

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 other-
8 wise expressly provided, whenever in titles I, II, and IV
9 of this Act an amendment or repeal is expressed in terms
10 of an amendment to, or repeal of, a section or other provi-
11 sion, the reference shall be considered to be made to a

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

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

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

TITLE I—INFRASTRUCTURE INCENTIVES

Sec. 101. Extension of Build America Bonds.

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

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

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

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

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

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

TITLE II—EXTENSION OF EXPIRING PROVISIONS

Subtitle A—Energy

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

Sec. 202. Incentives for biodiesel and renewable diesel.

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

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

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

Sec. 206. New energy efficient home credit.

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

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

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

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

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

Subtitle B—Individual Tax Relief

PART I—MISCELLANEOUS PROVISIONS

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

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

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

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

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

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- Sec. 226. Tax-free distributions from individual retirement plans for charitable purposes.
- Sec. 227. Look-thru of certain regulated investment company stock in determining gross estate of nonresidents.
- 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.

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- 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 resourced 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.

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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

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- 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. 607. The Individual Indian Money Account Litigation Settlement Act of 2010.
- 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.

1 TITLE I—INFRASTRUCTURE
2 INCENTIVES

3 SEC. 101. EXTENSION OF BUILD AMERICA BONDS.

4 (a) IN GENERAL.—Subparagraph (B) of section
5 54AA(d)(1) is amended by striking “January 1, 2011”
6 and inserting “January 1, 2013”.

7 (b) EXTENSION OF PAYMENTS TO ISSUERS.—

8 (1) IN GENERAL.—Section 6431 is amended—

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

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

15 (2) CONFORMING AMENDMENTS.—Subsection
16 (g) of section 54AA is amended—

17 (A) by striking “January 1, 2011” and in-
18 serting “January 1, 2013”; and

1 (B) by striking “QUALIFIED BONDS
2 ISSUED BEFORE 2011” in the heading and in-
3 serting “CERTAIN QUALIFIED BONDS”.

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

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

8 “(1) IN GENERAL.—The Secretary”;

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

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

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

“In the case of a qualified bond issued during cal- endar year:	The applicable percentage is:
2009 or 2010	35 percent
2011	32 percent
2012	30 percent.”.

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

20 “(3) TREATMENT OF CURRENT REFUNDING
21 BONDS.—

1 “(A) IN GENERAL.—For purposes of this
2 subsection, the term ‘qualified bond’ includes
3 any bond (or series of bonds) issued to refund
4 a qualified bond if—

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

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

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

15 “(B) APPLICABLE PERCENTAGE.—In the
16 case of a refunding bond referred to in subpara-
17 graph (A), the applicable percentage with re-
18 spect to such bond under section 6431(b) shall
19 be the lowest percentage specified in paragraph
20 (2) of such section.

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

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

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

8 (a) BONDS FOR WATER AND SEWAGE FACILITIES
9 EXEMPT FROM VOLUME CAP ON PRIVATE ACTIVITY
10 BONDS.—

11 (1) IN GENERAL.—Paragraph (3) of section
12 146(g) is amended by inserting “(4), (5),” after
13 “(2),”.

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

17 (b) TAX-EXEMPT ISSUANCE BY INDIAN TRIBAL GOV-
18 ERNMENTS.—

19 (1) IN GENERAL.—Subsection (c) of section
20 7871 is amended by adding at the end the following
21 new paragraph:

22 “(4) EXCEPTION FOR BONDS FOR WATER AND
23 SEWAGE FACILITIES.—Paragraph (2) shall not apply
24 to an exempt facility bond 95 percent or more of the
25 net proceeds (as defined in section 150(a)(3)) of

1 which are to be used to provide facilities described
2 in paragraph (4) or (5) of section 142(a).”.

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

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

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

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

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

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

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

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

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

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

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

6 (a) EXTENSION OF RECOVERY ZONE BOND AUTHOR-
7 ITY.—Section 1400U-2(b)(1) and section 1400U-
8 3(b)(1)(B) are each amended by striking “January 1,
9 2011” and inserting “January 1, 2012”.

10 (b) ADDITIONAL ALLOCATIONS OF RECOVERY ZONE
11 BOND AUTHORITY BASED ON UNEMPLOYMENT.—Section
12 1400U-1 is amended by adding at the end the following
13 new subsection:

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

16 “(1) IN GENERAL.—The Secretary shall allo-
17 cate the 2010 national recovery zone economic devel-
18 opment bond limitation and the 2010 national recov-
19 ery zone facility bond limitation among the States in
20 the proportion that each such State’s 2009 unem-
21 ployment number bears to the aggregate of the 2009
22 unemployment numbers for all of the States.

23 “(2) MINIMUM ALLOCATION.—The Secretary
24 shall adjust the allocations under paragraph (1) for
25 each State to the extent necessary to ensure that no

1 State (prior to any reduction under paragraph (3))
2 receives less than 0.9 percent of the 2010 national
3 recovery zone economic development bond limitation
4 and 0.9 percent of the 2010 national recovery zone
5 facility bond limitation.

6 “(3) ALLOCATIONS BY STATES.—

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

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

20 “(i) the amount of the 2010 national
21 recovery zone economic development bond
22 limitation allocated to each county or large
23 municipality (as so defined) in such State
24 by the amount of the national recovery
25 zone economic development bond limitation

1 allocated to such county or large municipi-
2 pality under subsection (a)(3)(A) (deter-
3 mined without regard to any waiver there-
4 of), and

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

14 “(C) WAIVER OF SUBALLOCATIONS.—A
15 county or municipality may waive any portion
16 of an allocation made under this paragraph. A
17 county or municipality shall be treated as hav-
18 ing waived any portion of an allocation made
19 under this paragraph which has not been allo-
20 cated to a bond issued before May 1, 2011. Any
21 allocation waived (or treated as waived) under
22 this subparagraph may be used or reallocated
23 by the State.

24 “(D) SPECIAL RULE FOR A MUNICIPALITY
25 IN A COUNTY.—In the case of any large municipi-

1 pality any portion of which is in a county, such
2 portion shall be treated as part of such munici-
3 pality and not part of such county.

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

11 “(5) 2010 NATIONAL LIMITATIONS.—

12 “(A) RECOVERY ZONE ECONOMIC DEVEL-
13 OPMENT BONDS.—The 2010 national recovery
14 zone economic development bond limitation is
15 \$10,000,000,000. Any allocation of such limita-
16 tion under this subsection shall be treated for
17 purposes of section 1400U–2 in the same man-
18 ner as an allocation of national recovery zone
19 economic development bond limitation.

20 “(B) RECOVERY ZONE FACILITY BONDS.—
21 The 2010 national recovery zone facility bond
22 limitation is \$15,000,000,000. Any allocation of
23 such limitation under this subsection shall be
24 treated for purposes of section 1400U–3 in the

1 same manner as an allocation of national recov-
2 ery zone facility bond limitation.”.

3 (c) **AUTHORITY OF STATE TO WAIVE CERTAIN 2009**
4 **ALLOCATIONS.**—Subparagraph (A) of section 1400U–
5 1(a)(3) is amended by adding at the end the following:
6 “A county or municipality shall be treated as having
7 waived any portion of an allocation made under this sub-
8 paragraph which has not been allocated to a bond issued
9 before May 1, 2011. Any allocation waived (or treated as
10 waived) under this subparagraph may be used or reallo-
11 cated by the State.”.

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

14 (a) **IN GENERAL.**—Subparagraph (B) of section
15 38(c)(4), as amended by the Patient Protection and Af-
16 fordable Care Act, is amended by redesignating clauses
17 (v) through (ix) as clauses (vi) through (x), respectively,
18 and by inserting after clause (iv) the following new clause:

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

24 (b) **EFFECTIVE DATE.**—The amendments made by
25 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-
22 ber 31, 2010.

1 **TITLE II—EXTENSION OF**
2 **EXPIRING PROVISIONS**
3 **Subtitle A—Energy**

4 **SEC. 201. ALTERNATIVE MOTOR VEHICLE CREDIT FOR NEW**
5 **QUALIFIED HYBRID MOTOR VEHICLES**
6 **OTHER THAN PASSENGER AUTOMOBILES**
7 **AND LIGHT TRUCKS.**

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

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

14 **SEC. 202. INCENTIVES FOR BIODIESEL AND RENEWABLE**
15 **DIESEL.**

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

20 (b) EXCISE TAX CREDITS AND OUTLAY PAYMENTS
21 FOR BIODIESEL AND RENEWABLE DIESEL FUEL MIX-
22 TURES.—

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

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

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to fuel sold or used after December
6 31, 2009.

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

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

11 (1) by striking “5-year period” and inserting
12 “6-year period”; and

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

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

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

25 (a) CREDIT PERIOD.—

1 (1) IN GENERAL.—Subclause (II) of section
2 45(e)(8)(D)(ii) is amended to read as follows:

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

12 (2) CONFORMING AMENDMENT.—Section
13 45(e)(8)(D) is amended by striking clause (iii) and
14 by redesignating clause (iv) as clause (iii).

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

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

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

20 (c) CLARIFICATIONS.—

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

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

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

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

20 “(iii) PRODUCTION AND SALE.—The
21 owner of a facility producing steel industry
22 fuel shall be treated as producing and sell-
23 ing steel industry fuel where that owner
24 manufactures such steel industry fuel from
25 coal, a blend of coal and petroleum coke,

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

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

15 (e) EFFECTIVE DATES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (c) PAYMENT AUTHORITY.—

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

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

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

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

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

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

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

21 **(c) EFFECTIVE DATE.**—

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

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

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

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

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

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

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

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

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

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

13 “(A) in the case of any component placed
14 in service after the date which is 90 days after
15 the date of the enactment of the American Jobs
16 and Closing Tax Loopholes Act of 2010, such
17 component meets the criteria for such compo-
18 nents established by the 2010 Energy Star Pro-
19 gram Requirements for Residential Windows,
20 Doors, and Skylights, Version 5.0 (or any sub-
21 sequent version of such requirements which is
22 in effect after January 4, 2010),

23 “(B) in the case of any component placed
24 in service after the date of the enactment of the
25 American Jobs and Closing Tax Loopholes Act

1 of 2010 and on or before the date which is 90
2 days after such date, such component meets the
3 criteria described in subparagraph (A) or is
4 equal to or below a U factor of 0.30 and SHGC
5 of 0.30, and

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

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

12 **Subtitle B—Individual Tax Relief**

13 **PART I—MISCELLANEOUS PROVISIONS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (a) IN GENERAL.—Subparagraph (F) of section
5 408(d)(8) is amended by striking “December 31, 2009”
6 and inserting “December 31, 2010”.

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

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

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

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

19 **SEC. 228. FIRST-TIME HOMEBUYER CREDIT.**

20 (a) IN GENERAL.—Paragraph (2) of section 36(h) is
21 amended by striking “paragraph (1) shall be applied by
22 substituting ‘July 1, 2010’” and inserting “and who pur-
23 chases such residence before October 1, 2010, paragraph
24 (1) shall be applied by substituting ‘October 1, 2010’”.

1 (b) CONFORMING AMENDMENT.—Subparagraph (B)
2 of section 36(h)(3) is amended by inserting “and for ‘Oc-
3 tober 1, 2010’ ” after “for ‘July 1, 2010’ ”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 subsections (a) and (b) shall apply to residences purchased
6 after June 30, 2010.

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

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

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

13 “(n) ELECTION FOR DIRECT PAYMENT OF CRED-
14 IT.—

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

20 “(2) 2010 LOW-INCOME HOUSING REFUNDABLE
21 CREDIT ELECTION AMOUNT.—For purposes of this
22 subsection, the term ‘2010 low-income housing re-
23 fundable credit election amount’ means, with respect
24 to any State, such amount as the State may elect

1 which does not exceed 85 percent of the product
2 of—

3 “(A) the sum of—

4 “(i) 100 percent of the State housing
5 credit ceiling for 2010 which is attrib-
6 utable to amounts described in clauses (i)
7 and (iii) of subsection (h)(3)(C), plus any
8 credits returned to the State attributable
9 to section 1400N(c) (including credits
10 made available under such section as ap-
11 plied by reason of sections 702(d)(2) and
12 704(b) of the Tax Extenders and Alter-
13 native Minimum Tax Relief Act of 2008),
14 and

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

22 “(B) 10.

