which meets each of the following requirements:
“(I) Such partnership is treated as publicly traded under this section solely by reason of interests in such partnership being convertible into interests in a real estate investment trust which is publicly traded.

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

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

“(ii) CERTAIN PARTNERSHIPS OWNING OTHER PUBLICLY TRADED PARTNER- SHIPS.—Subparagraph (A) shall not apply in the case of a partnership which meets each of the following requirements:

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

“(II) Substantially all of the income of such partnership is ordinary income or section 1231 gain (as defined in section 1231(a)(3)).

“(C) Transitional rule.—Subparagraph (A) shall not apply to any taxable year of the partnership beginning before the date which is 10 years after the date of the enactment of this paragraph.”.

(c) Imposition of penalty on underpayments.—

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

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

(2) Amount of penalty.—
(A) IN GENERAL.—Section 6662 is amended by adding at the end the following new subsection:

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

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

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

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

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

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

“(3) SPECIAL RULE FOR UNDERPAYMENTS ATTRIBUTABLE TO INVESTMENT MANAGEMENT SERVICES.—
“(A) In general.—Paragraph (1) shall not apply to any portion of an underpayment to which section 6662 applies by reason of subsection (b)(8) unless—

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

“(ii) there is or was substantial authority for such treatment, and

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

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

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

(1) Internal revenue code.—Section 1402(a) is amended by striking “and” at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting “; and”, and by inserting after paragraph (17) the following new paragraph:
“(18) notwithstanding the preceding provisions of this subsection, in the case of any individual engaged in the trade or business of providing services described in section 710(c)(1) with respect to any entity, any amount treated as ordinary income or ordinary loss of such individual under section 710 with respect to such entity shall be taken into account in determining the net earnings from self-employment of such individual.”.

(2) Social Security Act.—Section 211(a) of the Social Security Act is amended by striking “and” at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting “; and”, and by inserting after paragraph (16) the following new paragraph:

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

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

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

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

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

(f) **Effective Date.**—

(1) **In General.**—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years ending after December 31, 2010.

(2) **Partnership Taxable Years Which Include Effective Date.**—In applying section 710(a) of the Internal Revenue Code of 1986 (as added by this section) in the case of any partnership taxable year which includes December 31, 2010, the amount of the net income referred to in such section shall be treated as being the lesser of the net income
for the entire partnership taxable year or the net income determined by only taking into account items attributable to the portion of the partnership taxable year which is after such date.

(3) Dispositions of Partnership Interests.—Section 710(b) of the Internal Revenue Code of 1986 (as added by this section) shall apply to dispositions and distributions after December 31, 2010.

(4) Other Income and Gain in Connection with Investment Management Services.—Section 710(e) of such Code (as added by this section) shall take effect on December 31, 2010.

Sec. 413. Employment Tax Treatment of Professional Service Businesses.

(a) In General.—Section 1402 is amended by adding at the end the following new subsection:

“(m) Special Rules for Professional Service Businesses.—

“(1) Shareholders Providing Services to Disqualified S Corporations.—

“(A) In General.—In the case of any disqualified S corporation, each shareholder of such disqualified S corporation who provides substantial services with respect to the professional service business referred to in subpara-
graph (C) shall take into account such shareholder’s pro rata share of all items of income or loss described in section 1366 which are attributable to such business in determining the shareholder’s net earnings from self-employment.

“(B) TREATMENT OF FAMILY MEMBERS.—Except as otherwise provided by the Secretary, the shareholder’s pro rata share of items referred to in subparagraph (A) shall be increased by the pro rata share of such items of each member of such shareholder’s family (within the meaning of section 318(a)(1)) who does not provide substantial services with respect to such professional service business.

“(C) DISQUALIFIED S CORPORATION.—For purposes of this subsection, the term ‘disqualified S corporation’ means—

“(i) any S corporation which is a partner in a partnership which is engaged in a professional service business if substantially all of the activities of such S corporation are performed in connection with such partnership, and
“(ii) any other S corporation which is engaged in a professional service business if 80 percent or more of the gross income of such business is attributable to service of 3 or fewer shareholders of such corporation.

“(2) Partners.—In the case of any partnership which is engaged in a professional service business, subsection (a)(13) shall not apply to any partner who provides substantial services with respect to such professional service business.

“(3) Professional service business.—For purposes of this subsection, the term ‘professional service business’ means any trade or business (or portion thereof) providing services in the fields of health, law, lobbying, engineering, architecture, accounting, actuarial science, performing arts, consulting, athletics, investment advice or management, or brokerage services.

“(4) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations which prevent the avoidance of the purposes of this subsection through tiered entities or otherwise.
“(5) CROSS REFERENCE.—For employment tax
treatment of wages paid to shareholders of S cor-
porations, see subtitle C.”.

(b) CONFORMING AMENDMENT.—Section 211 of the
Social Security Act is amended by adding at the end the
following new subsection:

“(1) SPECIAL RULES FOR PROFESSIONAL SERVICE
BUSINESSES.—

“(1) SHAREHOLDERS PROVIDING SERVICES TO
DISQUALIFIED S CORPORATIONS.—

“(A) IN GENERAL.—In the case of any dis-
qualified S corporation, each shareholder of
such disqualified S corporation who provides
substantial services with respect to the profes-
sional service business referred to in subpara-
graph (C) shall take into account such share-
holder’s pro rata share of all items of income or
loss described in section 1366 of the Internal
Revenue Code of 1986 which are attributable to
such business in determining the shareholder’s
net earnings from self-employment.

“(B) TREATMENT OF FAMILY MEMBERS.—
Except as otherwise provided by the Secretary
of the Treasury, the shareholder’s pro rata
share of items referred to in subparagraph (A)
shall be increased by the pro rata share of such items of each member of such shareholder’s family (within the meaning of section 318(a)(1) of the Internal Revenue Code of 1986) who does not provide substantial services with respect to such professional service business.

“(C) DISQUALIFIED S CORPORATION.—For purposes of this subsection, the term ‘disqualified S corporation’ means—

“(i) any S corporation which is a partner in a partnership which is engaged in a professional service business if substantially all of the activities of such S corporation are performed in connection with such partnership, and

“(ii) any other S corporation which is engaged in a professional service business if 80 percent or more of the gross income of such business is attributable to service of 3 or fewer shareholders of such corporation.

“(2) PARTNERS.—In the case of any partnership which is engaged in a professional service business, subsection (a)(12) shall not apply to any part-
ner who provides substantial services with respect to such professional service business.

“(3) Professional service business.—For purposes of this subsection, the term ‘professional service business’ means any trade or business (or portion thereof) providing services in the fields of health, law, lobbying, engineering, architecture, accounting, actuarial science, performing arts, consulting, athletics, investment advice or management, or brokerage services.”.

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

Subtitle C—Corporate Provisions

SEC. 421. TREATMENT OF SECURITIES OF A CONTROLLED CORPORATION EXCHANGED FOR ASSETS IN CERTAIN REORGANIZATIONS.

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

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

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

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

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

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to exchanges after the date of the enactment of this Act.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any exchange pursuant to a transaction which is—
(A) made pursuant to a written agreement which was binding on March 15, 2010, and at all times thereafter;

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date; or

(C) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

SEC. 422. TAXATION OF BOOT RECEIVED IN REORGANIZATIONS.

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

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

“(A) In general.—If an exchange”;

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

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

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

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

“(ii) the amount which is a dividend (and source thereof) shall be determined under rules similar to the rules of paragraphs (2) and (5) of section 304(b).”.

(b) EARNINGS AND PROFITS.—Paragraph (7) of section 312(n) is amended by adding at the end the following:

“A similar rule shall apply to an exchange to which section 356(a)(1) applies.”.

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

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to exchanges after the date of the enactment of this Act.

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

(A) made pursuant to a written agreement which was binding on May 20, 2010, and at all times thereafter;

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date; or

(C) described in a public announcement or filing with the Securities and Exchange Commission on or before such date.

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

**Subtitle D—Other Provisions**

**SEC. 431. MODIFICATIONS WITH RESPECT TO OIL SPILL LIABILITY TRUST FUND.**

(a) **Extension of Application of Oil Spill Liability Trust Fund Financing Rate.**—Paragraph (2) of section 4611(f) is amended by striking “December 31, 2017” and inserting “December 31, 2020”.
(b) INCREASE IN OIL SPILL LIABILITY TRUST FUND FINANCING RATE.—Subparagraph (B) of section 4611(c)(2) is amended to read as follows:

“(B) the Oil Spill Liability Trust Fund financing rate is 49 cents a barrel.”.

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

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

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

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

d) EFFECTIVE DATE.—

(1) EXTENSION OF FINANCING RATE.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) INCREASE IN FINANCING RATE.—The amendment made by subsection (b) shall apply to crude oil received and petroleum products entered during calendar quarters beginning more than 60 days after the date of the enactment of this Act.
SEC. 432. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.

The percentage under paragraph (2) of section 561 of the Hiring Incentives to Restore Employment Act in effect on the date of the enactment of this Act is increased by 36 percentage points.

SEC. 433. DENIAL OF DEDUCTION FOR PUNITIVE DAMAGES.

(a) Disallowance of Deduction for Punitive Damages.—

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

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

(B) by striking “If” and inserting:

“(1) Treble damages.—If”, and

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

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

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

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

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

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

“Gross income shall include any amount paid to or on behalf of a taxpayer as insurance or otherwise by reason of the taxpayer’s liability (or agreement) to pay punitive damages.”.

(2) REPORTING REQUIREMENTS.—Section 6041 (relating to information at source) is amended by adding at the end the following new subsection:

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

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

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

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

TITLE V—UNEMPLOYMENT, HEALTH, AND OTHER ASSISTANCE

Subtitle A—Unemployment Insurance and Other Assistance

SEC. 501. EXTENSION OF UNEMPLOYMENT INSURANCE PROVISIONS.

(a) IN GENERAL.—(1) Section 4007 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended—

(A) by striking “June 2, 2010” each place it appears and inserting “November 30, 2010”;

(B) in the heading for subsection (b)(2), by striking “JUNE 2, 2010” and inserting “NOVEMBER 30, 2010”; and

(C) in subsection (b)(3), by striking “November 6, 2010” and inserting “April 30, 2011”.

(2) Section 2005 of the Assistance for Unemployed Workers and Struggling Families Act, as contained in

(A) by striking “June 2, 2010” each place it appears and inserting “December 1, 2010”; and

(B) in subsection (c), by striking “November 6, 2010” and inserting “May 1, 2011”.


(b) FUNDING.—Section 4004(e)(1) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended—

(1) in subparagraph (D), by striking “and” at the end; and

(2) by inserting after subparagraph (E) the following:

“(F) the amendments made by section 501(a)(1) of the American Jobs and Closing Tax Loopholes Act of 2010; and”.