23 For purposes of subparagraph (A)(ii), in the case of
24 any area to which section 702(d)(2) or 704(b) of the
25 Tax Extenders and Alternative Minimum Tax Relief

1 Act of 2008 applies, section 1400N(c)(1)(A) shall be
2 applied without regard to clause (i)

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

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

15 “(5) PAYMENT OF CREDIT; USE TO FINANCE
16 LOW-INCOME BUILDINGS.—The Secretary shall pay
17 to the housing credit agency of each State an
18 amount equal to the credit allowed under paragraph
19 (1). Rules similar to the rules of subsections (c) and
20 (d) of section 1602 of the American Recovery and
21 Reinvestment Tax Act of 2009 shall apply with re-
22 spect to any payment made under this paragraph,
23 except that such subsection (d) shall be applied by
24 substituting ‘January 1, 2012’ for ‘January 1,
25 2011’.”.

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

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

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

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

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

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

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

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

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

12 **Subtitle C—Business Tax Relief**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (c) EFFECTIVE DATE.—

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

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

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

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

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

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

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

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

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

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

26 (b) CONFORMING AMENDMENTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (b) CONFORMING AMENDMENTS.—

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

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

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

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

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

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

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

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

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

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

20 (b) EFFECTIVE DATE.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (2) LIMITATION ON PERIOD OF GAINS.—

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

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

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

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

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

10 (e) EFFECTIVE DATES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (c) COMMERCIAL REVITALIZATION DEDUCTION.—

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

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

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

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

24 (f) EFFECTIVE DATES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 “(7) NO DOUBLE BENEFIT.—

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

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

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

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

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

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

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

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

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

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

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

18 **(b) CONFORMING AMENDMENTS.**—

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

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

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

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

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

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

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

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

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

20 (b) REQUIREMENT TO REPORT.—Not later than No-
21 vember 30, 2010, the Chief of Staff of the Joint Com-
22 mittee on Taxation, in consultation with the Comptroller
23 General of the United States, shall submit to the Com-
24 mittee on Ways and Means of the House of Representa-
25 tives and the Committee on Finance of the Senate a report

1 on each tax expenditure (as defined in section 3(3) of the
2 Congressional Budget Impoundment Control Act of 1974
3 (2 U.S.C. 622(3)) extended by this title.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 **PART I—NATIONAL DISASTER RELIEF**

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

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

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

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

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

3 (d) EFFECTIVE DATES.—

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

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

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

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

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

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

24 (c) EFFECTIVE DATE.—

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

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

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

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

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

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

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

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

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

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

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

8 **PART II—REGIONAL PROVISIONS**

9 **Subpart A—New York Liberty Zone**

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

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

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

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

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

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

1 **TITLE III—BUDGETARY**
2 **PROVISIONS**

3 **SEC. 301. BUDGETARY PROVISIONS.**

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

14 (b) **EMERGENCY DESIGNATIONS.**—Section 501 and
15 521—

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

20 (2) in the House of Representatives, are des-
21 ignated as an emergency for purposes of pay-as-you-
22 go principles; and

23 (3) in the Senate, are designated as an emer-
24 gency requirement pursuant to section 403(a) of S.

1 Con. Res. 13 (111th Congress), the concurrent reso-
2 lution on the budget for fiscal year 2010.

3 **TITLE IV—REVENUE OFFSETS**

4 **Subtitle A—Foreign Provisions**

5 **SEC. 401. RULES TO PREVENT SPLITTING FOREIGN TAX**

6 **CREDITS FROM THE INCOME TO WHICH THEY**

7 **RELATE.**

8 (a) IN GENERAL.—Subpart A of part III of sub-
9 chapter N of chapter 1 is amended by adding at the end
10 the following new section:

11 **“SEC. 909. SUSPENSION OF TAXES AND CREDITS UNTIL RE-**

12 **LATED INCOME TAKEN INTO ACCOUNT.**

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

19 **“(b) SPECIAL RULES WITH RESPECT TO SECTION**

20 **902 CORPORATIONS.—If there is a foreign tax credit split-**

21 **ting event with respect to a foreign income tax paid or**

22 **accrued by a section 902 corporation, such tax shall not**

23 **be taken into account—**

24 **“(1) for purposes of section 902 or 960, or**

1 “(2) for purposes of determining earnings and
2 profits under section 964(a),
3 before the taxable year in which the related income is
4 taken into account under this chapter by such section 902
5 corporation or a domestic corporation which meets the
6 ownership requirements of subsection (a) or (b) of section
7 902 with respect to such section 902 corporation.

8 “(c) SPECIAL RULES.—For purposes of this sec-
9 tion—

10 “(1) APPLICATION TO PARTNERSHIPS, ETC.—In
11 the case of a partnership, subsections (a) and (b)
12 shall be applied at the partner level. Except as oth-
13 erwise provided by the Secretary, a rule similar to
14 the rule of the preceding sentence shall apply in the
15 case of any S corporation or trust.

16 “(2) TREATMENT OF FOREIGN TAXES AFTER
17 SUSPENSION.—In the case of any foreign income tax
18 not taken into account by reason of subsection (a)
19 or (b), except as otherwise provided by the Sec-
20 retary, such tax shall be so taken into account in the
21 taxable year referred to in such subsection (other
22 than for purposes of section 986(a)) as a foreign in-
23 come tax paid or accrued in such taxable year.

24 “(d) DEFINITIONS.—For purposes of this section—

1 “(1) FOREIGN TAX CREDIT SPLITTING
2 EVENT.—There is a foreign tax credit splitting event
3 with respect to a foreign income tax if the related
4 income is (or will be) taken into account under this
5 chapter by a covered person.

6 “(2) FOREIGN INCOME TAX.—The term ‘foreign
7 income tax’ means any income, war profits, or excess
8 profits tax paid or accrued to any foreign country or
9 to any possession of the United States.

10 “(3) RELATED INCOME.—The term ‘related in-
11 come’ means, with respect to any portion of any for-
12 eign income tax, the income (or, as appropriate,
13 earnings and profits) to which such portion of for-
14 eign income tax relates.

15 “(4) COVERED PERSON.—The term ‘covered
16 person’ means, with respect to any person who pays
17 or accrues a foreign income tax (hereafter in this
18 paragraph referred to as the ‘payor’)—

19 “(A) any entity in which the payor holds,
20 directly or indirectly, at least a 10 percent own-
21 ership interest (determined by vote or value),

22 “(B) any person which holds, directly or
23 indirectly, at least a 10 percent ownership in-
24 terest (determined by vote or value) in the
25 payor,

1 “(C) any person which bears a relationship
2 to the payor described in section 267(b) or
3 707(b), and

4 “(D) any other person specified by the
5 Secretary for purposes of this paragraph.

6 “(5) SECTION 902 CORPORATION.—The term
7 ‘section 902 corporation’ means any foreign corpora-
8 tion with respect to which one or more domestic cor-
9 porations meets the ownership requirements of sub-
10 section (a) or (b) of section 902.

11 “(e) REGULATIONS.—The Secretary may issue such
12 regulations or other guidance as is necessary or appro-
13 priate to carry out the purposes of this section, including
14 regulations or other guidance which provides—

15 “(1) appropriate exceptions from the provisions
16 of this section, and

17 “(2) for the proper application of this section
18 with respect to hybrid instruments.”.

19 (b) CLERICAL AMENDMENT.—The table of sections
20 for subpart A of part III of subchapter N of chapter 1
21 is amended by adding at the end the following new item:

 “Sec. 909. Suspension of taxes and credits until related income taken into ac-
 count.”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to—

1 (1) foreign income taxes (as defined in section
2 909(d) of the Internal Revenue Code of 1986, as
3 added by this section) paid or accrued after May 20,
4 2010; and

5 (2) foreign income taxes (as so defined) paid or
6 accrued by a section 902 corporation (as so defined)
7 on or before such date (and not deemed paid under
8 section 902(a) or 960 of such Code on or before
9 such date), but only for purposes of applying sec-
10 tions 902 and 960 with respect to periods after such
11 date.

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

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

19 (a) IN GENERAL.—Section 901 is amended by redess-
20 ignating subsection (m) as subsection (n) and by inserting
21 after subsection (l) the following new subsection:

22 “(m) DENIAL OF FOREIGN TAX CREDIT WITH RE-
23 SPECT TO FOREIGN INCOME NOT SUBJECT TO UNITED
24 STATES TAXATION BY REASON OF COVERED ASSET AC-
25 QUISTIONS.—

1 “(1) IN GENERAL.—In the case of a covered
2 asset acquisition, the disqualified portion of any for-
3 eign income tax determined with respect to the in-
4 come or gain attributable to the relevant foreign as-
5 sets—

6 “(A) shall not be taken into account in de-
7 termining the credit allowed under subsection
8 (a), and

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

13 “(2) COVERED ASSET ACQUISITION.—For pur-
14 poses of this section, the term ‘covered asset acquisi-
15 tion’ means—

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

19 “(B) any transaction which—

20 “(i) is treated as an acquisition of as-
21 sets for purposes of this chapter, and

22 “(ii) is treated as the acquisition of
23 stock of a corporation (or is disregarded)
24 for purposes of the foreign income taxes of
25 the relevant jurisdiction,

1 “(C) any acquisition of an interest in a
2 partnership which has an election in effect
3 under section 754, and

4 “(D) to the extent provided by the Sec-
5 retary, any other similar transaction.

6 “(3) DISQUALIFIED PORTION.—For purposes of
7 this section—

8 “(A) IN GENERAL.—The term ‘disqualified
9 portion’ means, with respect to any covered
10 asset acquisition, for any taxable year, the ratio
11 (expressed as a percentage) of—

12 “(i) the aggregate basis differences
13 (but not below zero) allocable to such tax-
14 able year under subparagraph (B) with re-
15 spect to all relevant foreign assets, divided
16 by

17 “(ii) the income on which the foreign
18 income tax referred to in paragraph (1) is
19 determined (or, if the taxpayer fails to sub-
20 stantiate such income to the satisfaction of
21 the Secretary, such income shall be deter-
22 mined by dividing the amount of such for-
23 eign income tax by the highest marginal
24 tax rate applicable to such income in the
25 relevant jurisdiction).

1 “(B) ALLOCATION OF BASIS DIF-
2 FERENCE.—For purposes of subparagraph
3 (A)(i)—

4 “(i) IN GENERAL.—The basis dif-
5 ference with respect to any relevant foreign
6 asset shall be allocated to taxable years
7 using the applicable cost recovery method
8 under this chapter.

9 “(ii) SPECIAL RULE FOR DISPOSITION
10 OF ASSETS.—Except as otherwise provided
11 by the Secretary, in the case of the dispo-
12 sition of any relevant foreign asset—

13 “(I) the basis difference allocated
14 to the taxable year which includes the
15 date of such disposition shall be the
16 excess of the basis difference with re-
17 spect to such asset over the aggregate
18 basis difference with respect to such
19 asset which has been allocated under
20 clause (i) to all prior taxable years,
21 and

22 “(II) no basis difference with re-
23 spect to such asset shall be allocated
24 under clause (i) to any taxable year
25 thereafter.

1 “(C) BASIS DIFFERENCE.—

2 “(i) IN GENERAL.—The term ‘basis
3 difference’ means, with respect to any rel-
4 evant foreign asset, the excess of—

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

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

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

18 “(iii) SPECIAL RULE FOR SECTION 338
19 ELECTIONS.—In the case of a covered
20 asset acquisition described in paragraph
21 (2)(A), the covered asset acquisition shall
22 be treated for purposes of this subpara-
23 graph as occurring at the close of the ac-
24 quisition date (as defined in section
25 338(h)(2)).

1 “(4) RELEVANT FOREIGN ASSETS.—For pur-
2 poses of this section, the term ‘relevant foreign
3 asset’ means, with respect to any covered asset ac-
4 quisition, any asset (including any goodwill, going
5 concern value, or other intangible) with respect to
6 such acquisition if income, deduction, gain, or loss
7 attributable to such asset is taken into account in
8 determining the foreign income tax referred to in
9 paragraph (1).

10 “(5) FOREIGN INCOME TAX.—For purposes of
11 this section, the term ‘foreign income tax’ means
12 any income, war profits, or excess profits tax paid
13 or accrued to any foreign country or to any posses-
14 sion of the United States.

15 “(6) TAXES ALLOWED AS A DEDUCTION, ETC.—
16 Sections 275 and 78 shall not apply to any tax
17 which is not allowable as a credit under subsection
18 (a) by reason of this subsection.

19 “(7) REGULATIONS.—The Secretary may issue
20 such regulations or other guidance as is necessary or
21 appropriate to carry out the purposes of this sub-
22 section, including to exempt from the application of
23 this subsection certain covered asset acquisitions,
24 and relevant foreign assets with respect to which the
25 basis difference is de minimis.”.

1 (b) EFFECTIVE DATE.—

2 (1) IN GENERAL.—Except as provided in para-
3 graph (2), the amendments made by this section
4 shall apply to covered asset acquisitions (as defined
5 in section 901(m)(2) of the Internal Revenue Code
6 of 1986, as added by this section) after—

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

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

11 (2) TRANSITION RULE.—The amendments
12 made by this section shall not apply to any covered
13 asset acquisition (as so defined) with respect to
14 which the transferor and the transferee are not re-
15 lated if such acquisition is—

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

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

22 (C) described on or before such date in a
23 public announcement or in a filing with the Se-
24 curities and Exchange Commission.

1 (3) RELATED PERSONS.—For purposes of this
2 subsection, a person shall be treated as related to
3 another person if the relationship between such per-
4 sons is described in section 267 or 707(b) of the In-
5 ternal Revenue Code of 1986.

6 **SEC. 403. SEPARATE APPLICATION OF FOREIGN TAX CRED-**
7 **IT LIMITATION, ETC., TO ITEMS RESOURCED**
8 **UNDER TREATIES.**

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

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

15 “(A) IN GENERAL.—If—

16 “(i) without regard to any treaty obli-
17 gation of the United States, any item of
18 income would be treated as derived from
19 sources within the United States,

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

24 “(iii) the taxpayer chooses the bene-
25 fits of such treaty obligation,

1 subsections (a), (b), and (c) of this section and
2 sections 902, 907, and 960 shall be applied sep-
3 arately with respect to each such item.

4 “(B) COORDINATION WITH OTHER PROVI-
5 SIONS.—This paragraph shall not apply to any
6 item of income to which subsection (h)(10) or
7 section 865(h) applies.

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

15 (b) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to taxable years beginning after
17 the date of the enactment of this Act.

18 **SEC. 404. LIMITATION ON THE AMOUNT OF FOREIGN TAXES**
19 **DEEMED PAID WITH RESPECT TO SECTION**
20 **956 INCLUSIONS.**

21 (a) IN GENERAL.—Section 960 is amended by adding
22 at the end the following new subsection:

23 “(c) LIMITATION WITH RESPECT TO SECTION 956
24 INCLUSIONS.—

1 “(1) IN GENERAL.—If there is included under
2 section 951(a)(1)(B) in the gross income of a do-
3 mestic corporation any amount attributable to the
4 earnings and profits of a foreign corporation which
5 is a member of a qualified group (as defined in sec-
6 tion 902(b)) with respect to the domestic corpora-
7 tion, the amount of any foreign income taxes deemed
8 to have been paid during the taxable year by such
9 domestic corporation under section 902 by reason of
10 subsection (a) with respect to such inclusion in gross
11 income shall not exceed the amount of the foreign
12 income taxes which would have been deemed to have
13 been paid during the taxable year by such domestic
14 corporation if cash in an amount equal to the
15 amount of such inclusion in gross income were dis-
16 tributed as a series of distributions (determined
17 without regard to any foreign taxes which would be
18 imposed on an actual distribution) through the chain
19 of ownership which begins with such foreign cor-
20 poration and ends with such domestic corporation.

21 “(2) AUTHORITY TO PREVENT ABUSE.—The
22 Secretary shall issue such regulations or other guid-
23 ance as is necessary or appropriate to carry out the
24 purposes of this subsection, including regulations or
25 other guidance which prevent the inappropriate use

1 of the foreign corporation's foreign income taxes not
2 deemed paid by reason of paragraph (1).”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 this section shall apply to acquisitions of United States
5 property (as defined in section 956(c) of the Internal Rev-
6 enue Code of 1986) after May 20, 2010.

7 **SEC. 405. SPECIAL RULE WITH RESPECT TO CERTAIN RE-**
8 **DEMPTIONS BY FOREIGN SUBSIDIARIES.**

9 (a) **IN GENERAL.**—Paragraph (5) of section 304(b)
10 is amended by redesignating subparagraph (B) as sub-
11 paragraph (C) and by inserting after subparagraph (A)
12 the following new subparagraph:

13 “(B) **SPECIAL RULE IN CASE OF FOREIGN**
14 **ACQUIRING CORPORATION.**—In the case of any
15 acquisition to which subsection (a) applies in
16 which the acquiring corporation is a foreign
17 corporation, no earnings and profits shall be
18 taken into account under paragraph (2)(A)
19 (and subparagraph (A) shall not apply) if more
20 than 50 percent of the dividends arising from
21 such acquisition (determined without regard to
22 this subparagraph) would not—

23 “(i) be subject to tax under this chap-
24 ter for the taxable year in which the divi-
25 dends arise, or

1 “(ii) be includible in the earnings and
2 profits of a controlled foreign corporation
3 (as defined in section 957 and without re-
4 gard to section 953(c)).”.

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

7 **SEC. 406. MODIFICATION OF AFFILIATION RULES FOR PUR-**
8 **POSES OF RULES ALLOCATING INTEREST EX-**
9 **PENSE.**

10 (a) **IN GENERAL.**—Subparagraph (A) of section
11 864(e)(5) is amended by adding at the end the following:
12 “Notwithstanding the preceding sentence, a foreign cor-
13 poration shall be treated as a member of the affiliated
14 group if—

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

20 “(ii) at least 80 percent of either the
21 vote or value of all outstanding stock of
22 such foreign corporation is owned directly
23 or indirectly by members of the affiliated
24 group (determined with regard to this sen-
25 tence).”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to taxable years beginning after
3 the date of the enactment of this Act.

4 **SEC. 407. TERMINATION OF SPECIAL RULES FOR INTEREST**
5 **AND DIVIDENDS RECEIVED FROM PERSONS**
6 **MEETING THE 80-PERCENT FOREIGN BUSI-**
7 **NESS REQUIREMENTS.**

8 (a) IN GENERAL.—Paragraph (1) of section 861(a)
9 is amended by striking subparagraph (A) and by redesignig-
10 nating subparagraphs (B) and (C) as subparagraphs (A)
11 and (B), respectively.

12 (b) GRANDFATHER RULE WITH RESPECT TO WITH-
13 HOLDING ON INTEREST AND DIVIDENDS RECEIVED FROM
14 PERSONS MEETING THE 80-PERCENT FOREIGN BUSI-
15 NESS REQUIREMENTS.—

16 (1) IN GENERAL.—Subparagraph (B) of section
17 871(i)(2) is amended to read as follows:

18 “(B) The active foreign business percent-
19 age of—

20 “(i) any dividend paid by an existing
21 80/20 company, and

22 “(ii) any interest paid by an existing
23 80/20 company.”.

24 (2) DEFINITIONS AND SPECIAL RULES.—Sec-
25 tion 871 is amended by redesignating subsections (l)

1 and (m) as subsections (m) and (n), respectively,
2 and by inserting after subsection (k) the following
3 new subsection:

4 “(l) RULES RELATING TO EXISTING 80/20 COMPA-
5 NIES.—For purposes of this subsection and subsection
6 (i)(2)(B)—

7 “(1) EXISTING 80/20 COMPANY.—

8 “(A) IN GENERAL.—The term ‘existing 80/
9 20 company’ means any corporation if—

10 “(i) such corporation met the 80-per-
11 cent foreign business requirements of sec-
12 tion 861(c)(1) (as in effect before the en-
13 actment of this subsection) for such cor-
14 poration’s last taxable year beginning be-
15 fore January 1, 2011,

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

21 “(iii) there has not been an addition
22 of a substantial line of business with re-
23 spect to such corporation after the date of
24 the enactment of this subsection.

1 “(B) FOREIGN BUSINESS REQUIRE-
2 MENTS.—

3 “(i) IN GENERAL.—A corporation
4 meets the 80-percent foreign business re-
5 quirements of this subparagraph if it is
6 shown to the satisfaction of the Secretary
7 that at least 80 percent of the gross in-
8 come from all sources of such corporation
9 for the testing period is active foreign busi-
10 ness income.

11 “(ii) ACTIVE FOREIGN BUSINESS IN-
12 COME.—For purposes of clause (i), the
13 term ‘active foreign business income’
14 means gross income which—

15 “(I) is derived from sources out-
16 side the United States (as determined
17 under this subchapter), and

18 “(II) is attributable to the active
19 conduct of a trade or business in a
20 foreign country or possession of the
21 United States.

22 “(iii) TESTING PERIOD.—For pur-
23 poses of this subsection, the term ‘testing
24 period’ means the 3-year period ending
25 with the close of the taxable year of the

1 corporation preceding the payment (or
2 such part of such period as may be appli-
3 cable). If the corporation has no gross in-
4 come for such 3-year period (or part there-
5 of), the testing period shall be the taxable
6 year in which the payment is made.

7 “(iv) TRANSITION RULE.—In the case
8 of a testing period which includes a taxable
9 year beginning before January 1, 2011, for
10 purposes of determining whether a cor-
11 poration meets the 80 percent foreign busi-
12 ness requirements of this subparagraph for
13 such taxable year, the requirements of sub-
14 paragraphs (A) and (B) of section
15 861(c)(1) (as in effect before the enact-
16 ment of this subsection) shall apply in lieu
17 of clause (i) to such taxable years .

18 “(2) ACTIVE FOREIGN BUSINESS PERCENT-
19 AGE.—The term ‘active foreign business percentage’
20 means, with respect to any existing 80/20 company,
21 the percentage which—

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

24 “(B) the gross income of such company for
25 the testing period from all sources.

1 “(3) AGGREGATION RULES.—For purposes of
2 applying paragraph (1) (other than subparagraphs
3 (A)(i) and (B)(iv) thereof) and paragraph (2)—

4 “(A) IN GENERAL.—The corporation re-
5 ferred to in paragraph (1)(A) and all of such
6 corporation’s subsidiaries shall be treated as
7 one corporation.

8 “(B) SUBSIDIARIES.—For purposes of sub-
9 paragraph (A), the term ‘subsidiary’ means any
10 corporation in which the corporation referred to
11 in subparagraph (A) owns (directly or indi-
12 rectly) stock meeting the requirements of sec-
13 tion 1504(a)(2) (determined by substituting ‘50
14 percent’ for ‘80 percent’ each place it appears
15 and without regard to section 1504(b)(3)).

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

22 (c) CONFORMING AMENDMENTS.—

23 (1) Section 861 is amended by striking sub-
24 section (c) and by redesignating subsections (d), (e),
25 and (f) as subsections (c), (d), and (e), respectively.

1 (2) Paragraph (9) of section 904(h) is amended
2 to read as follows:

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

10 (3) Subsection (c) of section 2104 is amended
11 in the last sentence by striking “or to a debt obliga-
12 tion of a domestic corporation” and all that follows
13 and inserting a period.