(c) CONDITIONS FOR RECEIVING EMERGENCY UNEMPLOYMENT COMPENSATION.—Section 4001(d)(2) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended, in the matter preceding subparagraph (A), by inserting before “shall
apply” the following: “(including terms and conditions relating to availability for work, active search for work, and refusal to accept work)”.

(d) Effective Date.—The amendments made by this section shall take effect as if included in the enactment of the Continuing Extension Act of 2010 (Public Law 111–157).

SEC. 502. COORDINATION OF EMERGENCY UNEMPLOYMENT COMPENSATION WITH REGULAR COMPENSATION.

(a) Certain Individuals Not Ineligible by Reason of New Entitlement to Regular Benefits.—Section 4002 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended by adding at the end the following:

“(g) Coordination of Emergency Unemployment Compensation with Regular Compensation.—

“(1) If—

“(A) an individual has been determined to be entitled to emergency unemployment compensation with respect to a benefit year,

“(B) that benefit year has expired,
“(C) that individual has remaining entitlement to emergency unemployment compensation with respect to that benefit year, and

“(D) that individual would qualify for a new benefit year in which the weekly benefit amount of regular compensation is at least either $100 or 25 percent less than the individual’s weekly benefit amount in the benefit year referred to in subparagraph (A),

then the State shall determine eligibility for compensation as provided in paragraph (2).

“(2) For individuals described in paragraph (1), the State shall determine whether the individual is to be paid emergency unemployment compensation or regular compensation for a week of unemployment using one of the following methods:

“(A) The State shall, if permitted by State law, establish a new benefit year, but defer the payment of regular compensation with respect to that new benefit year until exhaustion of all emergency unemployment compensation payable with respect to the benefit year referred to in paragraph (1)(A);

“(B) The State shall, if permitted by State law, defer the establishment of a new benefit
year (which uses all the wages and employment which would have been used to establish a benefit year but for the application of this paragraph), until exhaustion of all emergency unemployment compensation payable with respect to the benefit year referred to in paragraph(1)(A);

“(C) The State shall pay, if permitted by State law—

“(i) regular compensation equal to the weekly benefit amount established under the new benefit year, and

“(ii) emergency unemployment compensation equal to the difference between that weekly benefit amount and the weekly benefit amount for the expired benefit year; or

“(D) The State shall determine rights to emergency unemployment compensation without regard to any rights to regular compensation if the individual elects to not file a claim for regular compensation under the new benefit year.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to individuals whose benefit years, as described in section 4002(g)(1)(B) the Supplemental Appropriations Act, 2008 (Public Law 110–252;
U.S.C. 3304 note), as amended by this section, expire
after the date of enactment of this Act.

SEC. 503. EXTENSION OF THE EMERGENCY CONTINGENCY
FUND.

(a) IN GENERAL.—Section 403(c) of the Social Secu-

rity Act (42 U.S.C. 603(c)) is amended—

(1) in paragraph (2)(A), by inserting “, and for
fiscal year 2011, $2,500,000,000” before “for pay-
ment”;

(2) by striking paragraph (2)(B) and inserting
the following:

“(B) AVAILABILITY AND USE OF FUNDS.—

“(i) FISCAL YEARS 2009 AND 2010.—
The amounts appropriated to the Emer-
gency Fund under subparagraph (A) for
fiscal year 2009 shall remain available
through fiscal year 2010 and shall be used
to make grants to States in each of fiscal
years 2009 and 2010 in accordance with
paragraph (3), except that the amounts
shall remain available through fiscal year
2011 to make grants and payments to
States in accordance with paragraph
(3)(C) to cover expenditures to subsidize
employment positions held by individuals
placed in the positions before fiscal year 2011.

“(ii) Fiscal year 2011.—Subject to clause (iii), the amounts appropriated to the Emergency Fund under subparagraph (A) for fiscal year 2011 shall remain available through fiscal year 2012 and shall be used to make grants to States based on expenditures in fiscal year 2011 for benefits and services provided in fiscal year 2011 in accordance with the requirements of paragraph (3).

“(iii) Reservation of funds.—Of the amounts appropriated to the Emergency Fund under subparagraph (A) for fiscal year 2011, $500,000 shall be placed in reserve for use in fiscal year 2012, and shall be used to award grants for any expenditures described in this subsection incurred by States after September 30, 2011.”;

(3) in paragraph (2)(C), by striking “2010” and inserting “2012”;

(4) in paragraph (3)—
(A) in clause (i) of each of subparagraphs (A), (B), and (C)—

(i) by striking “year 2009 or 2010” and inserting “years 2009 through 2011”; 

(ii) by striking “and” at the end of subclause (I); 

(iii) by striking the period at the end of subclause (II) and inserting “; and”;

and

(iv) by adding at the end the following:

“(III) if the quarter is in fiscal year 2011, has provided the Secretary with such information as the Secretary may find necessary in order to make the determinations, or take any other action, described in paragraph (5)(C).”; and

(B) in subparagraph (C), by adding at the end the following:

“(iv) LIMITATION ON EXPENDITURES FOR SUBSIDIZED EMPLOYMENT.—An expenditure for subsidized employment shall be taken into account under clause (ii)
only if the expenditure is used to subsidize employment for—

“(I) a member of a needy family (without regard to whether the family is receiving assistance under the State program funded under this part); or

“(II) an individual who has ex-hausted (or, within 60 days, will ex-haust) all rights to receive unemploy-ment compensation under Federal and State law, and who is a member of a needy family.”;

(5) by striking paragraph (5) and inserting the following:

“(5) LIMITATIONS ON PAYMENTS; ADJUSTMENT AUTHORITY.—

“(A) FISCAL YEARS 2009 AND 2010.—The total amount payable to a single State under subsection (b) and this subsection for fiscal years 2009 and 2010 combined shall not exceed 50 percent of the annual State family assistance grant.

“(B) FISCAL YEAR 2011.—Subject to sub-paragraph (C), the total amount payable to a single State under subsection (b) and this sub-
section for fiscal year 2011 shall not exceed 30 percent of the annual State family assistance grant.

“(C) ADJUSTMENT AUTHORITY.—If the Secretary determines that the Emergency Fund is at risk of being depleted before September 30, 2011, or that funds are available to accommodate additional State requests under this subsection, the Secretary may, through program instructions issued without regard to the requirements of section 553 of title 5, United States Code—

“(i) specify priority criteria for awarding grants to States during fiscal year 2011; and

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

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

(b) CONFORMING AMENDMENTS.—Section 2101 of division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) is amended—
(1) in subsection (a)(2)—

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

(B) by striking all that follows “repealed” and inserting a period; and

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

(c) PROGRAM GUIDANCE.—The Secretary of Health and Human Services shall issue program guidance, without regard to the requirements of section 553 of title 5, United States Code, which ensures that the funds provided under the amendments made by this section to a jurisdiction for subsidized employment do not support any subsidized employment position the annual salary of which is greater than, at State option—

(1) 200 percent of the poverty line (within the meaning of section 673(2) of the Omnibus Budget Reconciliation Act of 1981, including any revision required by such section 673(2)) for a family of 4; or

(2) the median wage in the jurisdiction.
SEC. 504. REQUIRING STATES TO NOT REDUCE REGULAR
COMPENSATION IN ORDER TO BE ELIGIBLE
FOR FUNDS UNDER THE EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM.

Section 4001 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended by adding at the end the following new subsection:

“(g) NONREDUCTION RULE.—An agreement under this section shall not apply (or shall cease to apply) with respect to a State upon a determination by the Secretary that the method governing the computation of regular compensation under the State law of that State has been modified in a manner such that—

“(1) the average weekly benefit amount of regular compensation which will be payable during the period of the agreement occurring on or after June 2, 2010 (determined disregarding any additional amounts attributable to the modification described in section 2002(b)(1) of the Assistance for Unemployed Workers and Struggling Families Act, as contained in Public Law 111–5 (26 U.S.C. 3304 note; 123 Stat. 438)), will be less than

“(2) the average weekly benefit amount of regular compensation which would otherwise have been
payable during such period under the State law, as in effect on June 2, 2010.”.

Subtitle B—Health Provisions

SEC. 511. EXTENSION OF SECTION 508 RECLASSIFICATIONS.

(a) In General.—Section 106(a) of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395 note), as amended by section 117 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), section 124 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275), and sections 3137(a) and 10317 of Public Law 111–148, is amended by striking “September 30, 2010” and inserting “September 30, 2011”.

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

SEC. 512. REPEAL OF DELAY OF RUG-IV.

Effective as if included in the enactment of Public Law 111–148, section 10325 of such Act is repealed.
SEC. 513. LIMITATION ON REASONABLE COSTS PAYMENTS FOR CERTAIN CLINICAL DIAGNOSTIC LABORATORY TESTS FURNISHED TO HOSPITAL PATIENTS IN CERTAIN RURAL AREAS.

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

SEC. 514. FUNDING FOR CLAIMS REPROCESSING.

For purposes of carrying out the provisions of, and amendments made by, this Act that relate to title XVIII of the Social Security Act, and other provisions of such title that involve reprocessing of claims, there are appropriated to the Secretary of Health and Human Services for the Centers for Medicare & Medicaid Services Program Management Account, from amounts in the general fund of the Treasury not otherwise appropriated, $175,000,000. Amounts appropriated under the preceding sentence shall remain available until expended.

SEC. 515. MEDICAID AND CHIP TECHNICAL CORRECTIONS.

(a) Repeal of exclusion of certain individuals and entities from Medicaid.—Section 6502 of Public Law 111–148 is repealed and the provisions of law amended by such section are restored as if such section had never been enacted. Nothing in the previous sentence shall affect the execution or placement of the insertion made by section 6503 of such Act.
(b) INCOME LEVEL FOR CERTAIN CHILDREN UNDER MEDICAID.—Effective as if included in the enactment of Public Law 111–148, section 2001(a)(5)(B) of such Act is amended by striking all that follows “is amended” and inserting the following: “by inserting after ‘100 percent’ the following: ‘(or, beginning January 1, 2014, 133 percent’.”.

(c) CALCULATION AND PUBLICATION OF PAYMENT ERROR RATE MEASUREMENT FOR CERTAIN YEARS.—Section 601(b) of the Children’s Health Insurance Program Reauthorization Act of 2009 (Public Law 111–3) is amended by adding at the end the following: “The Secretary is not required under this subsection to calculate or publish a national or a State-specific error rate for fiscal year 2009 or fiscal year 2010.”.

(d) CORRECTIONS TO EXCEPTIONS TO EXCLUSION OF CHILDREN OF CERTAIN EMPLOYEES.—Section 2110(b)(6) of the Social Security Act (42 U.S.C. 1397jj(b)(6)) is amended—

(1) in subparagraph (B)—

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

(B) by striking “each employee” and inserting “employees”; and
(2) in subparagraph (C), by striking “, on a case-by-case basis,”.

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

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

and

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

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

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

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

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

SEC. 516. ADDITION OF INPATIENT DRUG DISCOUNT PROGRAM TO 340B DRUG DISCOUNT PROGRAM.