14 (d) EFFECTIVE DATE.—

15 (1) IN GENERAL.—Except as provided in para-
16 graph (2), the amendments made by this section
17 shall apply to taxable years beginning after Decem-
18 ber 31, 2010.

19 (2) GRANDFATHER RULE FOR OUTSTANDING
20 DEBT OBLIGATIONS.—

21 (A) IN GENERAL.—The amendments made
22 by this section shall not apply to payments of
23 interest on obligations issued before the date of
24 the enactment of this Act.

1 (B) EXCEPTION FOR RELATED PARTY
2 DEBT.—Subparagraph (A) shall not apply to
3 any interest which is payable to a related per-
4 son (determined under rules similar to the rules
5 of section 954(d)(3)).

6 (C) SIGNIFICANT MODIFICATIONS TREAT-
7 ED AS NEW ISSUES.—For purposes of subpara-
8 graph (A), a significant modification of the
9 terms of any obligation (including any extension
10 of the term of such obligation) shall be treated
11 as a new issue.

12 **SEC. 408. SOURCE RULES FOR INCOME ON GUARANTEES.**

13 (a) AMOUNTS SOURCED WITHIN THE UNITED
14 STATES.—Subsection (a) of section 861 is amended by
15 adding at the end the following new paragraph:

16 “(9) GUARANTEES.—Amounts received, directly
17 or indirectly, from—

18 “(A) a noncorporate resident or domestic
19 corporation for the provision of a guarantee of
20 any indebtedness of such resident or corpora-
21 tion, or

22 “(B) any foreign person for the provision
23 of a guarantee of any indebtedness of such per-
24 son, if such amount is connected with income
25 which is effectively connected (or treated as ef-

1 fectively connected) with the conduct of a trade
2 or business in the United States.”.

3 (b) AMOUNTS SOURCED WITHOUT THE UNITED
4 STATES.—Subsection (a) of section 862 is amended by
5 striking “and” at the end of paragraph (7), by striking
6 the period at the end of paragraph (8) and inserting “;
7 and”, and by adding at the end the following new para-
8 graph:

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

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

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

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

23 (a) IN GENERAL.—Paragraph (8) of section 6501(c)
24 is amended—

1 (1) by striking “In the case of any information”
 2 and inserting the following:

3 “(A) IN GENERAL.—In the case of any in-
 4 formation”; and

5 (2) by adding at the end the following:

6 “(B) APPLICATION TO FAILURES DUE TO
 7 REASONABLE CAUSE.—If the failure to furnish
 8 the information referred to in subparagraph (A)
 9 is due to reasonable cause and not willful ne-
 10 glect, subparagraph (A) shall apply only to the
 11 item or items related to such failure.”.

12 (b) EFFECTIVE DATE.—The amendments made by
 13 this section shall take effect as if included in section 513
 14 of the Hiring Incentives to Restore Employment Act.

15 **Subtitle B—Personal Service In-**
 16 **come Earned in Pass-thru Enti-**
 17 **ties**

18 **SEC. 411. PARTNERSHIP INTERESTS TRANSFERRED IN**
 19 **CONNECTION WITH PERFORMANCE OF SERV-**
 20 **ICES.**

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

1 “(4) PARTNERSHIP INTERESTS.—Except as
2 provided by the Secretary, in the case of any trans-
3 fer of an interest in a partnership in connection with
4 the provision of services to (or for the benefit of)
5 such partnership—

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

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

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

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

1 **SEC. 412. INCOME OF PARTNERS FOR PERFORMING IN-**
2 **VESTMENT MANAGEMENT SERVICES TREAT-**
3 **ED AS ORDINARY INCOME RECEIVED FOR**
4 **PERFORMANCE OF SERVICES.**

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

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

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

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

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

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

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

1 “(2) TREATMENT OF LOSSES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

25 “(b) DISPOSITIONS OF PARTNERSHIP INTERESTS.—

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

3 “(A) treated as ordinary income, and

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

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

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

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

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

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

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

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

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

15 “(A) the excess (if any) of—

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

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

21 shall be taken into account as an increase in
22 such partner’s distributive share of the taxable
23 income of the partnership (except to the extent
24 such excess is otherwise taken into account in

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

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

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

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

21 “(6) APPLICATION OF SECTION 751.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 “(iii) the excess (if any) of—

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

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

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

11 “(i) DISTRIBUTIONS AND LOSSES.—

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

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

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

6 “(8) TREATMENT OF CERTAIN LOANS.—

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

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

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

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

13 “(1) IN GENERAL.—If—

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

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

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

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

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

7 “(A) DISQUALIFIED INTEREST.—

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

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

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

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

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

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

24 “(I) a partnership interest,

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

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

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

8 “(i) a domestic C corporation, or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 “(II) such methods shall in no
14 event treat gain from the disposition
15 of an investment services partnership
16 interest as attributable to a section
17 197 intangible if such gain would be
18 included in the amount of the dis-
19 tribution which the partner disposing
20 of such interest would receive if the
21 partnership sold (at the time of the
22 disposition) all of its assets at fair
23 market value and distributed the pro-
24 ceeds of such sale (reduced by the li-
25 abilities of the partnership) to its

1 partners in liquidation of the partner-
2 ship,

3 “(ii) circumstances under which valu-
4 ations are sufficiently independent to pro-
5 vide an accurate determination of fair mar-
6 ket value, and

7 “(iii) any information required to be
8 furnished to the Secretary by the parties to
9 the disposition with respect to such valu-
10 ation.

11 “(F) DEFINITIONS AND SPECIAL RULES.—

12 For purposes of this paragraph—

13 “(i) INVESTMENT SERVICES PARTNER-
14 SHIP.—The term ‘investment service part-
15 nership’ means, with respect to any invest-
16 ment services partnership interest, the en-
17 tity in which such interest is held.

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

21 “(iii) APPLICATION TO DISQUALIFIED
22 INTERESTS.—Rules similar to the rules of
23 this paragraph shall apply with respect to
24 income or gain with respect to a disquali-
25 fied interest under subsection (e).

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

4 (b) TREATMENT FOR PURPOSES OF SECTION
5 7704.—Subsection (d) of section 7704 is amended by add-
6 ing at the end the following new paragraph:

7 “(6) INCOME FROM INVESTMENT SERVICES
8 PARTNERSHIP INTERESTS NOT QUALIFIED.—

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

19 “(B) SPECIAL RULES FOR CERTAIN PART-
20 NERSHIPS.—

21 “(i) CERTAIN PARTNERSHIPS OWNED
22 BY REAL ESTATE INVESTMENT TRUSTS.—
23 Subparagraph (A) shall not apply in the
24 case of a partnership which meets each of
25 the following requirements:

1 “(I) Such partnership is treated
2 as publicly traded under this section
3 solely by reason of interests in such
4 partnership being convertible into in-
5 terests in a real estate investment
6 trust which is publicly traded.

7 “(II) 50 percent or more of the
8 capital and profits interests of such
9 partnership are owned, directly or in-
10 directly, at all times during the tax-
11 able year by such real estate invest-
12 ment trust (determined with the ap-
13 plication of section 267(c)).

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

17 “(ii) CERTAIN PARTNERSHIPS OWN-
18 ING OTHER PUBLICLY TRADED PARTNER-
19 SHIPS.—Subparagraph (A) shall not apply
20 in the case of a partnership which meets
21 each of the following requirements:

22 “(I) Substantially all of the as-
23 sets of such partnership consist of in-
24 terests in one or more publicly traded

1 partnerships (determined without re-
2 gard to subsection (b)(2)).

3 “(II) Substantially all of the in-
4 come of such partnership is ordinary
5 income or section 1231 gain (as de-
6 fined in section 1231(a)(3)).

7 “(C) TRANSITIONAL RULE.—Subpara-
8 graph (A) shall not apply to any taxable year
9 of the partnership beginning before the date
10 which is 10 years after the date of the enact-
11 ment of this paragraph.”.

12 (c) IMPOSITION OF PENALTY ON UNDERPAY-
13 MENTS.—

14 (1) IN GENERAL.—Subsection (b) of section
15 6662 is amended by inserting after paragraph (7)
16 the following new paragraph:

17 “(8) The application of subsection (e) of section
18 710, the regulations or other guidance prescribed
19 under section 710(f) to prevent the avoidance of the
20 purposes of section 710, or the regulations or other
21 guidance prescribed under section
22 710(g)(7)(D)(iv).”.

23 (2) AMOUNT OF PENALTY.—

1 (A) IN GENERAL.—Section 6662 is amend-
2 ed by adding at the end the following new sub-
3 section:

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

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

13 (3) SPECIAL RULES FOR APPLICATION OF REA-
14 SONABLE CAUSE EXCEPTION.—Subsection (c) of sec-
15 tion 6664 is amended—

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

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

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

23 “(3) SPECIAL RULE FOR UNDERPAYMENTS AT-
24 TRIBUTABLE TO INVESTMENT MANAGEMENT SERV-
25 ICES.—

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

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

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

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

13 “(B) RULES RELATING TO REASONABLE
14 BELIEF.—Rules similar to the rules of sub-
15 section (d)(3) shall apply for purposes of sub-
16 paragraph (A)(iii).”.

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

20 (1) INTERNAL REVENUE CODE.—Section
21 1402(a) is amended by striking “and” at the end of
22 paragraph (16), by striking the period at the end of
23 paragraph (17) and inserting “; and”, and by insert-
24 ing after paragraph (17) the following new para-
25 graph:

1 “(18) notwithstanding the preceding provisions
2 of this subsection, in the case of any individual en-
3 gaged in the trade or business of providing services
4 described in section 710(c)(1) with respect to any
5 entity, any amount treated as ordinary income or or-
6 dinary loss of such individual under section 710 with
7 respect to such entity shall be taken into account in
8 determining the net earnings from self-employment
9 of such individual.”.

10 (2) SOCIAL SECURITY ACT.—Section 211(a) of
11 the Social Security Act is amended by striking
12 “and” at the end of paragraph (15), by striking the
13 period at the end of paragraph (16) and inserting “;
14 and”, and by inserting after paragraph (16) the fol-
15 lowing new paragraph:

16 “(17) Notwithstanding the preceding provisions
17 of this subsection, in the case of any individual en-
18 gaged in the trade or business of providing services
19 described in section 710(c)(1) of the Internal Rev-
20 enue Code of 1986 with respect to any entity, any
21 amount treated as ordinary income or ordinary loss
22 of such individual under section 710 of such Code
23 with respect to such entity shall be taken into ac-
24 count in determining the net earnings from self-em-
25 ployment of such individual.”.

1 (e) CONFORMING AMENDMENTS.—

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

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

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

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

13 (f) EFFECTIVE DATE.—

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

18 (2) PARTNERSHIP TAXABLE YEARS WHICH IN-
19 CLUDE EFFECTIVE DATE.—In applying section
20 710(a) of the Internal Revenue Code of 1986 (as
21 added by this section) in the case of any partnership
22 taxable year which includes December 31, 2010, the
23 amount of the net income referred to in such section
24 shall be treated as being the lesser of the net income

1 for the entire partnership taxable year or the net in-
2 come determined by only taking into account items
3 attributable to the portion of the partnership taxable
4 year which is after such date.

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

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

13 **SEC. 413. EMPLOYMENT TAX TREATMENT OF PROFES-**
14 **SIONAL SERVICE BUSINESSES.**

15 (a) IN GENERAL.—Section 1402 is amended by add-
16 ing at the end the following new subsection:

17 “(m) SPECIAL RULES FOR PROFESSIONAL SERVICE
18 BUSINESSES.—

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

21 “(A) IN GENERAL.—In the case of any dis-
22 qualified S corporation, each shareholder of
23 such disqualified S corporation who provides
24 substantial services with respect to the profes-
25 sional service business referred to in subpara-

1 graph (C) shall take into account such share-
2 holder's pro rata share of all items of income or
3 loss described in section 1366 which are attrib-
4 utable to such business in determining the
5 shareholder's net earnings from self-employ-
6 ment.

7 “(B) TREATMENT OF FAMILY MEMBERS.—
8 Except as otherwise provided by the Secretary,
9 the shareholder's pro rata share of items re-
10 ferred to in subparagraph (A) shall be increased
11 by the pro rata share of such items of each
12 member of such shareholder's family (within
13 the meaning of section 318(a)(1)) who does not
14 provide substantial services with respect to such
15 professional service business.

16 “(C) DISQUALIFIED S CORPORATION.—For
17 purposes of this subsection, the term ‘disquali-
18 fied S corporation’ means—

19 “(i) any S corporation which is a
20 partner in a partnership which is engaged
21 in a professional service business if sub-
22 stantially all of the activities of such S cor-
23 poration are performed in connection with
24 such partnership, and

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

7 “(2) PARTNERS.—In the case of any partner-
8 ship which is engaged in a professional service busi-
9 ness, subsection (a)(13) shall not apply to any part-
10 ner who provides substantial services with respect to
11 such professional service business.

12 “(3) PROFESSIONAL SERVICE BUSINESS.—For
13 purposes of this subsection, the term ‘professional
14 service business’ means any trade or business (or
15 portion thereof) providing services in the fields of
16 health, law, lobbying, engineering, architecture, ac-
17 counting, actuarial science, performing arts, con-
18 sulting, athletics, investment advice or management,
19 or brokerage services.

20 “(4) REGULATIONS.—The Secretary shall pre-
21 scribe such regulations as may be necessary or ap-
22 propriate to carry out the purposes of this sub-
23 section, including regulations which prevent the
24 avoidance of the purposes of this subsection through
25 tiered entities or otherwise.

1 “(5) CROSS REFERENCE.—For employment tax
2 treatment of wages paid to shareholders of S cor-
3 porations, see subtitle C.”.

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

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

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

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

22 “(B) TREATMENT OF FAMILY MEMBERS.—
23 Except as otherwise provided by the Secretary
24 of the Treasury, the shareholder’s pro rata
25 share of items referred to in subparagraph (A)

1 shall be increased by the pro rata share of such
2 items of each member of such shareholder's
3 family (within the meaning of section 318(a)(1)
4 of the Internal Revenue Code of 1986) who
5 does not provide substantial services with re-
6 spect to such professional service business.

7 “(C) DISQUALIFIED S CORPORATION.—For
8 purposes of this subsection, the term ‘disquali-
9 fied S corporation’ means—

10 “(i) any S corporation which is a
11 partner in a partnership which is engaged
12 in a professional service business if sub-
13 stantially all of the activities of such S cor-
14 poration are performed in connection with
15 such partnership, and

16 “(ii) any other S corporation which is
17 engaged in a professional service business
18 if 80 percent or more of the gross income
19 of such business is attributable to service
20 of 3 or fewer shareholders of such corpora-
21 tion.

22 “(2) PARTNERS.—In the case of any partner-
23 ship which is engaged in a professional service busi-
24 ness, subsection (a)(12) shall not apply to any part-

1 assets are transferred are distributed in a transaction
2 which qualifies under section 355—

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

7 “(2) the first sentence of subsection (b)(3) shall
8 apply only to the extent that the sum of the money
9 and the fair market value of the other property
10 transferred to such creditors does not exceed the ad-
11 justed bases of such assets transferred (reduced by
12 the amount of the liabilities assumed (within the
13 meaning of section 357(c)).”.

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

16 (c) EFFECTIVE DATE.—

17 (1) IN GENERAL.—Except as provided in para-
18 graph (2), the amendments made by this section
19 shall apply to exchanges after the date of the enact-
20 ment of this Act.

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

1 (A) made pursuant to a written agreement
2 which was binding on March 15, 2010, and at
3 all times thereafter;

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

7 (C) described on or before such date in a
8 public announcement or in a filing with the Se-
9 curities and Exchange Commission.

10 **SEC. 422. TAXATION OF BOOT RECEIVED IN REORGANIZA-**
11 **TIONS.**

12 (a) IN GENERAL.—Paragraph (2) of section 356(a)
13 is amended—

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

16 “(A) IN GENERAL.—If an exchange”;

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

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

24 “(B) CERTAIN REORGANIZATIONS.—In the
25 case of a reorganization described in section

1 368(a)(1)(D) to which section 354(b)(1) applies
2 or any other reorganization specified by the
3 Secretary, in applying subparagraph (A)—

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

7 “(ii) the amount which is a dividend
8 (and source thereof) shall be determined
9 under rules similar to the rules of para-
10 graphs (2) and (5) of section 304(b).”.

11 (b) EARNINGS AND PROFITS.—Paragraph (7) of sec-
12 tion 312(n) is amended by adding at the end the following:
13 “A similar rule shall apply to an exchange to which section
14 356(a)(1) applies.”.

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

19 (d) EFFECTIVE DATE.—

20 (1) IN GENERAL.—Except as provided in para-
21 graph (2), the amendments made by this section
22 shall apply to exchanges after the date of the enact-
23 ment of this Act.

24 (2) TRANSITION RULE.—The amendments
25 made by this section shall not apply to any exchange

1 between unrelated persons pursuant to a transaction
2 which is—

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

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

9 (C) described in a public announcement or
10 filing with the Securities and Exchange Com-
11 mission on or before such date.

12 (3) RELATED PERSONS.—For purposes of this
13 subsection, a person shall be treated as related to
14 another person if the relationship between such per-
15 sons is described in section 267 or 707(b) of the In-
16 ternal Revenue Code of 1986.

17 **Subtitle D—Other Provisions**

18 **SEC. 431. MODIFICATIONS WITH RESPECT TO OIL SPILL LI-**

19 **ABILITY TRUST FUND.**

20 (a) EXTENSION OF APPLICATION OF OIL SPILL LI-
21 ABILITY TRUST FUND FINANCING RATE.—Paragraph (2)
22 of section 4611(f) is amended by striking “December 31,
23 2017” and inserting “December 31, 2020”.

1 (b) INCREASE IN OIL SPILL LIABILITY TRUST FUND
2 FINANCING RATE.—Subparagraph (B) of section
3 4611(c)(2) is amended to read as follows:

4 “(B) the Oil Spill Liability Trust Fund fi-
5 nancing rate is 49 cents a barrel.”.

6 (c) INCREASE IN PER INCIDENT LIMITATIONS ON
7 EXPENDITURES.—Subparagraph (A) of section
8 9509(c)(2) is amended—

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

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

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

16 (d) EFFECTIVE DATE.—

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

21 (2) INCREASE IN FINANCING RATE.—The
22 amendment made by subsection (b) shall apply to
23 crude oil received and petroleum products entered
24 during calendar quarters beginning more than 60
25 days after the date of the enactment of this Act.

1 **SEC. 432. TIME FOR PAYMENT OF CORPORATE ESTIMATED**
2 **TAXES.**

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

7 **SEC. 433. DENIAL OF DEDUCTION FOR PUNITIVE DAMAGES.**

8 (a) **DISALLOWANCE OF DEDUCTION FOR PUNITIVE**
9 **DAMAGES.—**

10 (1) **IN GENERAL.—**Section 162(g) (relating to
11 treble damage payments under the antitrust laws) is
12 amended—

13 (A) by redesignating paragraphs (1) and
14 (2) as subparagraphs (A) and (B), respectively,
15 (B) by striking “If” and inserting:

16 “(1) **TREBLE DAMAGES.—**If”, and

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

19 “(2) **PUNITIVE DAMAGES.—**No deduction shall
20 be allowed under this chapter for any amount paid
21 or incurred for punitive damages in connection with
22 any judgment in, or settlement of, any action. This
23 paragraph shall not apply to punitive damages de-
24 scribed in section 104(c).”.

1 (2) CONFORMING AMENDMENT.—The heading
2 for section 162(g) is amended by inserting “OR PU-
3 NITIVE DAMAGES” after “LAWS”.

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

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

10 **“SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSUR-**
11 **ANCE OR OTHERWISE.**

12 “Gross income shall include any amount paid to or
13 on behalf of a taxpayer as insurance or otherwise by rea-
14 son of the taxpayer’s liability (or agreement) to pay puni-
15 tive damages.”.

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

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

24 (3) CONFORMING AMENDMENT.—The table of
25 sections for part II of subchapter B of chapter 1 is

1 amended by adding at the end the following new
2 item:

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

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

6 **TITLE V—UNEMPLOYMENT,**
7 **HEALTH, AND OTHER ASSIST-**
8 **ANCE**

9 **Subtitle A—Unemployment**
10 **Insurance and Other Assistance**

11 **SEC. 501. EXTENSION OF UNEMPLOYMENT INSURANCE**
12 **PROVISIONS.**

13 (a) IN GENERAL.—(1) Section 4007 of the Supple-
14 mental Appropriations Act, 2008 (Public Law 110–252;
15 26 U.S.C. 3304 note) is amended—

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

18 (B) in the heading for subsection (b)(2), by
19 striking “JUNE 2, 2010” and inserting “NOVEMBER
20 30, 2010”; and

21 (C) in subsection (b)(3), by striking “November
22 6, 2010” and inserting “April 30, 2011”.

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

1 Public Law 111–5 (26 U.S.C. 3304 note; 123 Stat. 444),
2 is amended—

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

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

7 (3) Section 5 of the Unemployment Compensation
8 Extension Act of 2008 (Public Law 110–449; 26 U.S.C.
9 3304 note) is amended by striking “November 6, 2010”
10 and inserting “April 30, 2011”.

11 (b) FUNDING.—Section 4004(e)(1) of the Supple-
12 mental Appropriations Act, 2008 (Public Law 110–252;
13 26 U.S.C. 3304 note) is amended—

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

16 (2) by inserting after subparagraph (E) the fol-
17 lowing:

18 “(F) the amendments made by section
19 501(a)(1) of the American Jobs and Closing
20 Tax Loopholes Act of 2010; and”.

21 (c) CONDITIONS FOR RECEIVING EMERGENCY UNEM-
22 PLOYMENT COMPENSATION.—Section 4001(d)(2) of the
23 Supplemental Appropriations Act, 2008 (Public Law 110–
24 252; 26 U.S.C. 3304 note) is amended, in the matter pre-
25 ceding subparagraph (A), by inserting before “shall

1 apply” the following: “(including terms and conditions re-
2 lating to availability for work, active search for work, and
3 refusal to accept work)”.

4 (d) EFFECTIVE DATE.—The amendments made by
5 this section shall take effect as if included in the enact-
6 ment of the Continuing Extension Act of 2010 (Public
7 Law 111–157).

8 **SEC. 502. COORDINATION OF EMERGENCY UNEMPLOY-**
9 **MENT COMPENSATION WITH REGULAR COM-**
10 **PENSATION.**

11 (a) CERTAIN INDIVIDUALS NOT INELIGIBLE BY REA-
12 SON OF NEW ENTITLEMENT TO REGULAR BENEFITS.—
13 Section 4002 of the Supplemental Appropriations Act,
14 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is
15 amended by adding at the end the following:

16 “(g) COORDINATION OF EMERGENCY UNEMPLOY-
17 MENT COMPENSATION WITH REGULAR COMPENSA-
18 TION.—

19 “(1) If—

20 “(A) an individual has been determined to
21 be entitled to emergency unemployment com-
22 pensation with respect to a benefit year,

23 “(B) that benefit year has expired,

1 “(C) that individual has remaining entitle-
2 ment to emergency unemployment compensa-
3 tion with respect to that benefit year, and

4 “(D) that individual would qualify for a
5 new benefit year in which the weekly benefit
6 amount of regular compensation is at least ei-
7 ther \$100 or 25 percent less than the individ-
8 ual’s weekly benefit amount in the benefit year
9 referred to in subparagraph (A),

10 then the State shall determine eligibility for com-
11 pensation as provided in paragraph (2).