(a) ADDITION OF INPATIENT DRUG DISCOUNT.—

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

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

“(a) REQUIREMENTS FOR AGREEMENTS WITH THE SECRETARY.—

“(1) IN GENERAL.—
“(A) AGREEMENT.—The Secretary shall enter into an agreement with each manufacturer of covered inpatient drugs under which the amount required to be paid (taking into account any rebate or discount, as provided by the Secretary) to the manufacturer for covered inpatient drugs (other than drugs described in paragraph (3)) purchased by a covered entity on or after January 1, 2011, does not exceed an amount equal to the average manufacturer price for the drug under title XIX of the Social Security Act in the preceding calendar quarter, reduced by the rebate percentage described in paragraph (2). For a covered inpatient drug that also is a covered outpatient drug under section 340B, the amount required to be paid under the preceding sentence shall be equal to the amount required to be paid under section 340B(a)(1) for such drug. The agreement with a manufacturer under this subparagraph may, at the discretion of the Secretary, be included in the agreement with the same manufacturer under section 340B.

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

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

“(2) Rebate percentage defined.—

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

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

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

“(B) OVER THE COUNTER DRUGS.—

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

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

“(3) Drugs provided under state medicaid plans.—Drugs described in this paragraph are drugs purchased by the entity for which payment is made by the State under the State plan for medical assistance under title XIX of the Social Security Act.

“(4) Requirements for covered entities.—

“(A) Prohibiting duplicate discounts or rebates.—

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

“(ii) Establishment of mechanism.—The Secretary shall establish a mechanism to ensure that covered entities
comply with clause (i). If the Secretary does not establish a mechanism under the previous sentence within 12 months of the enactment of this section, the requirements of section 1927(a)(5)(C) of the Social Security Act shall apply.

“(iii) Prohibiting disclosure to group purchasing organizations.—In the event that a covered entity is a member of a group purchasing organization, such entity shall not disclose the price or any other information pertaining to any purchases under this section directly or indirectly to such group purchasing organization.

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

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

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

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

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

“(E) MAINTENANCE OF RECORDS.—

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

“(ii) CERTIFICATION OF NO THIRD-PARTY PAYER.—A covered entity shall maintain records that contain certification by the covered entity that no third party payment was received for any covered inpatient drug that is subject to an agreement under this subsection and that was dispensed to an inpatient.

“(5) TREATMENT OF DISTINCT UNITS OF HOSPITALS.—In the case of a covered entity that is a distinct part of a hospital, the distinct part of the hospital shall not be considered a covered entity under this subsection unless the hospital is otherwise a covered entity under this subsection.
“(6) NOTICE TO MANUFACTURERS.—The Secretary shall notify manufacturers of covered inpatient drugs and single State agencies under section 1902(a)(5) of the Social Security Act of the identities of covered entities under this subsection, and of entities that no longer meet the requirements of paragraph (4), by means of timely updates of the Internet website supported by the Department of Health and Human Services relating to this section.

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

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

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

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

“(B) for the most recent cost reporting period that ended before the calendar quarter involved, had a disproportionate share adjustment percentage (as determined using the methodology under section 1886(d)(5)(F) of the Social Security Act as in effect on the date of enactment of this section) greater than 20.20 percent or was described in section 1886(d)(5)(F)(i)(II) of such Act (as so in effect on the date of enactment of this section).

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

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

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

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

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

“(1) AVERAGE MANUFACTURER PRICE.—
“(A) IN GENERAL.—The term ‘average manufacturer price’—

“(i) has the meaning given such term in section 1927(k) of the Social Security Act, except that such term shall be applied under this section with respect to covered inpatient drugs in the same manner (as applicable) as such term is applied under such section 1927(k) with respect to covered outpatient drugs (as defined in such section); and

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

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

“(2) COVERED INPATIENT DRUG.—The term ‘covered inpatient drug’ means a drug—

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

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

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

“(3) HEALTH PLAN COVERAGE.—The term ‘health plan coverage’ means—
“(A) health insurance coverage (as defined in section 2791, and including coverage under a State health benefits risk pool);

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

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

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

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

“(d) PROGRAM INTEGRITY.—

“(1) MANUFACTURER COMPLIANCE.—

“(A) IN GENERAL.—From amounts appropriated under subsection (f), the Secretary shall provide for improvements in compliance by manufacturers with the requirements of this section in order to prevent overcharges and other violations of the discounted pricing requirements specified in this section.
“(B) IMPROVEMENTS.—The improvements described in subparagraph (A) shall include the following:

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

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

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

“(III) Conducting periodic monitoring of sales transactions by covered entities.

“(IV) Inquiring into any discrepancies between ceiling prices and
manufacturer pricing data that may be identified and taking, or requiring manufacturers to take, corrective action in response to such discrepancies, including the issuance of refunds pursuant to the procedures set forth in clause (ii).

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

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

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

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

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

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

“(II) appropriate credits and refunds are issued to covered entities if such discounts, rebates, or other price concessions have the effect of lowering the applicable ceiling price for the relevant quarter for the drugs involved.

“(v) Selective auditing of manufacturers and wholesalers to ensure the integrity
of the drug discount program under this section.

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

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

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

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

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

“(2) COVERED ENTITY COMPLIANCE.—

“(A) IN GENERAL.—From amounts appropriated under subsection (f), the Secretary shall provide for improvements in compliance by covered entities with the requirements of this section in order to prevent diversion and violations of the duplicate discount provision and other requirements specified under subsection (a)(4).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“(e) AUDIT AND SANCTIONS.—

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

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

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

“(B) the effectiveness of antidiversion prohibitions; and

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

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

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

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

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

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

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

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

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

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

(2) in subsection (c)(1)(C)(i)(I)—

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

SEC. 517. CONTINUED INCLUSION OF ORPHAN DRUGS IN DEFINITION OF COVERED OUTPATIENT DRUGS WITH RESPECT TO CHILDREN’S HOSPITALS UNDER THE 340B DRUG DISCOUNT PROGRAM.

(a) Definition of Covered Outpatient Drug.—

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

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

(b) Technical Amendment.—Subparagraph (B) of section 1927(a)(5) of the Social Security Act (42 U.S.C.
184
1 1396r–8(a)(5)) is amended by striking “and a children’s
2 hospital” and all that follows through the end of the sub-
3 paragraph and inserting a period.
4 **SEC. 518. CONFORMING AMENDMENT RELATED TO WAIVER**
5 **OF COINSURANCE FOR PREVENTIVE SERVICES.**
6 Effective as if included in section 10501(i)(2)(A) of
7 Public Law 111–148, section 1833(a)(3)(A) of the Social
8 Security Act (42 U.S.C. 1395l(a)(3)(A)) is amended by
9 striking “section 1861(s)(10)(A)” and inserting “section
10 1861(ddd)(3)”.
11 **SEC. 519. CLARIFICATION OF EFFECTIVE DATE OF PART B**
12 **SPECIAL ENROLLMENT PERIOD FOR DISABLED TRICARE BENEFICIARIES.**
13 Effective as if included in the enactment of Public
14 Law 111–148, section 3110(a)(2) of such Act is amended
15 to read as follows:
16 “(2) **EFFECTIVE DATE.**—The amendment made
17 by paragraph (1) shall apply to elections made after
18 the date of the enactment of this Act.”.
19 **SEC. 520. ADJUSTMENT TO MEDICARE PAYMENT LOCALITIES.**
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:
“(6) TRANSITION TO USE OF MSAS AS FEE SCHEDULE AREAS IN CALIFORNIA.—

“(A) IN GENERAL.—

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

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

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

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

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

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

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

“(VII) For purposes of the
iterative process described in this
clause, if two MSAs have identical
GAFs, they shall be combined.

“(ii) TRANSITION.—For services fur-
nished on or after January 1, 2012, and
before January 1, 2017, in the State of
California, after calculating the work, prac-
tice expense, and malpractice geographic
indices that would otherwise be determined
under clauses (i), (ii), and (iii) of paragraph (1)(A) for a fee schedule area determined under clause (i), if the index for a county within a fee schedule area is less than the index that would otherwise be in effect for such county, the Secretary shall instead apply the index that would otherwise be in effect for such county.

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

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

(b) Conforming Amendment to Definition of Fee Schedule Area.—Section 1848(j)(2) of the Social Security Act (42 U.S.C. 1395w(j)(2)) is amended by striking “The term” and inserting “Except as provided in subsection (e)(6)(C), the term”.

SEC. 521. EXTENSION OF ARRA INCREASE IN FMAP.

Section 5001 of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) is amended—

(1) in subsection (a)(3), by striking “first calendar quarter” and inserting “first 3 calendar quarters”;

(2) in subsection (b)—

(A) in paragraph (1), by striking “paragraph (2)” and inserting “paragraphs (2) and (3)” ; and

(B) by adding at the end the following:

“(3) Phase-down of General Increase.—

“(A) Second Quarter of Fiscal Year 2011.—For each State, for the second quarter of fiscal year 2011, the FMAP for the State shall be increased under paragraph (1) or (2) (as applicable) by 5.3 percentage points.
“(B) THIRD QUARTER OF FISCAL YEAR 2011.—For each State, for the third quarter of fiscal year 2011, the FMAP for the State shall be increased under paragraph (1) or (2) (as applicable) by 3.2 percentage points.”;

(3) in subsection (c)—

(A) in paragraph (2)(B), by striking “July 1, 2010” and inserting “January 1, 2011”;

(B) in paragraph (3)(B)(i), by striking “July 1, 2010” and inserting “January 1, 2011” each place it appears; and

(C) in paragraph (4)(C)(ii), by striking “the 3-consecutive-month period beginning with January 2010” and inserting “any 3-consecutive-month period that begins after December 2009 and ends before January 2011”;

(4) in subsection (e), by adding at the end the following:

“Notwithstanding paragraph (5), effective for payments made on or after January 1, 2010, the increases in the FMAP for a State under this section shall apply to payments under title XIX of such Act that are attributable to expenditures for medical assistance provided to non-pregnant childless adults made eligible under a State plan under such title (including under any waiver under such
who would have been eligible for child health assistance or other health benefits under eligibility standards in effect as of December 31, 2009, of a waiver of the State child health plan under the title XXI of such Act.”;

(5) in subsection (g)—

(A) in paragraph (1), by striking “September 30, 2011” and inserting “March 31, 2012”;

(B) in paragraph (2), by inserting “of such Act” after “1923”; and

(C) by adding at the end the following:

“(3) Certification by Chief Executive Officer.—No additional Federal funds shall be paid to a State as a result of this section with respect to a calendar quarter occurring during the period beginning on January 1, 2011, and ending on June 30, 2011, unless, not later than 45 days after the date of enactment of this paragraph, the chief executive officer of the State certifies that the State will request and use such additional Federal funds.”;

and

(6) in subsection (h)(3), by striking “December 31, 2010” and inserting “June 30, 2011”.
SEC. 522. CLARIFICATION FOR AFFILIATED HOSPITALS FOR DISTRIBUTION OF ADDITIONAL RESIDENCY POSITIONS.