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

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

24 “(B) The State shall, if permitted by State
25 law, defer the establishment of a new benefit

1 year (which uses all the wages and employment
2 which would have been used to establish a ben-
3 efit year but for the application of this para-
4 graph), until exhaustion of all emergency unem-
5 ployment compensation payable with respect to
6 the benefit year referred to in paragraph(1)(A);

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

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

12 “(ii) emergency unemployment com-
13 pensation equal to the difference between
14 that weekly benefit amount and the weekly
15 benefit amount for the expired benefit
16 year; or

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

22 (b) EFFECTIVE DATE.—The amendment made by
23 this section shall apply to individuals whose benefit years,
24 as described in section 4002(g)(1)(B) the Supplemental
25 Appropriations Act, 2008 (Public Law 110–252; 26

1 U.S.C. 3304 note), as amended by this section, expire
2 after the date of enactment of this Act.

3 **SEC. 503. EXTENSION OF THE EMERGENCY CONTINGENCY**
4 **FUND.**

5 (a) IN GENERAL.—Section 403(c) of the Social Secu-
6 rity Act (42 U.S.C. 603(c)) is amended—

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

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

12 “(B) AVAILABILITY AND USE OF FUNDS.—

13 “(i) FISCAL YEARS 2009 AND 2010.—

14 The amounts appropriated to the Emer-
15 gency Fund under subparagraph (A) for
16 fiscal year 2009 shall remain available
17 through fiscal year 2010 and shall be used
18 to make grants to States in each of fiscal
19 years 2009 and 2010 in accordance with
20 paragraph (3), except that the amounts
21 shall remain available through fiscal year
22 2011 to make grants and payments to
23 States in accordance with paragraph
24 (3)(C) to cover expenditures to subsidize
25 employment positions held by individuals

1 placed in the positions before fiscal year
2 2011.

3 “(ii) FISCAL YEAR 2011.—Subject to
4 clause (iii), the amounts appropriated to
5 the Emergency Fund under subparagraph
6 (A) for fiscal year 2011 shall remain avail-
7 able through fiscal year 2012 and shall be
8 used to make grants to States based on ex-
9 penditures in fiscal year 2011 for benefits
10 and services provided in fiscal year 2011 in
11 accordance with the requirements of para-
12 graph (3).

13 “(iii) RESERVATION OF FUNDS.—Of
14 the amounts appropriated to the Emer-
15 gency Fund under subparagraph (A) for
16 fiscal year 2011, \$500,000 shall be placed
17 in reserve for use in fiscal year 2012, and
18 shall be used to award grants for any ex-
19 penditures described in this subsection in-
20 curred by States after September 30,
21 2011.”;

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

24 (4) in paragraph (3)—

1 (A) in clause (i) of each of subparagraphs
2 (A), (B), and (C)—

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

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

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

10 (iv) by adding at the end the fol-
11 lowing:

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

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

21 “(iv) LIMITATION ON EXPENDITURES
22 FOR SUBSIDIZED EMPLOYMENT.—An ex-
23 penditure for subsidized employment shall
24 be taken into account under clause (ii)

1 only if the expenditure is used to subsidize
2 employment for—

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

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

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

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

17 “(A) FISCAL YEARS 2009 AND 2010.—The
18 total amount payable to a single State under
19 subsection (b) and this subsection for fiscal
20 years 2009 and 2010 combined shall not exceed
21 50 percent of the annual State family assist-
22 ance grant.

23 “(B) FISCAL YEAR 2011.—Subject to sub-
24 paragraph (C), the total amount payable to a
25 single State under subsection (b) and this sub-

1 section for fiscal year 2011 shall not exceed 30
2 percent of the annual State family assistance
3 grant.

4 “(C) ADJUSTMENT AUTHORITY.—If the
5 Secretary determines that the Emergency Fund
6 is at risk of being depleted before September
7 30, 2011, or that funds are available to accom-
8 modate additional State requests under this
9 subsection, the Secretary may, through program
10 instructions issued without regard to the re-
11 quirements of section 553 of title 5, United
12 States Code—

13 “(i) specify priority criteria for award-
14 ing grants to States during fiscal year
15 2011; and

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

20 (6) in paragraph (6), by inserting “or for ex-
21 penditures described in paragraph (3)(C)(iv)” before
22 the period.

23 (b) CONFORMING AMENDMENTS.—Section 2101 of
24 division B of the American Recovery and Reinvestment
25 Act of 2009 (Public Law 111–5) is amended—

1 (1) in subsection (a)(2)—

2 (A) by striking “2010” and inserting
3 “2011”; and

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

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

8 (c) PROGRAM GUIDANCE.—The Secretary of Health
9 and Human Services shall issue program guidance, with-
10 out regard to the requirements of section 553 of title 5,
11 United States Code, which ensures that the funds provided
12 under the amendments made by this section to a jurisdic-
13 tion for subsidized employment do not support any sub-
14 sidized employment position the annual salary of which
15 is greater than, at State option—

16 (1) 200 percent of the poverty line (within the
17 meaning of section 673(2) of the Omnibus Budget
18 Reconciliation Act of 1981, including any revision
19 required by such section 673(2)) for a family of 4;
20 or

21 (2) the median wage in the jurisdiction.

1 **SEC. 504. REQUIRING STATES TO NOT REDUCE REGULAR**
2 **COMPENSATION IN ORDER TO BE ELIGIBLE**
3 **FOR FUNDS UNDER THE EMERGENCY UNEM-**
4 **EMPLOYMENT COMPENSATION PROGRAM.**

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

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

15 “(1) the average weekly benefit amount of reg-
16 ular compensation which will be payable during the
17 period of the agreement occurring on or after June
18 2, 2010 (determined disregarding any additional
19 amounts attributable to the modification described
20 in section 2002(b)(1) of the Assistance for Unem-
21 ployed Workers and Struggling Families Act, as con-
22 tained in Public Law 111–5 (26 U.S.C. 3304 note;
23 123 Stat. 438)), will be less than

24 “(2) the average weekly benefit amount of reg-
25 ular compensation which would otherwise have been

1 payable during such period under the State law, as
2 in effect on June 2, 2010.”.

3 **Subtitle B—Health Provisions**

4 **SEC. 511. EXTENSION OF SECTION 508 RECLASSIFICATIONS.**

5 (a) IN GENERAL.—Section 106(a) of division B of
6 the Tax Relief and Health Care Act of 2006 (42 U.S.C.
7 1395 note), as amended by section 117 of the Medicare,
8 Medicaid, and SCHIP Extension Act of 2007 (Public Law
9 110–173), section 124 of the Medicare Improvements for
10 Patients and Providers Act of 2008 (Public Law 110–
11 275), and sections 3137(a) and 10317 of Public Law 111–
12 148, is amended by striking “September 30, 2010” and
13 inserting “September 30, 2011”.

14 (b) CONFORMING AMENDMENT.—Section 117(a)(3)
15 of the Medicare, Medicaid, and SCHIP Extension Act of
16 2007 (Public Law 110–173)), is amended by inserting “in
17 fiscal years 2008 and 2009” after “For purposes of imple-
18 mentation of this subsection”.

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

20 Effective as if included in the enactment of Public
21 Law 111–148, section 10325 of such Act is repealed.

1 **SEC. 513. LIMITATION ON REASONABLE COSTS PAYMENTS**
2 **FOR CERTAIN CLINICAL DIAGNOSTIC LAB-**
3 **ORATORY TESTS FURNISHED TO HOSPITAL**
4 **PATIENTS IN CERTAIN RURAL AREAS.**

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

8 **SEC. 514. FUNDING FOR CLAIMS REPROCESSING.**

9 For purposes of carrying out the provisions of, and
10 amendments made by, this Act that relate to title XVIII
11 of the Social Security Act, and other provisions of such
12 title that involve reprocessing of claims, there are appro-
13 priated to the Secretary of Health and Human Services
14 for the Centers for Medicare & Medicaid Services Program
15 Management Account, from amounts in the general fund
16 of the Treasury not otherwise appropriated,
17 \$175,000,000. Amounts appropriated under the preceding
18 sentence shall remain available until expended.

19 **SEC. 515. MEDICAID AND CHIP TECHNICAL CORRECTIONS.**

20 (a) **REPEAL OF EXCLUSION OF CERTAIN INDIVID-**
21 **UALS AND ENTITIES FROM MEDICAID.**—Section 6502 of
22 Public Law 111–148 is repealed and the provisions of law
23 amended by such section are restored as if such section
24 had never been enacted. Nothing in the previous sentence
25 shall affect the execution or placement of the insertion
26 made by section 6503 of such Act.

1 (b) INCOME LEVEL FOR CERTAIN CHILDREN UNDER
2 MEDICAID.—Effective as if included in the enactment of
3 Public Law 111–148, section 2001(a)(5)(B) of such Act
4 is amended by striking all that follows “is amended” and
5 inserting the following: “by inserting after ‘100 percent’
6 the following: ‘(or, beginning January 1, 2014, 133 per-
7 cent)’.”.

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

16 (d) CORRECTIONS TO EXCEPTIONS TO EXCLUSION
17 OF CHILDREN OF CERTAIN EMPLOYEES.—Section
18 2110(b)(6) of the Social Security Act (42 U.S.C.
19 1397jj(b)(6)) is amended—

20 (1) in subparagraph (B)—

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

23 (B) by striking “each employee” and in-
24 serting “employees”; and

1 (2) in subparagraph (C), by striking “, on a
2 case-by-case basis,”.

3 (e) ELECTRONIC HEALTH RECORDS.—Effective as if
4 included in the enactment of section 4201(a)(2) of the
5 American Recovery and Reinvestment Act of 2009 (Public
6 Law 111–5), section 1903(t) of the Social Security Act
7 (42 U.S.C. 1396b(t)) is amended—

8 (1) in paragraph (3)(E), by striking “reduced
9 by any payment that is made to such Medicaid pro-
10 vider from any other source (other than under this
11 subsection or by a State or local government)” and
12 inserting “reduced by the average payment the Sec-
13 retary estimates will be made to such Medicaid pro-
14 viders (determined on a percentage or other basis
15 for such classes or types of providers as the Sec-
16 retary may specify) from other sources (other than
17 under this subsection, or by the Federal government
18 or a State or local government)”; and

19 (2) in paragraph (6)(B), by inserting before the
20 period the following: “and shall be determined to
21 have met such responsibility to the extent that the
22 payment to the Medicaid provider is not in excess of
23 85 percent of the net average allowable cost”.

24 (f) CORRECTIONS OF DESIGNATIONS.—

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

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

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

9 (2) Section 2107(e)(1) of the Social Security
10 Act (42 U.S.C. 1397gg(e)(1)) is amended by redес-
11 ignating the subparagraph (N) of that section added
12 by 2101(e) of Public Law 111–148 as subparagraph
13 (O).

14 **SEC. 516. ADDITION OF INPATIENT DRUG DISCOUNT PRO-**
15 **GRAM TO 340B DRUG DISCOUNT PROGRAM.**

16 (a) **ADDITION OF INPATIENT DRUG DISCOUNT.**—
17 Title III of the Public Health Service Act is amended by
18 inserting after section 340B (42 U.S.C. 256b) the fol-
19 lowing:

20 **“SEC. 340B–1. DISCOUNT INPATIENT DRUGS FOR INDIVID-**
21 **UALS WITHOUT PRESCRIPTION DRUG COV-**
22 **ERAGE.**

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

25 “(1) **IN GENERAL.**—

1 “(A) AGREEMENT.—The Secretary shall
2 enter into an agreement with each manufac-
3 turer of covered inpatient drugs under which
4 the amount required to be paid (taking into ac-
5 count any rebate or discount, as provided by
6 the Secretary) to the manufacturer for covered
7 inpatient drugs (other than drugs described in
8 paragraph (3)) purchased by a covered entity
9 on or after January 1, 2011, does not exceed
10 an amount equal to the average manufacturer
11 price for the drug under title XIX of the Social
12 Security Act in the preceding calendar quarter,
13 reduced by the rebate percentage described in
14 paragraph (2). For a covered inpatient drug
15 that also is a covered outpatient drug under
16 section 340B, the amount required to be paid
17 under the preceding sentence shall be equal to
18 the amount required to be paid under section
19 340B(a)(1) for such drug. The agreement with
20 a manufacturer under this subparagraph may,
21 at the discretion of the Secretary, be included
22 in the agreement with the same manufacturer
23 under section 340B.

24 “(B) CEILING PRICE.—Each such agree-
25 ment shall require that the manufacturer fur-

1 nish the Secretary with reports, on a quarterly
2 basis, of the price for each covered inpatient
3 drug subject to the agreement that, according
4 to the manufacturer, represents the maximum
5 price that covered entities may permissibly be
6 required to pay for the drug (referred to in this
7 section as the ‘ceiling price’), and shall require
8 that the manufacturer offer each covered entity
9 covered inpatient drugs for purchase at or
10 below the applicable ceiling price if such drug
11 is made available to any other purchaser at any
12 price.

13 “(C) ALLOCATION METHOD.—Each such
14 agreement shall require that, if the supply of a
15 covered inpatient drug is insufficient to meet
16 demand, then the manufacturer may use an al-
17 location method that is reported in writing to,
18 and approved by, the Secretary and does not
19 discriminate on the basis of the price paid by
20 covered entities or on any other basis related to
21 the participation of an entity in the program
22 under this section.

23 “(2) REBATE PERCENTAGE DEFINED.—

24 “(A) IN GENERAL.—For a covered inpa-
25 tient drug purchased in a calendar quarter, the

1 ‘rebate percentage’ is the amount (expressed as
2 a percentage) equal to—

3 “(i) the average total rebate required
4 under section 1927(c) of the Social Secu-
5 rity Act (or the average total rebate that
6 would be required if the drug were a cov-
7 ered outpatient drug under such section)
8 with respect to the drug (for a unit of the
9 dosage form and strength involved) during
10 the preceding calendar quarter; divided by

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

14 “(B) OVER THE COUNTER DRUGS.—

15 “(i) IN GENERAL.—For purposes of
16 subparagraph (A), in the case of over the
17 counter drugs, the ‘rebate percentage’ shall
18 be determined as if the rebate required
19 under section 1927(c) of the Social Secu-
20 rity Act is based on the applicable percent-
21 age provided under section 1927(c)(3) of
22 such Act.

23 “(ii) DEFINITION.—The term ‘over
24 the counter drug’ means a drug that may
25 be sold without a prescription and which is

1 prescribed by a physician (or other persons
2 authorized to prescribe such drug under
3 State law).

4 “(3) DRUGS PROVIDED UNDER STATE MED-
5 ICAID PLANS.—Drugs described in this paragraph
6 are drugs purchased by the entity for which payment
7 is made by the State under the State plan for med-
8 ical assistance under title XIX of the Social Security
9 Act.

10 “(4) REQUIREMENTS FOR COVERED ENTI-
11 TIES.—

12 “(A) PROHIBITING DUPLICATE DISCOUNTS
13 OR REBATES.—

14 “(i) IN GENERAL.—A covered entity
15 shall not request payment under title XIX
16 of the Social Security Act for medical as-
17 sistance described in section 1905(a)(12)
18 of such Act with respect to a covered inpa-
19 tient drug that is subject to an agreement
20 under this section if the drug is subject to
21 the payment of a rebate to the State under
22 section 1927 of such Act.

23 “(ii) ESTABLISHMENT OF MECHA-
24 NISM.—The Secretary shall establish a
25 mechanism to ensure that covered entities

1 comply with clause (i). If the Secretary
2 does not establish a mechanism under the
3 previous sentence within 12 months of the
4 enactment of this section, the requirements
5 of section 1927(a)(5)(C) of the Social Se-
6 curity Act shall apply.

7 “(iii) PROHIBITING DISCLOSURE TO
8 GROUP PURCHASING ORGANIZATIONS.—In
9 the event that a covered entity is a mem-
10 ber of a group purchasing organization,
11 such entity shall not disclose the price or
12 any other information pertaining to any
13 purchases under this section directly or in-
14 directly to such group purchasing organi-
15 zation.

16 “(B) PROHIBITING RESALE, DISPENSING,
17 OR ADMINISTRATION OF DRUGS EXCEPT TO
18 CERTAIN PATIENTS.—With respect to any cov-
19 ered inpatient drug that is subject to an agree-
20 ment under this subsection, a covered entity
21 shall not dispense, administer, resell, or other-
22 wise transfer the covered inpatient drug to a
23 person unless—

24 “(i) such person is an inpatient of the
25 entity; and

1 “(ii) such person does not have health
2 plan coverage (as defined in subsection
3 (c)(3)) that provides prescription drug cov-
4 erage in the inpatient setting with respect
5 to such covered inpatient drug.

6 For purposes of clause (ii), a person shall be
7 treated as having health plan coverage (as de-
8 fined in subsection (c)(3)) with respect to a cov-
9 ered inpatient drug if benefits are not payable
10 under such coverage with respect to such drug
11 for reasons such as the application of a deduct-
12 ible or cost sharing or the use of utilization
13 management.

14 “(C) AUDITING.—A covered entity shall
15 permit the Secretary and the manufacturer of a
16 covered inpatient drug that is subject to an
17 agreement under this subsection with the entity
18 (acting in accordance with procedures estab-
19 lished by the Secretary relating to the number,
20 duration, and scope of audits) to audit at the
21 Secretary’s or the manufacturer’s expense the
22 records of the entity that directly pertain to the
23 entity’s compliance with the requirements de-
24 scribed in subparagraph (A) or (B) with respect
25 to drugs of the manufacturer. The use or dis-

1 closure of information for performance of such
2 an audit shall be treated as a use or disclosure
3 required by law for purposes of section
4 164.512(a) of title 45, Code of Federal Regula-
5 tions.

6 “(D) ADDITIONAL SANCTION FOR NON-
7 COMPLIANCE.—If the Secretary finds, after no-
8 tice and hearing, that a covered entity is in vio-
9 lation of a requirement described in subpara-
10 graph (A) or (B), the covered entity shall be
11 liable to the manufacturer of the covered inpa-
12 tient drug that is the subject of the violation in
13 an amount equal to the reduction in the price
14 of the drug (as described in subparagraph (A))
15 provided under the agreement between the Sec-
16 retary and the manufacturer under this sub-
17 section.

18 “(E) MAINTENANCE OF RECORDS.—

19 “(i) IN GENERAL.—A covered entity
20 shall establish and maintain an effective
21 recordkeeping system to comply with this
22 section and shall certify to the Secretary
23 that such entity is in compliance with sub-
24 paragraphs (A) and (B). The Secretary
25 shall require that hospitals that purchase

1 covered inpatient drugs for inpatient dis-
2 pensing or administration under this sub-
3 section appropriately segregate inventory
4 of such covered inpatient drugs, either
5 physically or electronically, from drugs for
6 outpatient use, as well as from drugs for
7 inpatient dispensing or administration to
8 individuals who have (for purposes of sub-
9 paragraph (B)) health plan coverage de-
10 scribed in clause (ii) of such subparagraph.

11 “(ii) CERTIFICATION OF NO THIRD-
12 PARTY PAYER.—A covered entity shall
13 maintain records that contain certification
14 by the covered entity that no third party
15 payment was received for any covered in-
16 patient drug that is subject to an agree-
17 ment under this subsection and that was
18 dispensed to an inpatient.

19 “(5) TREATMENT OF DISTINCT UNITS OF HOS-
20 PITALS.—In the case of a covered entity that is a
21 distinct part of a hospital, the distinct part of the
22 hospital shall not be considered a covered entity
23 under this subsection unless the hospital is otherwise
24 a covered entity under this subsection.

1 “(6) NOTICE TO MANUFACTURERS.—The Sec-
2 retary shall notify manufacturers of covered inpa-
3 tient drugs and single State agencies under section
4 1902(a)(5) of the Social Security Act of the identi-
5 ties of covered entities under this subsection, and of
6 entities that no longer meet the requirements of
7 paragraph (4), by means of timely updates of the
8 Internet website supported by the Department of
9 Health and Human Services relating to this section.

10 “(7) NO PROHIBITION ON LARGER DISCOUNT.—
11 Nothing in this subsection shall prohibit a manufac-
12 turer from charging a price for a drug that is lower
13 than the maximum price that may be charged under
14 paragraph (1).

15 “(b) COVERED ENTITY DEFINED.—In this section,
16 the term ‘covered entity’ means an entity that meets the
17 requirements described in subsection (a)(4) that has ap-
18 plied for and enrolled in the program described under this
19 section and is one of the following:

20 “(1) A subsection (d) hospital (as defined in
21 section 1886(d)(1)(B) of the Social Security Act)
22 that—

23 “(A) is owned or operated by a unit of
24 State or local government, is a public or private
25 non-profit corporation which is formally granted

1 governmental powers by a unit of State or local
2 government, or is a private nonprofit hospital
3 which has a contract with a State or local gov-
4 ernment to provide health care services to low
5 income individuals who are not entitled to bene-
6 fits under title XVIII of the Social Security Act
7 or eligible for assistance under the State plan
8 for medical assistance under title XIX of such
9 Act; and

10 “(B) for the most recent cost reporting pe-
11 riod that ended before the calendar quarter in-
12 volved, had a disproportionate share adjustment
13 percentage (as determined using the method-
14 ology under section 1886(d)(5)(F) of the Social
15 Security Act as in effect on the date of enact-
16 ment of this section) greater than 20.20 percent
17 or was described in section 1886(d)(5)(F)(i)(II)
18 of such Act (as so in effect on the date of en-
19 actment of this section).

20 “(2) A children’s hospital excluded from the
21 Medicare prospective payment system pursuant to
22 section 1886(d)(1)(B)(iii) of the Social Security Act
23 that would meet the requirements of paragraph (1),
24 including the disproportionate share adjustment per-
25 centage requirement under subparagraph (B) of

1 such paragraph, if the hospital were a subsection (d)
2 hospital as defined by section 1886(d)(1)(B) of the
3 Social Security Act.

4 “(3) A free-standing cancer hospital excluded
5 from the Medicare prospective payment system pur-
6 suant to section 1886(d)(1)(B)(v) of the Social Se-
7 curity Act that would meet the requirements of
8 paragraph (1), including the disproportionate share
9 adjustment percentage requirement under subpara-
10 graph (B) of such paragraph, if the hospital were a
11 subsection (d) hospital as defined by section
12 1886(d)(1)(B) of the Social Security Act.

13 “(4) An entity that is a critical access hospital
14 (as determined under section 1820(c)(2) of the So-
15 cial Security Act), and that meets the requirements
16 of paragraph (1)(A).

17 “(5) An entity that is a rural referral center, as
18 defined by section 1886(d)(5)(C)(i) of the Social Se-
19 curity Act, or a sole community hospital, as defined
20 by section 1886(d)(5)(C)(iii) of such Act, and that
21 both meets the requirements of paragraph (1)(A)
22 and has a disproportionate share adjustment per-
23 centage equal to or greater than 8 percent.

24 “(c) OTHER DEFINITIONS.—In this section:

25 “(1) AVERAGE MANUFACTURER PRICE.—

1 “(A) IN GENERAL.—The term ‘average
2 manufacturer price’—

3 “(i) has the meaning given such term
4 in section 1927(k) of the Social Security
5 Act, except that such term shall be applied
6 under this section with respect to covered
7 inpatient drugs in the same manner (as
8 applicable) as such term is applied under
9 such section 1927(k) with respect to cov-
10 ered outpatient drugs (as defined in such
11 section); and

12 “(ii) with respect to a covered inpa-
13 tient drug for which there is no average
14 manufacturer price (as defined in clause
15 (i)), shall be the amount determined under
16 regulations promulgated by the Secretary
17 under subparagraph (B).