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

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

TITLE VI—OTHER PROVISIONS

SEC. 601. EXTENSION OF NATIONAL FLOOD INSURANCE PROGRAM.

(a) EXTENSION.—Section 129 of the Continuing Appropriations Resolution, 2010 (Public Law 111–68), as amended by section 7(a) of Public Law 111–157, is amended by striking “by substituting” and all that follows through the period at the end, and inserting “by sub-
stituting December 31, 2010, for the date specified in each such section.”.

(b) Effective Date.—The amendments made by subsection (a) shall be considered to have taken effect on May 31, 2010.

SEC. 602. ALLOCATION OF GEOTHERMAL RECEIPTS.

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

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

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

(3) 25 percent shall be deposited in miscellaneous receipts.

SEC. 603. SMALL BUSINESS LOAN GUARANTEE ENHANCEMENT EXTENSIONS.

(a) Appropriation.—There is appropriated, out of any funds in the Treasury not otherwise appropriated, for
an additional amount for “Small Business Administration—Business Loans Program Account”, $505,000,000, to remain available through December 31, 2010, for the cost of—

(1) fee reductions and eliminations under section 501 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 151), as amended by this section; and

(2) loan guarantees under section 502 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 152), as amended by this section.

Such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

(b) EXTENSION OF PROGRAMS.—


153) is amended by striking “May 31, 2010” and inserting “December 31, 2010”.

(c) APPROPRIATION.—There is appropriated for an additional amount, out of any funds in the Treasury not otherwise appropriated, for administrative expenses to carry out sections 501 and 502 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5), $5,000,000, to remain available until expended, which may be transferred and merged with the appropriation for “Small Business Administration—Salaries and Expenses”.

SEC. 604. EMERGENCY AGRICULTURAL DISASTER ASSISTANCE.

(a) DEFINITIONS.—Except as otherwise provided in this section, in this section:

(1) DISASTER COUNTY.—

(A) IN GENERAL.—The term “disaster county” means a county included in the geographic area covered by a qualifying natural disaster declaration for the 2009 crop year.

(B) EXCLUSION.—The term “disaster county” does not include a contiguous county.

(2) ELIGIBLE AQUACULTURE PRODUCER.—The term “eligible aquaculture producer” means an
aquaculture producer that during the 2009 calendar year, as determined by the Secretary—

(A) produced an aquaculture species for which feed costs represented a substantial percentage of the input costs of the aquaculture operation; and

(B) experienced a substantial price increase of feed costs above the previous 5-year average.

(3) ELIGIBLE PRODUCER.—The term “eligible producer” means an agricultural producer in a disaster county.

(4) ELIGIBLE SPECIALTY CROP PRODUCER.—The term “eligible specialty crop producer” means an agricultural producer that, for the 2009 crop year, as determined by the Secretary—

(A) produced, or was prevented from planting, a specialty crop; and

(B) experienced specialty crop losses in a disaster county due to drought, excessive rainfall, or a related condition.

(5) QUALIFYING NATURAL DISASTER DECLARATION.—The term “qualifying natural disaster declaration” means a natural disaster declared by the Secretary for production losses under section 321(a)
of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)).

(6) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

(7) SPECIALTY CROP.—The term “specialty crop” has the meaning given the term in section 3 of the Specialty Crops Competitiveness Act of 2004 (Public Law 108–465; 7 U.S.C. 1621 note).

(b) SUPPLEMENTAL DIRECT PAYMENT.—

(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use such sums as are necessary to make supplemental payments under sections 1103 and 1303 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8713, 8753) to eligible producers on farms located in disaster counties that had at least 1 crop of economic significance (other than specialty crops or crops intended for grazing) suffer at least a 5-percent crop loss on a farm due to a natural disaster, including quality losses, as determined by the Secretary, in an amount equal to 90 percent of the direct payment the eligible producers received for the 2009 crop year on the farm.

(2) ACRE PROGRAM.—Eligible producers that received direct payments under section 1105 of the
Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8715) for the 2009 crop year and that otherwise meet the requirements of paragraph (1) shall be eligible to receive supplemental payments under that paragraph in an amount equal to 112.5 percent of the reduced direct payment the eligible producers received for the 2009 crop year under section 1103 or 1303 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8713, 8753).

(3) RELATIONSHIP TO OTHER LAW.—Assistance received under this subsection shall be included in the calculation of farm revenue for the 2009 crop year under section 531(b)(4)(A) of the Federal Crop Insurance Act (7 U.S.C. 1531(b)(4)(A)) and section 901(b)(4)(A) of the Trade Act of 1974 (19 U.S.C. 2497(b)(4)(A)).

(c) SPECIALTY CROP ASSISTANCE.—

(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use not more than $300,000,000, to remain available until September 30, 2011, to carry out a program of grants to States to assist eligible specialty crop producers for losses due to a natural disaster affecting the 2009 crops, of which not more than—
(A) $150,000,000 shall be used to assist eligible specialty crop producers in counties that have been declared a disaster as the result of drought; and

(B) $150,000,000 shall be used to assist eligible specialty crop producers in counties that have been declared a disaster as the result of excessive rainfall or a related condition.

(2) NOTIFICATION.—Not later than 45 days after the date of enactment of this Act, the Secretary shall notify the State department of agriculture (or similar entity) in each State of the availability of funds to assist eligible specialty crop producers, including such terms as are determined by the Secretary to be necessary for the equitable treatment of eligible specialty crop producers.

(3) PROVISION OF GRANTS.—

(A) IN GENERAL.—The Secretary shall make grants to States for disaster counties on a pro rata basis based on the value of specialty crop losses in those counties during the 2009 calendar year, as determined by the Secretary.

(B) ADMINISTRATIVE COSTS.—State Secretary of Agriculture may not use more than five percent of the funds provided for costs as-
associated with the administration of the grants
provided in paragraph (1).

(C) Administration of grants.—State
Secretary of Agriculture may enter into a con-
tact with the Department of Agriculture to ad-
minister the grants provided in paragraph (1).

(D) Timing.—Not later than 90 days after
the date of enactment of this Act, the Secretary
shall make grants to States to provide assist-
ance under this subsection.

(E) Maximum Grant.—The maximum
amount of a grant made to a State for counties
described in paragraph (1)(B) may not exceed
$40,000,000.

(4) Requirements.—The Secretary shall
make grants under this subsection only to States
that demonstrate to the satisfaction of the Secretary
that the State will—

(A) use grant funds to issue payments to
eligible specialty crop producers;

(B) provide assistance to eligible specialty
crop producers not later than 60 days after the
date on which the State receives grant funds;

and
(C) not later than 30 days after the date on which the State provides assistance to eligible specialty crop producers, submit to the Secretary a report that describes—

(i) the manner in which the State provided assistance;

(ii) the amounts of assistance provided by type of specialty crop; and

(iii) the process by which the State determined the levels of assistance to eligible specialty crop producers.

(D) RELATION TO OTHER LAW.—Assistance received under this subsection shall be included in the calculation of farm revenue for the 2009 crop year under section 531(b)(4)(A) of the Federal Crop Insurance Act (7 U.S.C. 1531(b)(4)(A)) and section 901(b)(4)(A) of the Trade Act of 1974 (19 U.S.C. 2497(b)(4)(A)).

(d) COTTONSEED ASSISTANCE.—

(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use not more than $42,000,000 to provide supplemental assistance to eligible producers and first-handlers of the 2009 crop of cottonseed in a disaster county.
(2) **GENERAL TERMS.**—Except as otherwise provided in this subsection, the Secretary shall provide disaster assistance under this subsection under the same terms and conditions as assistance provided under section 3015 of the Emergency Agricultural Disaster Assistance Act of 2006 (title III of Public Law 109–234; 120 Stat. 477).

(3) **DISTRIBUTION OF ASSISTANCE.**—The Secretary shall distribute assistance to first handlers for the benefit of eligible producers in a disaster county in an amount equal to the product obtained by multiplying—

(A) the payment rate, as determined under paragraph (4); and

(B) the county-eligible production, as determined under paragraph (5).

(4) **PAYMENT RATE.**—The payment rate shall be equal to the quotient obtained by dividing—

(A) the total funds made available to carry out this subsection; by

(B) the sum of the county-eligible production, as determined under paragraph (5).

(5) **COUNTY-ELIGIBLE PRODUCTION.**—The county-eligible production shall be equal to the product obtained by multiplying—
(A) the number of acres planted to cotton
in the disaster county, as reported to the Sec-
retary by first handlers;

(B) the expected cotton lint yield for the
disaster county, as determined by the Secretary
based on the best available information; and

(C) the national average seed-to-lint ratio,
as determined by the Secretary based on the
best available information for the 5 crop years
immediately preceding the 2009 crop, excluding
the year in which the average ratio was the
highest and the year in which the average ratio
was the lowest in such period.

(e) AQUACULTURE ASSISTANCE.—

(1) IN GENERAL.—Of the funds of the Com-
modity Credit Corporation, the Secretary shall use
not more than $25,000,000, to remain available
until September 30, 2011, to carry out a program
of grants to States to assist eligible aquaculture pro-
ducers for losses associated with high feed input
costs during the 2009 calendar year.

(2) NOTIFICATION.—Not later than 45 days
after the date of enactment of this Act, the Sec-
retary shall notify the State department of agri-
culture (or similar entity) in each State of the avail-
ability of funds to assist eligible aquaculture producers, including such terms as are determined by the Secretary to be necessary for the equitable treatment of eligible aquaculture producers.

(3) Provision of Grants.—

(A) In general.—The Secretary shall make grants to States under this subsection on a pro rata basis based on the amount of aquaculture feed used in each State during the 2009 calendar year, as determined by the Secretary.

(B) Timing.—Not later than 90 days after the date of enactment of this Act, the Secretary shall make grants to States to provide assistance under this subsection.

(4) Requirements.—The Secretary shall make grants under this subsection only to States that demonstrate to the satisfaction of the Secretary that the State will—

(A) use grant funds to assist eligible aquaculture producers;

(B) provide assistance to eligible aquaculture producers not later than 60 days after the date on which the State receives grant funds; and
(C) not later than 30 days after the date
on which the State provides assistance to eligi-
ble aquaculture producers, submit to the Sec-
retary a report that describes—

(i) the manner in which the State pro-
vided assistance;

(ii) the amounts of assistance pro-
vided per species of aquaculture; and

(iii) the process by which the State
determined the levels of assistance to eligi-
ble aquaculture producers.

(5) REDUCTION IN PAYMENTS.—An eligible
aquaculture producer that receives assistance under
this subsection shall not be eligible to receive any
other assistance under the supplemental agricultural
disaster assistance program established under sec-
tion 531 of the Federal Crop Insurance Act (7
U.S.C. 1531) and section 901 of the Trade Act of
1974 (19 U.S.C. 2497) for any losses in 2009 relat-
ing to the same species of aquaculture.

(6) REPORT TO CONGRESS.—Not later than
240 days after the date of enactment of this Act, the
Secretary shall submit to the appropriate committees
of Congress a report that—
(A) describes in detail the manner in which this subsection has been carried out; and

(B) includes the information reported to the Secretary under paragraph (4)(C).

(f) HAWAII TRANSPORTATION COOPERATIVE.—Notwithstanding any other provision of law, the Secretary shall use $21,000,000 of funds of the Commodity Credit Corporation to make a payment to an agricultural transportation cooperative in the State of Hawaii, the members of which are eligible to participate in the commodity loan program of the Farm Service Agency, for assistance to maintain and develop employment.

(g) LIVESTOCK FORAGE DISASTER PROGRAM.—

(1) Definition of disaster county.—In this subsection:

(A) In general.—The term “disaster county” means a county included in the geographic area covered by a qualifying natural disaster declaration announced by the Secretary in calendar year 2009.

(B) Inclusion.—The term “disaster county” includes a contiguous county.

(2) Payments.—Of the funds of the Commodity Credit Corporation, the Secretary shall use not more than $50,000,000 to carry out a program
to make payments to eligible producers that had
grazing losses in disaster counties in calendar year
2009.

(3) CRITERIA.—

(A) IN GENERAL.—Except as provided in
subparagraph (B), assistance under this sub-
section shall be determined under the same cri-
teria as are used to carry out the programs
under section 531(d) of the Federal Crop In-
surance Act (7 U.S.C. 1531(d)) and section
901(d) of the Trade Act of 1974 (19 U.S.C.
2497(d)).

(B) DROUGHT INTENSITY.—For purposes
of this subsection, an eligible producer shall not
be required to meet the drought intensity re-
quirements of section 531(d)(3)(D)(ii) of the
Federal Crop Insurance Act (7 U.S.C.
1531(d)(3)(D)(ii)) and section 901(d)(3)(D)(ii)
of the Trade Act of 1974 (19 U.S.C.
2497(d)(3)(D)(ii)).

(4) AMOUNT.—Assistance under this subsection
shall be in an amount equal to 1 monthly payment
using the monthly payment rate under section
531(d)(3)(B) of the Federal Crop Insurance Act (7

(5) RELATION TO OTHER LAW.—An eligible producer that receives assistance under this subsection shall be ineligible to receive assistance for 2009 grazing losses under the program carried out under section 531(d) of the Federal Crop Insurance Act (7 U.S.C. 1531(d)) and section 901(d) of the Trade Act of 1974 (19 U.S.C. 2497(d)).

(h) EMERGENCY LOANS FOR POULTRY PRODUCERS.—

(1) DEFINITIONS.—In this subsection:

(A) ANNOUNCEMENT DATE.—The term “announcement date” means the date on which the Secretary announces the emergency loan program under this subsection.

(B) POULTRY INTEGRATOR.—The term “poultry integrator” means a poultry integrator that filed proceedings under chapter 11 of title 11, United States Code, in United States Bankruptcy Court during the 30-day period beginning on December 1, 2008.

(2) LOAN PROGRAM.—

(A) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary
shall use not more than $75,000,000, to remain available until expended, for the cost of making no-interest emergency loans available to poultry producers that meet the requirements of this subsection.

(B) Terms and Conditions.—Except as otherwise provided in this subsection, emergency loans under this subsection shall be subject to such terms and conditions as are determined by the Secretary.

(3) Loans.—

(A) In General.—An emergency loan made to a poultry producer under this subsection shall be for the purpose of providing financing to the poultry producer in response to financial losses associated with the termination or nonrenewal of any contract between the poultry producer and a poultry integrator.

(B) Eligibility.—

(i) In General.—To be eligible for an emergency loan under this subsection, not later than 90 days after the announcement date, a poultry producer shall submit to the Secretary evidence that—
(I) the contract of the poultry producer described in subparagraph (A) was not continued; and

(II) no similar contract has been awarded subsequently to the poultry producer.

(ii) Requirement to offer loans.—Notwithstanding any other provision of law, if a poultry producer meets the eligibility requirements described in clause (i), subject to the availability of funds under paragraph (2)(A), the Secretary shall offer to make a loan under this subsection to the poultry producer with a minimum term of 2 years.

(4) Additional requirements.—

(A) In general.—A poultry producer that receives an emergency loan under this subsection may use the emergency loan proceeds only to repay the amount that the poultry producer owes to any lender for the purchase, improvement, or operation of the poultry farm.

(B) Conversion of the loan.—A poultry producer that receives an emergency loan under this subsection shall be eligible to have
the balance of the emergency loan converted,
but not refinanced, to a loan that has the same
terms and conditions as an operating loan
under subtitle B of the Consolidated Farm and
Rural Development Act (7 U.S.C. 1941 et seq.).

(i) STATE AND LOCAL GOVERNMENTS.—Section
1001 of the Food Security Act of 1985 (7 U.S.C. 1308)
is amended—

(1) in subsection (f)(6)—

(A) in subparagraph (A), by inserting
“and subparagraph (C)” after “subsection (d)”;
and

(B) by adding at the end the following:

d“(C) CONSERVATION RESERVE PROGRAM.—Subparagraph (A) shall not apply to
payments under the conservation reserve pro-
gram established under subchapter B of chapter
1 of subtitle D of title XII if—

d“(i) except as otherwise provided in
this paragraph or section 1234(f)(4), the
payments are generally subject to the same
limits applicable to other payees;

d“(ii) the payments, and any payments
made under other programs to a State
under subsection (g), are not subject to

limits on adjusted gross income under section 1001D;

“(iii) the Secretary establishes an exemption to the limitation on the payments that is similar to the public school land exception under subsection (g) except that under this subparagraph, all States may receive the unlimited school land exemption as applicable without regard to the size of the population of the State; and

“(iv) for purposes of the payments, a State and any political subdivisions and agencies of the State shall be treated as 1 entity.”; and

(2) in subsection (g), by adding at the end the following:

“(3) EXCEPTION FOR ADJUSTED GROSS INCOME LIMITATION.—The limitations described in section 1001D shall not apply to this subsection.”.

(j) ADMINISTRATION.—

(1) REGULATIONS.—

(A) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall promulgate such regulations as are
necessary to implement this section and the amendment made by this section.

(B) PROCEDURE.—The promulgation of the regulations and administration of this section and the amendment made by this section shall be made without regard to—

(i) the notice and comment provisions of section 553 of title 5, United States Code;

(ii) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(iii) chapter 35 of title 44, United States Code (commonly known as the “Paperwork Reduction Act”).

(C) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this paragraph, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

(2) ADMINISTRATIVE COSTS.—Of the funds of the Commodity Credit Corporation, the Secretary may use up to $10,000,000 to pay administrative
costs incurred by the Secretary that are directly related to carrying out this Act.

(3) PROHIBITION.—None of the funds of the Agricultural Disaster Relief Trust Fund established under section 902 of the Trade Act of 1974 (19 U.S.C. 2497a) may be used to carry out this Act.

SEC. 605. SUMMER EMPLOYMENT FOR YOUTH.

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

**SEC. 606. HOUSING TRUST FUND.**

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

(b) Amendments.—Section 1338 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4568) is amended—

(1) in subsection (e)—

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

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

(C) in paragraph (7)(A)—

(i) by striking “section 1335(a)(2)(B)” and inserting “section 1335(a)(1)(B)”; and
(ii) by inserting “the units funded under” after “75 percent of”; and

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

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


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

(b) DEFINITIONS.—In this section:

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

(2) LAND CONSOLIDATION PROGRAM.—The term “Land Consolidation Program” means a program conducted in accordance with the Settlement and the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) under which the Secretary may purchase fractional interests in trust or restricted land.
(3) Litigation.—The term “Litigation” means the case entitled Elouise Cobell et al. v. Ken Salazar et al., United States District Court, District of Columbia, Civil Action No. 96–1285 (JR).

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

(5) Secretary.—The term “Secretary” means the Secretary of the Interior.

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

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

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

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

(e) Jurisdictional Provisions.—

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

(2) CERTIFICATION OF TRUST ADMINISTRATION CLASS.—

(A) IN GENERAL.—Notwithstanding the requirements of the Federal Rules of Civil Procedure, the court overseeing the Litigation may certify the Trust Administration Class.

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

(f) TRUST LAND CONSOLIDATION.—

(1) TRUST LAND CONSOLIDATION FUND.—

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

(B) AVAILABILITY OF AMOUNTS.— Amounts in the Trust Land Consolidation Fund shall be made available to the Secretary during the 10-year period beginning on the date of final approval of the Settlement—
(i) to conduct the Land Consolidation Program; and
(ii) for other costs specified in the Settlement.

(C) DEPOSITS.—

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

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

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

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

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

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

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

(g) TAXATION AND OTHER BENEFITS.—

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

(A) shall not be included in gross income;

and

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

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

(A) as income for the month during which the amounts were received; or

(B) as a resource.

SEC. 608. APPROPRIATION OF FUNDS FOR FINAL SETTLEMENT OF CLAIMS FROM IN RE BLACK FARMERS DISCRIMINATION LITIGATION.

(a) DEFINITIONS.—In this section:

(1) SETTLEMENT AGREEMENT.—The term “Settlement Agreement” means the settlement agreement dated February 18, 2010 (including any modifications agreed to by the parties and approved by the court under that agreement) between certain plaintiffs, by and through their counsel, and the Secretary of Agriculture to resolve, fully and forever, the claims raised or that could have been raised in the cases consolidated in In re Black Farmers Discrimination Litigation, No. 08–511 (D.D.C.), including Pigford claims asserted under section 14012 of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 2209).
(2) Pigford Claim.—The term “Pigford claim” has the meaning given that term in section 14012(a)(3) of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 2210).

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

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

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

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

(1) in subsection (c)(1)—

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

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

(2) by striking subsection (e);
(3) in subsection (g), by striking “subsection (f)” and inserting “subsection (e)”;
(4) in subsection (i)—
   (A) by striking “(1) In general.—Of the funds” and inserting “Of the funds”; and
   (B) by striking paragraph (2);
(5) by striking subsection (j); and
(6) by redesignating subsections (f), (g), (h), (i), and (k) as subsections (e), (f), (g), (h), and (i), respectively.

SEC. 609. 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.

(a) Phased Expansion Concurrent Receipt.—
Subsection (a) of section 1414 of title 10, United States Code, is amended to read as follows:
“(a) Payment of Both Retired Pay and Disability Compensation.—
“(1) Payment of both required.—
“(A) In general.—Subject to subsection (b), a member or former member of the uniformed services who is entitled for any month
to retired pay and who is also entitled for that month to veterans’ disability compensation for a qualifying service-connected disability (in this section referred to as a ‘qualified retiree’) is entitled to be paid both for that month without regard to sections 5304 and 5305 of title 38.

“(B) Applicability of full concurrent receipt phase-in requirement.—During the period beginning on January 1, 2004, and ending on December 31, 2013, payment of retired pay to a qualified retiree is subject to subsection (c).

“(C) Phase-in exception for 100 percent disabled retirees.—The payment of retired pay is subject to subsection (c) only during the period beginning on January 1, 2004, and ending on December 31, 2004, in the case of the following qualified retirees:

“(i) A qualified retiree receiving veterans’ disability compensation for a disability rated as 100 percent.

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

“(D) Temporary phase-in exception
for certain Chapter 61 disability retirees; termination.—Subject to subsection (b),
during the period beginning on January 1,
2011, and ending on September 30, 2012, sub-
section (c) shall not apply to a qualified retiree
described in subparagraph (B) or (C) of para-
graph (2).

“(2) Qualifying service-connected dis-
ability defined.—In this section:

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

“(B) Inclusion of Members Not Otherwise Entitled to Retired Pay.—In the case of a member or former member receiving retired pay under chapter 61 of this title, but who is not otherwise entitled to retired pay under any other provision of this title, the term ‘qualifying service-connected disability’ means a service-connected disability or combination of service-connected disabilities that is rated by the Secretary of Veterans Affairs at the disabling level specified in one of the following clauses (which, subject to paragraph (3), is effective on or after the date specified in the applicable clause):

“(i) January 1, 2011, rated 100 percent, or a rate payable at 100 percent by reason of individual unemployability or rated 90 percent.
“(ii) January 1, 2012, rated 80 percent or 70 percent.

“(iii) January 1, 2013, rated 60 percent or 50 percent.

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

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

“(ii) January 1, 2015, any rating.

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

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

“(B) shall not apply beyond the termination date specified in paragraph (1)(D).”.

(b) Conforming Amendment to Special Rules for Chapter 61 Disability Retirees.—Subsection (b) of such section is amended to read as follows:

“(b) Special Rules for Chapter 61 Disability Retirees When Eligibility Has Been Established for Such Retirees.—

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

“(2) Chapter 61 retirees not otherwise entitled to retired pay.—

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

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

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

(d) Clerical Amendments.—

(1) Section heading.—The heading of such section is amended to read as follows:
§ 1414. Concurrent receipt of retired pay and veterans’ disability compensation.

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

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

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

SEC. 610. EXTENSION OF USE OF 2009 POVERTY GUIDELINES.

Section 1012 of the Department of Defense Appropriations Act, 2010 (Public Law 111–118), as amended by section 6 of the Continuing Extension Act of 2010 (Public Law 111–157), is amended—

(1) by striking “before May 31, 2010”; and

(2) by inserting “for 2011” after “until updated poverty guidelines”.

SEC. 611. REFUNDS DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.

(a) IN GENERAL.—Subchapter A of chapter 65 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:
SEC. 6409. REFUNDS DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.

(a) In General.—Notwithstanding any other provision of law, any refund (or advance payment with respect to a refundable credit) made to any individual under this title shall not be taken into account as income, and shall not be taken into account as resources for a period of 12 months from receipt, for purposes of determining the eligibility of such individual (or any other individual) for benefits or assistance (or the amount or extent of benefits or assistance) under any Federal program or under any State or local program financed in whole or in part with Federal funds.

(b) Termination.—Subsection (a) shall not apply to any amount received after December 31, 2010.’’.

(b) Clerical Amendment.—The table of sections for such subchapter is amended by adding at the end the following new item:

“Sec. 6409. Refunds disregarded in the administration of Federal programs and federally assisted programs.”.

(c) Effective Date.—The amendments made by this section shall apply to amounts received after December 31, 2009.
SEC. 612. STATE COURT IMPROVEMENT PROGRAM.
Section 438 of the Social Security Act (42 U.S.C. 629h) is amended—

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

(2) in subsection (e), by striking “2010” and inserting “2011”.

SEC. 613. QUALIFYING TIMBER CONTRACT OPTIONS.
(a) DEFINITIONS.—In this section:

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

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

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

(C) The contract is not a salvage sale.

(D) The Secretary determined there is not an urgent need to harvest under the contract due to deteriorating timber conditions that developed after the award of the contract.
(2) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior, acting through the Director of Bureau of Land Management.

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

(b) **MARKET-RELATED CONTRACT EXTENSION OPTION.**—Upon a timber purchaser’s written request, the Secretary may make a one-time modification to the qualifying contract to add 3 years to the contract expiration date if the written request—

1. is received by the Secretary not later than 90 days after the date of enactment of this Act; and
2. contains a provision releasing the United States from all liability, including further consideration or compensation, resulting from the modification under this subsection of the term of a qualifying contract.

(c) **REPORTING.**—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to Congress a report detailing a plan and timeline to promulgate new regulations authorizing the Bureau of Land Management to extend timber contracts due to changes in market conditions.
(d) Regulations.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall promulgate new regulations authorizing the Bureau of Land Management to extend timber contracts due to changes in market conditions.

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

SEC. 614. EXTENSION AND FLEXIBILITY FOR CERTAIN ALLOCATED SURFACE TRANSPORTATION PROGRAMS.

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

(1) in paragraph (1)—

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

(i) by striking “1301, 1302,”; and

(ii) by striking “1198, 1204,”; and

(B) in subparagraph (A)—

(i) in the matter preceding clause (i) by striking “apportioned under sections
(2) in paragraph (2)—

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

(i) by striking “1301, 1302,”; and

(ii) by striking “1198, 1204,”; and

(B) in subparagraph (A)—

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

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

(3) by adding at the end the following:

“(5) PROJECTS OF NATIONAL AND REGIONAL SIGNIFICANCE AND NATIONAL CORRIDOR INFRA-STRUCTURE IMPROVEMENT PROGRAMS.—

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

“(B) DISTRIBUTION AMONG PROGRAMS.— Funds apportioned to a State pursuant to subparagraph (A) shall be—

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

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

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

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

(b) EXPENDITURE AUTHORITY FROM HIGHWAY TRUST FUND.—Paragraph (1) of section 9503(c) of the Internal Revenue Code of 1986 is amended by striking “Surface Transportation Extension Act of 2010” and inserting “American Jobs and Closing Tax Loopholes Act of 2010”.

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

(d) Savings Clause.—

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

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

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

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

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

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

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

(4) **Increase in Obligation Limitation.**—

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

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

(6) **Amounts.**—The dollar amount specified in section 105(d)(1) of title 23, United States Code, the dollar amount specified in section 120(a)(4)(B) of title I of division A of the Consolidated Appropriations Act, 2010 (Public Law 111–117), and the dollar amount specified in section 120(b)(10) of such title shall each be increased as necessary to carry out this subsection.
SEC. 615. COMMUNITY COLLEGE AND CAREER TRAINING

GRANT PROGRAM.

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

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

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

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

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

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

(1) in subsection (a), by striking the last sentence; and
(2) by adding at the end the following:

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

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

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

SEC. 616. EXTENSIONS OF DUTY SUSPENSIONS ON COTTON SHIRTING FABRICS AND RELATED PROVISIONS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) in subsection (b)—

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

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

(2) in subsection (d)—

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

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

(3) in subsection (f)—

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

(B) in paragraph (1), by inserting “during the year in which the affidavit is filed and” after “United States”.
(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act and apply with respect to affidavits filed on or after such date of enactment.

Sec. 617. Modification of Wool Apparel Manufacturers Trust Fund.

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

(b) Full Restoration of Payment Levels in Fiscal Year 2010.—

(1) Transfer of amounts.—

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

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

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

(2) Payment of Amounts.—U.S. Customs and Border Protection shall make payments described in paragraph (1) to eligible manufacturers not later than 30 days after such transfer of amounts from the general fund of the Treasury of the United States to the Wool Apparel Manufacturers Trust Fund. The Secretary of Commerce shall promptly provide grants described in paragraph (1) to eligible manufacturers after such transfer of amounts from the general fund of the Treasury of the United States to the Wool Apparel Manufacturers Trust Fund.

(c) Rule of Construction.—The amendment made by subsection (a) shall not be construed to affect the availability of amounts transferred to the Wool Apparel Manufacturers Trust Fund before the date of the enactment of this Act.

SEC. 618. DEPARTMENT OF COMMERCE STUDY.

Not later than 180 days after the date of enactment of this Act, the Secretary of Commerce shall report to Congress detailing—
(1) the pattern of job loss in the New England, Mid-Atlantic, and Midwest States over the past 20 years;

(2) the role of the off-shoring of manufacturing jobs in overall job loss in the regions; and

(3) recommendations to attract industries and bring jobs to the region.

SEC. 619. ARRA PLANNING AND REPORTING.

Section 1512 of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 287) is amended—

(1) in subsection (d)—

(A) in the subsection heading, by inserting “PLANS AND” after “AGENCY”; 

(B) by striking “Not later than” and inserting the following:

“(1) DEFINITION.—In this subsection, the term ‘covered program’ means a program for which funds are appropriated under this division—

“(A) in an amount that is—

“(i) more than $2,000,000,000; and

“(ii) more than 150 percent of the funds appropriated for the program for fiscal year 2008; or
“(B) that did not exist before the date of enactment of this Act.

“(2) PLANS.—Not later than July 1, 2010, the head of each agency that distributes recovery funds shall submit to Congress and make available on the website of the agency a plan for each covered program, which shall, at a minimum, contain—

“(A) a description of the goals for the covered program using recovery funds;

“(B) a discussion of how the goals described in subparagraph (A) relate to the goals for ongoing activities of the covered program, if applicable;

“(C) a description of the activities that the agency will undertake to achieve the goals described in subparagraph (A);

“(D) a description of the total recovery funding for the covered program and the recovery funding for each activity under the covered program, including identifying whether the activity will be carried out using grants, contracts, or other types of funding mechanisms;

“(E) a schedule of milestones for major phases of the activities under the covered program, with planned delivery dates;
“(F) performance measures the agency will use to track the progress of each of the activities under the covered program in meeting the goals described in subparagraph (A), including performance targets, the frequency of measurement, and a description of the methodology for each measure;

“(G) a description of the process of the agency for the periodic review of the progress of the covered program towards meeting the goals described in subparagraph (A); and

“(H) a description of how the agency will hold program managers accountable for achieving the goals described in subparagraph (A).

“(3) REPORTS.—

“(A) IN GENERAL.—Not later than”; and

(C) by adding at the end the following:

“(B) REPORTS ON PLANS.—Not later than 30 days after the end of the calendar quarter ending September 30, 2010, and every calendar quarter thereafter during which the agency obligates or expends recovery funds, the head of each agency that developed a plan for a covered program under paragraph (2) shall submit to Congress and make available on a website of
the agency a report for each covered program that—

“(i) discusses the progress of the agency in implementing the plan;

“(ii) describes the progress towards achieving the goals described in paragraph (2)(A) for the covered program;

“(iii) discusses the status of each activity carried out under the covered program, including whether the activity is completed;

“(iv) details the unobligated and unexpired balances and total obligations and outlays under the covered program;

“(v) discusses—

“(I) whether the covered program has met the milestones for the covered program described in paragraph (2)(E);

“(II) if the covered program has failed to meet the milestones, the reasons why; and

“(III) any changes in the milestones for the covered program, including the reasons for the change;
“(vi) discusses the performance of the covered program, including—

“(I) whether the covered program has met the performance measures for the covered program described in paragraph (2)(F);

“(II) if the covered program has failed to meet the performance measures, the reasons why; and

“(III) any trends in information relating to the performance of the covered program; and

“(vii) evaluates the ability of the covered program to meet the goals of the covered program given the performance of the covered program.”;

(2) in subsection (f)—

(A) by striking “Within 180 days” and inserting the following:

“(1) IN GENERAL.—Within 180 days”; and

(B) by adding at the end the following:

“(2) PENALTIES.—

“(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (D), the Attorney General may bring a civil action in an appropriate
United States district court against a recipient of recovery funds from an agency that does not provide the information required under subsection (c) or knowingly provides information under subsection (c) that contains a material omission or misstatement. In a civil action under this paragraph, the court may impose a civil penalty on a recipient of recovery funds in an amount not more than $250,000. Any amounts received from a civil penalty under this paragraph shall be deposited in the general fund of the Treasury.

“(B) Notification.—

“(i) In general.—The head of an agency shall provide a written notification to a recipient of recovery funds from the agency that fails to provide the information required under subsection (c). A notification under this subparagraph shall provide the recipient with information on how to comply with the necessary reporting requirements and notice of the penalties for failing to do so.

“(ii) Limitation.—A court may not impose a civil penalty under subparagraph
(A) relating to the failure to provide information required under subsection (e) if, not later than 31 days after the date of the notification under clause (i), the recipient of the recovery funds provides the information.

“(C) CONSIDERATIONS.—In determining the amount of a penalty under this paragraph for a recipient of recovery funds, a court shall consider—

“(i) the number of times the recipient has failed to provide the information required under subsection (e);

“(ii) the amount of recovery funds provided to the recipient;

“(iii) whether the recipient is a government, nonprofit entity, or educational institution; and

“(iv) whether the recipient is a small business concern (as defined under section 3 of the Small Business Act (15 U.S.C. 632)), with particular consideration given to businesses with not more than 50 employees.
“(D) APPLICABILITY.—This paragraph shall apply to any report required to be submitted on or after the date of enactment of this paragraph.

“(E) NONEXCLUSIVITY.—The imposition of a civil penalty under this subsection shall not preclude any other criminal, civil, or administrative remedy available to the United States or any other person under Federal or State law.

“(3) TECHNICAL ASSISTANCE.—Each agency distributing recovery funds shall provide technical assistance, as necessary, to assist recipients of recovery funds in complying with the requirements to provide information under subsection (c), which shall include providing recipients with a reminder regarding each reporting requirement.

“(4) PUBLIC LISTING.—

“(A) IN GENERAL.—Not later than 45 days after the end of each calendar quarter, and subject to the notification requirements under paragraph (2)(B), the Board shall make available on the website established under section 1526 a list of all recipients of recovery funds that did not provide the information re-
quired under subsection (c) for the calendar quarter.

“(B) CONTENTS.—A list made available under subparagraph (A) shall, for each recipient of recovery funds on the list, include the name and address of the recipient, the identification number for the award, the amount of recovery funds awarded to the recipient, a description of the activity for which the recovery funds were provided, and, to the extent known by the Board, the reason for noncompliance.

“(5) REGULATIONS AND REPORTING.—

“(A) REGULATIONS.—Not later than 90 days after the date of enactment of this paragraph, the Attorney General, in consultation with the Director of the Office of Management and Budget and the Chairperson, shall promulgate regulations regarding implementation of this section.

“(B) REPORTING.—

“(i) IN GENERAL.—Not later than July 1, 2010, and every 3 months thereafter, the Director of the Office of Management and Budget, in consultation with the Chairperson, shall submit to Congress
a report on the extent of noncompliance by recipients of recovery funds with the reporting requirements under this section.

“(ii) CONTENTS.—Each report submitted under clause (i) shall include—

“(I) information, for the quarter and in total, regarding the number and amount of civil penalties imposed and collected under this subsection, sorted by agency and program;

“(II) information on the steps taken by the Federal Government to reduce the level of noncompliance; and

“(III) any other information determined appropriate by the Director.”; and

(3) by adding at the end the following:

“(i) TERMINATION.—The reporting requirements under this section shall terminate on September 30, 2013.”.

SEC. 620. AMENDMENT OF TRAVEL PROMOTION ACT OF 2009.

(a) TRAVEL PROMOTION FUND FEES.—Section 217(h)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1187(h)(3)(B)) is amended—
(1) by striking “subsection (d) of section 11 of the Travel Promotion Act of 2009.” in clause (ii) and inserting “subsection (d) of the Travel Promotion Act of 2009 (22 U.S.C. 2131(d)).”;

(2) by striking “September 30, 2014.” in clause (iii) and inserting “September 30, 2015.”.

(b) IMPLEMENTATION BEGINNING IN FISCAL YEAR 2011.—Subsection (d) of the Travel Promotion Act of 2009 (22 U.S.C. 2131(d)) is amended—

(1) by striking “For fiscal year 2010, the” in paragraph (2)(A) and inserting “The”;


(3) by striking “fiscal years 2011 through 2014,” in paragraph (2)(B) and inserting “fiscal years 2012 through 2015,”;

(4) by striking “fiscal year 2010,” in paragraph (3)(A) and inserting “fiscal year 2011,”;

(5) by striking “fiscal year 2011,” each place it appears in paragraph (3)(A) and inserting “fiscal year 2012,”; and

SEC. 621. LIMITATION ON PENALTY FOR FAILURE TO DISCLOSE REPORTABLE TRANSACTIONS BASED ON RESULTING TAX BENEFITS.

(a) In General.—Subsection (b) of section 6707A of the Internal Revenue Code of 1986 is amended to read as follows:

“(b) Amount of Penalty.—

“(1) In General.—Except as otherwise provided in this subsection, the amount of the penalty under subsection (a) with respect to any reportable transaction shall be 75 percent of the decrease in tax shown on the return as a result of such transaction (or which would have resulted from such transaction if such transaction were respected for Federal tax purposes).

“(2) Maximum Penalty.—The amount of the penalty under subsection (a) with respect to any reportable transaction shall not exceed—

“(A) in the case of a listed transaction, $200,000 ($100,000 in the case of a natural person), or
“(B) in the case of any other reportable transaction, $50,000 ($10,000 in the case of a natural person).

“(3) MINIMUM PENALTY.—The amount of the penalty under subsection (a) with respect to any transaction shall not be less than $10,000 ($5,000 in the case of a natural person).”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to penalties assessed after December 31, 2006.

SEC. 622. REPORT ON TAX SHELTER PENALTIES AND CERTAIN OTHER ENFORCEMENT ACTIONS.

(a) IN GENERAL.—The Commissioner of Internal Revenue, in consultation with the Secretary of the Treasury, shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate an annual report on the penalties assessed by the Internal Revenue Service during the preceding year under each of the following provisions of the Internal Revenue Code of 1986:

(1) Section 6662A (relating to accuracy-related penalty on understatements with respect to reportable transactions).

(2) Section 6700(a) (relating to promoting abusive tax shelters).
(3) Section 6707 (relating to failure to furnish information regarding reportable transactions).

(4) Section 6707A (relating to failure to include reportable transaction information with return).

(5) Section 6708 (relating to failure to maintain lists of advisees with respect to reportable transactions).

(b) ADDITIONAL INFORMATION.—The report required under subsection (a) shall also include information on the following with respect to each year:

(1) Any action taken under section 330(b) of title 31, United States Code, with respect to any reportable transaction (as defined in section 6707A(c) of the Internal Revenue Code of 1986).

(2) Any extension of the time for assessment of tax enforced, or assessment of any amount under such an extension, under paragraph (10) of section 6501(c) of the Internal Revenue Code of 1986.

(c) DATE OF REPORT.—The first report required under subsection (a) shall be submitted not later than December 31, 2010.
TITLE VII—TRANSPARENCY REQUIREMENTS FOR FOREIGN-HELD DEBT

SEC. 701. SHORT TITLE.
This title may be cited as the “Foreign-Held Debt Transparency and Threat Assessment Act”.

SEC. 702. DEFINITIONS.
In this title:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means the following:

(A) The Committee on Armed Services, the Committee on Foreign Relations, the Committee on Finance, and the Committee on the Budget of the Senate.

(B) The Committee on Armed Services, the Committee on Foreign Affairs, the Committee on Ways and Means, and the Committee on the Budget of the House of Representatives.

(2) DEBT INSTRUMENTS OF THE UNITED STATES.—The term “debt instruments of the United States” means all bills, notes, and bonds issued or guaranteed by the United States or by an entity of the United States Government, including any Government-sponsored enterprise.
SEC. 703. SENSE OF CONGRESS.

It is the sense of Congress that—

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

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

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

(4) the current level of transparency in the scope and extent of foreign holdings of debt instruments of the United States is inadequate and needs to be improved, particularly regarding the holdings of the People’s Republic of China;

(5) through the People’s Republic of China’s large holdings of debt instruments of the United States, China has become a super creditor of the United States;

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

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

(8) the People’s Republic of China’s expansive holdings of such debt instruments of the United States could potentially pose a direct threat to the United States economy and to United States national security. This potential threat is a significant issue that warrants further analysis and evaluation.

SEC. 704. QUARTERLY REPORT ON RISKS POSED BY FOREIGN HOLDINGS OF DEBT INSTRUMENTS OF THE UNITED STATES.

(a) Quarterly Report.—Not later than March 31, June 30, September 30, and December 31 of each year, the President shall submit to the appropriate congressional committees a report on the risks posed by foreign holdings of debt instruments of the United States, in both classified and unclassified form.
(b) MATTERS TO BE INCLUDED.—Each report submitted under this section shall include the following:

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

(2) The country of domicile of all foreign creditors who hold debt instruments of the United States.

(3) The total amount of debt instruments of the United States that are held by the foreign creditors, broken out by the creditors’ country of domicile and by public, quasi-public, and private creditors.

(4) For each foreign country listed in paragraph (3)—

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

(B) an analysis of the current and foreseeable risks to the long-term national security and economic stability of the United States posed by each country’s holdings of debt instruments of the United States; and
(C) a specific determination of whether the level of risk identified under subparagraph (B) is acceptable or unacceptable.

(e) Public Availability.—The President shall make each report required by subsection (a) available, in its unclassified form, to the public by posting it on the Internet in a conspicuous manner and location.

SEC. 705. ANNUAL REPORT ON RISKS POSED BY THE FEDERAL DEBT OF THE UNITED STATES.

(a) In General.—Not later than December 31 of each year, the Comptroller General of the United States shall submit to the appropriate congressional committees a report on the risks to the United States posed by the Federal debt of the United States.

(b) Content of Report.—Each report submitted under this section shall include the following:

(1) An analysis of the current and foreseeable risks to the long-term national security and economic stability of the United States posed by the Federal debt of the United States.

(2) A specific determination of whether the levels of risk identified under paragraph (1) are sustainable.

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

SEC. 706. CORRECTIVE ACTION TO ADDRESS UNACCEPT-
ABLE AND UNSUSTAINABLE RISKS TO
UNITED STATES NATIONAL SECURITY AND
ECONOMIC STABILITY.

In any case in which the President determines under
section 704(b)(4)(C) that a foreign country’s holdings of
debt instruments of the United States pose an unaccept-
able risk to the long-term national security or economic
stability of the United States, the President shall, within
30 days of the determination—

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

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

(3) move expeditiously to implement the plan in
order to protect the long-term national security and
economic stability of the United States.
TITLE VIII—TRANSPARENCY REQUIREMENTS FOR FOREIGN-HELD DEBT

SEC. 801. SHORT TITLE.
This title may be cited as the “Foreign-Held Debt Transparency and Threat Assessment Act”.

SEC. 802. DEFINITIONS.

In this title:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means the following:

(A) The Committee on Armed Services, the Committee on Foreign Relations, the Committee on Finance, the Committee on Banking, Housing, and Urban Affairs, and the Committee on the Budget of the Senate.

(B) The Committee on Armed Services, the Committee on Foreign Affairs, the Committee on Ways and Means, the Committee on Financial Services, and the Committee on the Budget of the House of Representatives.

(2) DEBT INSTRUMENTS OF THE UNITED STATES.—The term “debt instruments of the United States” means all bills, notes, and bonds held by the public and issued or guaranteed by the United
States or by an entity of the United States Government.

SEC. 803. SENSE OF CONGRESS.

It is the sense of Congress that—

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

(2) large foreign holdings of debt instruments of the United States have the potential to make the United States vulnerable to undue influence by foreign creditors in national security and economic policymaking;

(3) the People’s Republic of China, Japan, and the United Kingdom are the 3 largest foreign holders of debt instruments of the United States; and

(4) the current level of transparency in the scope and extent of foreign holdings of debt instruments of the United States is inadequate and needs to be improved.

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

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

(b) MATTERS TO BE INCLUDED.—Each report submitted under this section shall include the following:

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

(2) The total amount of debt instruments of the United States that are held by foreign residents, broken out by the residents’ country of domicile and by public and private residents.

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

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

SEC. 805. ANNUAL REPORT ON RISKS POSED BY THE FEDERAL DEBT OF THE UNITED STATES.

(a) IN GENERAL.—Not later than March 31 of each year, the Comptroller General of the United States shall
submit to the appropriate congressional committees a report on the risks to the United States posed by the Federal debt of the United States.

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

(1) An analysis of the current and foreseeable risks to the long-term national security and economic stability of the United States posed by the Federal debt of the United States.

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

SEC. 806. CORRECTIVE ACTION TO ADDRESS UNACCEPTABLE RISKS TO UNITED STATES NATIONAL SECURITY AND ECONOMIC STABILITY.

If the President determines that foreign holdings of debt instruments of the United States pose an unacceptable risk to the long-term national security or economic stability of the United States, the President shall, within 30 days of the determination—

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

(2) submit to the appropriate congressional committees a report on the plan of action that includes a timeline for the implementation of the plan
and recommendations for any legislative action that would be required to fully implement the plan; and

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

TITLE IX—OFFICE OF THE HOMEOWNER ADVOCATE

SEC. 901. OFFICE OF THE HOMEOWNER ADVOCATE.

(a) Establishment.—There is established in the Department of the Treasury an office to be known as the “Office of the Homeowner Advocate” (in this title referred to as the “Office”).

(b) Director.—

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

(2) Appointment.—The Director shall be appointed by the Secretary, after consultation with the Secretary of the Department of Housing and Urban Development, and without regard to the provisions...
of title 5, United States Code, relating to appointments in the competitive service or the Senior Executive Service.

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

(A) experience as an advocate for homeowners; and

(B) experience dealing with mortgage servicers.

(4) RESTRICTION ON EMPLOYMENT.—An individual may be appointed as Director only if such individual was not an officer or employee of either a mortgage servicer or the Department of the Treasury during the 4-year period preceding the date of such appointment.

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

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

(a) IN GENERAL.—It shall be the function of the Office—

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

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

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

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

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

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

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

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

(D) developing training and educational
materials.

(b) Authority.—

(1) In general.—Staff designated by the Di-
rector shall have the authority to implement servicer
remedies, on a case-by-case basis, subject to the ap-
proval of the Assistant Secretary of the Treasury for
Financial Stability.

(2) Resolution of homeowner con-
cerns.—The Office shall, to the extent possible, re-
solve all homeowner concerns not later than 30 days
after the opening of a case with such homeowner.

(c) Commencement of Operations.—The Office
shall commence its operations, as required by this title,
not later than 3 months after the date of enactment of
this Act.

(d) Sunset.—The Office shall cease operations as of
the date on which the Home Affordable Modification Pro-
gram ceases to operate.
SEC. 903. RELATIONSHIP WITH EXISTING ENTITIES.

(a) TRANSFER.—The Office shall coordinate and centralize all complaint escalations relating to the Home Affordable Modification Program.

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

(c) COORDINATION.—The Office shall coordinate with the compliance office of the Office of Financial Stability of the Department of the Treasury and the Homeownership Preservation Office of the Department of the Treasury.

SEC. 904. RULE OF CONSTRUCTION.

Nothing in this section shall prohibit a mortgage servicer from evaluating a homeowner for eligibility under the Home Affordable Foreclosure Alternatives Program while a case is still open with the Office of the Homeowner Advocate. Nothing in this section may be construed to relieve any loan services from otherwise applicable rules, directives, or similar guidance under the Home Affordable Modification Program relating to the continuation or completion of foreclosure proceedings.

SEC. 905. REPORTS TO CONGRESS.

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

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

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

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

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

(4) data and analysis on the resolutions of the
complaints received from homeowners, housing coun-
selors, and housing lawyers;
(5) identification of any programs or initiatives that the Office has taken to improve the Home Affordable Modification Program;

(6) recommendations for such administrative and legislative action as may be appropriate to resolve problems encountered by Home Affordable Modification Program participants; and

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

SEC. 906. FUNDING.

Amounts made available for the costs of administration of the Home Affordable Modification Program that are not otherwise obligated shall be available to carry out the duties of the Office. Funding shall be maintained at levels adequate to reasonably carry out the functions of the Office.

SEC. 907. PROHIBITION ON PARTICIPATION IN MAKING HOME AFFORDABLE FOR BORROWERS WHO STRATEGICALLY DEFAULT.

No mortgage may be modified under the Making Home Affordable Program, or with any funds from the Troubled Asset Relief Program, unless the servicer of the mortgage loan has determined, in accordance with standards and requirements established by the Secretary of the Treasury, that the mortgagor cannot afford to make pay-
ments under the terms of the existing mortgage loan. The Secretary of the Treasury, in consultation with the Secretary of Housing and Urban Development, shall issue rules to carry out this section not later than 90 days after the date of enactment of this Act. This section shall not apply to any refinancing or modifications made under the “FHA Program Adjustments to Support Refinancings for Underwater Homeowners,” announced by the Department of the Treasury and the Department of Housing and Urban Development on March 26, 2010, as long as the program continues to be structured so that borrowers participating in the FHA refinance program cannot be in default on their primary mortgage at the time of refinance and their eligibility in the program is not helped if they are in default on their second mortgage, and thus lack a strategic reason to go into default on either their first or second mortgage to participate in the program.

SEC. 908. PUBLIC AVAILABILITY OF INFORMATION.

(a) Public Availability of Data.—The Secretary of the Treasury shall revise the guidelines for the Home Affordable Modification Program of the Making Home Affordable initiative of the Secretary of the Treasury, authorized under the Emergency Economic Stabilization Act of 2008 (Public Law 110–343), to establish that the data collected by the Secretary of the Treasury from each mort-
gage servicer and lender participating in the Program is made public in accordance with subsection (b).

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

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

(2) disclose—

(A) the rate or pace at which such mortgages are becoming seriously delinquent;

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

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

(D) if such subsets exist, the characteristics of such subset of mortgages;

(3) with respect to the loss mitigation efforts of the loan—
(A) the processes and practices that the reporter has in effect to minimize losses on mortgages covered by this section; and

(B) the manner and methods by which such processes and practices are being monitored for effectiveness;

(4) disclose, with respect to loans that are or become 60 or more days past due, (provided that for purposes of disclosure under this paragraph that each loan should have a unique number that is not the same as any loan number the borrower, originator, or servicer uses), the following attributes—

(A) the original loan amount;

(B) the current loan amount;

(C) the loan-to-value ratio and combined loan-to-value ratio, both at origination and currently, and the number of liens on the property;

(D) the property valuation at the time of origination of the loan, and all subsequent property valuations and the date of each valuation;

(E) each relevant credit score of each borrower obtained at any time in connection with the loan, with the date of the credit score, to the extent allowed by existing law;
whether the loan has any mortgage or other credit insurance or guarantee;
(G) the current interest rate on such loan;
(H) any rate caps and floors if the loan is an adjustable rate mortgage loan;
(I) the adjustable rate mortgage index or indices for such loan;
(J) whether the loan is currently past due, and if so how many days such loan is past due;
(K) the total number of days the loan has been past due at any time;
(L) whether the loan is subject to a balloon payment;
(M) the date of each modification of the loan;
(N) whether any amounts of loan principal has been deferred or written off, and if so, the date and amount of each deferral and the date and amount of each writedown;
(O) whether the interest rate was changed from a rate that could adjust to a fixed rate, and if so, the period of time for which the rate will be fixed;
(P) the amount by which the interest rate on the loan was reduced, and for what period of time it was reduced;

(Q) if the interest rate was reduced or fixed for a period of time less than the remaining loan term, on what dates, and to what rates, could the rate potentially increase in the future;

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

(S) whether the loan is in the process of foreclosure or similar procedure, whether judicial or otherwise; and

(T) whether a foreclosure or similar procedure, whether judicial or otherwise, has been completed.

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

(1) to ensure that the privacy of individual consumers is appropriately protected in the reports under this section;
(2) to make the data reported under this sub-
section available on a public website with no cost to
access the data, in a consistent format;

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

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

(5) to allow the Secretary to make such dele-
tions as the Secretary may determine to be appro-
priate to protect any privacy interest of any loan
modification applicant, including the deletion or al-
teration of the applicant’s name and identification
number.

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