18 “(B) RULEMAKING.—The Secretary shall
19 by regulation, in consultation with the Adminis-
20 trator of the Centers for Medicare & Medicaid
21 Services, establish a method for determining the
22 average manufacturer price for covered inpa-
23 tient drugs for which there is no average manu-
24 facturer price (as defined in subparagraph
25 (A)(i)). Regulations promulgated with respect

1 to covered inpatient drugs under the preceding
2 sentence shall provide for the application of
3 methods for determining the average manufac-
4 turer price that are the same as the methods
5 used to determine such price in calculating re-
6 bates required for such drugs under an agree-
7 ment between a manufacturer and a State that
8 satisfies the requirements of section 1927(b) of
9 the Social Security Act, as applicable.

10 “(2) COVERED INPATIENT DRUG.—The term
11 ‘covered inpatient drug’ means a drug—

12 “(A) that is described in section
13 1927(k)(2) of the Social Security Act;

14 “(B) that, notwithstanding paragraph
15 (3)(A) of section 1927(k) of such Act, is used
16 in connection with an inpatient service provided
17 by a covered entity that is enrolled to partici-
18 pate in the drug discount program under this
19 section; and

20 “(C) that is not purchased by the covered
21 entity through or under contract with a group
22 purchasing organization.

23 “(3) HEALTH PLAN COVERAGE.—The term
24 ‘health plan coverage’ means—

1 “(A) health insurance coverage (as defined
2 in section 2791, and including coverage under
3 a State health benefits risk pool);

4 “(B) coverage under a group health plan
5 (as defined in such section, and including cov-
6 erage under a church plan, a governmental
7 plan, or a collectively bargained plan);

8 “(C) coverage under a Federal health care
9 program (as defined by section 1128B(f) of the
10 Social Security Act); or

11 “(D) such other health benefits coverage
12 as the Secretary recognizes for purposes of this
13 section.

14 “(4) MANUFACTURER.—The term ‘manufac-
15 turer’ has the meaning given such term in section
16 1927(k) of the Social Security Act.

17 “(d) PROGRAM INTEGRITY.—

18 “(1) MANUFACTURER COMPLIANCE.—

19 “(A) IN GENERAL.—From amounts appro-
20 priated under subsection (f), the Secretary shall
21 provide for improvements in compliance by
22 manufacturers with the requirements of this
23 section in order to prevent overcharges and
24 other violations of the discounted pricing re-
25 quirements specified in this section.

1 “(B) IMPROVEMENTS.—The improvements
2 described in subparagraph (A) shall include the
3 following:

4 “(i) The establishment of a process to
5 enable the Secretary to verify the accuracy
6 of ceiling prices calculated by manufactur-
7 ers under subsection (a)(1) and charged to
8 covered entities, which shall include the
9 following:

10 “(I) Developing and publishing
11 through an appropriate policy or regu-
12 latory issuance, precisely defined
13 standards and methodology for the
14 calculation of ceiling prices under
15 such subsection.

16 “(II) Comparing regularly the
17 ceiling prices calculated by the Sec-
18 retary with the quarterly pricing data
19 that is reported by manufacturers to
20 the Secretary.

21 “(III) Conducting periodic moni-
22 toring of sales transactions by covered
23 entities.

24 “(IV) Inquiring into any discrep-
25 ancies between ceiling prices and

1 manufacturer pricing data that may
2 be identified and taking, or requiring
3 manufacturers to take, corrective ac-
4 tion in response to such discrepancies,
5 including the issuance of refunds pur-
6 suant to the procedures set forth in
7 clause (ii).

8 “(ii) The establishment of procedures
9 for manufacturers to issue refunds to cov-
10 ered entities in the event that there is an
11 overcharge by the manufacturers, including
12 the following:

13 “(I) Providing the Secretary with
14 an explanation of why and how the
15 overcharge occurred, how the refunds
16 will be calculated, and to whom the
17 refunds will be issued.

18 “(II) Oversight by the Secretary
19 to ensure that the refunds are issued
20 accurately and within a reasonable pe-
21 riod of time.

22 “(iii) The provision of access through
23 the Internet website supported by the De-
24 partment of Health and Human Services
25 to the applicable ceiling prices for covered

1 inpatient drugs as calculated and verified
2 by the Secretary in accordance with this
3 section, in a manner (such as through the
4 use of password protection) that limits
5 such access to covered entities and ade-
6 quately assures security and protection of
7 privileged pricing data from unauthorized
8 re-disclosure.

9 “(iv) The development of a mecha-
10 nism by which—

11 “(I) rebates, discounts, or other
12 price concessions provided by manu-
13 facturers to other purchasers subse-
14 quent to the sale of covered inpatient
15 drugs to covered entities are reported
16 to the Secretary; and

17 “(II) appropriate credits and re-
18 funds are issued to covered entities if
19 such discounts, rebates, or other price
20 concessions have the effect of lowering
21 the applicable ceiling price for the rel-
22 evant quarter for the drugs involved.

23 “(v) Selective auditing of manufactur-
24 ers and wholesalers to ensure the integrity

1 of the drug discount program under this
2 section.

3 “(vi) The establishment of a require-
4 ment that manufacturers and wholesalers
5 use the identification system developed by
6 the Secretary for purposes of facilitating
7 the ordering, purchasing, and delivery of
8 covered inpatient drugs under this section,
9 including the processing of chargebacks for
10 such drugs.

11 “(vii) The imposition of sanctions in
12 the form of civil monetary penalties,
13 which—

14 “(I) shall be assessed according
15 to standards and procedures estab-
16 lished in regulations to be promul-
17 gated by the Secretary not later than
18 January 1, 2011;

19 “(II) shall not exceed \$10,000
20 per single dosage form of a covered
21 inpatient drug purchased by a covered
22 entity where a manufacturer know-
23 ingly charges such covered entity a
24 price for such drug that exceeds the

1 ceiling price under subsection (a)(1);
2 and

3 “(III) shall not exceed \$100,000
4 for each instance where a manufac-
5 turer withholds or provides materially
6 false information to the Secretary or
7 to covered entities under this section
8 or knowingly violates any provision of
9 this section (other than subsection
10 (a)(1)).

11 “(2) COVERED ENTITY COMPLIANCE.—

12 “(A) IN GENERAL.—From amounts appro-
13 priated under subsection (f), the Secretary shall
14 provide for improvements in compliance by cov-
15 ered entities with the requirements of this sec-
16 tion in order to prevent diversion and violations
17 of the duplicate discount provision and other re-
18 quirements specified under subsection (a)(4).

19 “(B) IMPROVEMENTS.—The improvements
20 described in subparagraph (A) shall include the
21 following:

22 “(i) The development of procedures to
23 enable and require covered entities to up-
24 date at least annually the information on
25 the Internet website supported by the De-

1 department of Health and Human Services
2 relating to this section.

3 “(ii) The development of procedures
4 for the Secretary to verify the accuracy of
5 information regarding covered entities that
6 is listed on the website described in clause
7 (i).

8 “(iii) The development of more de-
9 tailed guidance describing methodologies
10 and options available to covered entities for
11 billing covered inpatient drugs to State
12 Medicaid agencies in a manner that avoids
13 duplicate discounts pursuant to subsection
14 (a)(4)(A).

15 “(iv) The establishment of a single,
16 universal, and standardized identification
17 system by which each covered entity site
18 and each covered entity’s purchasing sta-
19 tus under sections 340B and this section
20 can be identified by manufacturers, dis-
21 tributors, covered entities, and the Sec-
22 retary for purposes of facilitating the or-
23 dering, purchasing, and delivery of covered
24 inpatient drugs under this section, includ-

1 ing the processing of chargebacks for such
2 drugs.

3 “(v) The imposition of sanctions in
4 the form of civil monetary penalties,
5 which—

6 “(I) shall be assessed according
7 to standards and procedures estab-
8 lished in regulations promulgated by
9 the Secretary; and

10 “(II) shall not exceed \$10,000
11 for each instance where a covered en-
12 tity knowingly violates subsection
13 (a)(4)(B) or knowingly violates any
14 other provision of this section.

15 “(vi) The termination of a covered en-
16 tity’s participation in the program under
17 this section, for a period of time to be de-
18 termined by the Secretary, in cases in
19 which the Secretary determines, in accord-
20 ance with standards and procedures estab-
21 lished by regulation, that—

22 “(I) the violation by a covered
23 entity of a requirement of this section
24 was repeated and knowing; and

1 “(II) imposition of a monetary
2 penalty would be insufficient to rea-
3 sonably ensure compliance with the
4 requirements of this section.

5 “(vii) The referral of matters, as ap-
6 propriate, to the Food and Drug Adminis-
7 tration, the Office of the Inspector General
8 of the Department of Health and Human
9 Services, or other Federal or State agen-
10 cies.

11 “(3) ADMINISTRATIVE DISPUTE RESOLUTION
12 PROCESS.—From amounts appropriated under sub-
13 section (f), the Secretary may establish and imple-
14 ment an administrative process for the resolution of
15 the following:

16 “(A) Claims by covered entities that manu-
17 facturers have violated the terms of their agree-
18 ment with the Secretary under subsection
19 (a)(1).

20 “(B) Claims by manufacturers that cov-
21 ered entities have violated subsection (a)(4)(A)
22 or (a)(4)(B).

23 “(e) AUDIT AND SANCTIONS.—

24 “(1) AUDIT.—From amounts appropriated
25 under subsection (f), the Inspector General of the

1 Department of Health and Human Services (re-
2 ferred to in this subsection as the ‘Inspector Gen-
3 eral’) shall audit covered entities under this section
4 to verify compliance with criteria for eligibility and
5 participation under this section, including the
6 antidiversion prohibitions under subsection
7 (a)(4)(B), and take enforcement action or provide
8 information to the Secretary who shall take action to
9 ensure program compliance, as appropriate. A cov-
10 ered entity shall provide to the Inspector General,
11 upon request, records relevant to such audits.

12 “(2) REPORT.—For each audit conducted under
13 paragraph (1), the Inspector General shall prepare
14 and publish in a timely manner a report which shall
15 include findings and recommendations regarding—

16 “(A) the appropriateness of covered entity
17 eligibility determinations and, as applicable,
18 certifications;

19 “(B) the effectiveness of antidiversion pro-
20 hibitions; and

21 “(C) the effectiveness of restrictions on in-
22 patient dispensing and administration.

23 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated to carry out this section

1 such sums as may be necessary for fiscal year 2011 and
2 each succeeding fiscal year.”.

3 (b) RULEMAKING.—Not later than January 1, 2011,
4 the Secretary shall promulgate regulations implementing
5 section 340B–1 of the Public Health Service Act (as added
6 by subsection (a)).

7 (c) CONFORMING AMENDMENT TO SECTION 340B.—
8 Paragraph (1) of section 340B(a) of the Public Health
9 Service Act (42 U.S.C. 256b(a)) is amended by adding
10 at the end the following: “Such agreement shall further
11 require that, if the supply of a covered outpatient drug
12 is insufficient to meet demand, then the manufacturer
13 may use an allocation method that is reported in writing
14 to, and approved by, the Secretary and does not discrimi-
15 nate on the basis of the price paid by covered entities or
16 on any other basis related to the participation of an entity
17 in the program under this section. The agreement with
18 a manufacturer under this paragraph may, at the discre-
19 tion of the Secretary, be included in the agreement with
20 the same manufacturer under section 340B–1.”.

21 (d) CONFORMING AMENDMENTS TO MEDICAID.—
22 Section 1927 of the Social Security Act (42 U.S.C. 1396r–
23 8) is amended—

24 (1) in subsection (a)—

1 (A) in paragraph (1), in the first sentence,
2 by striking “and paragraph (6)” and inserting
3 “, paragraph (6), and paragraph (8)”; and

4 (B) by adding at the end the following new
5 paragraph:

6 “(8) LIMITATION ON PRICES OF DRUGS PUR-
7 CHASED BY 340B–1-COVERED ENTITIES.—

8 “(A) AGREEMENT WITH SECRETARY.—A
9 manufacturer meets the requirements of this
10 paragraph if the manufacturer has entered into
11 an agreement with the Secretary that meets the
12 requirements of section 340B–1 of the Public
13 Health Service Act with respect to covered in-
14 patient drugs (as defined in such section) pur-
15 chased by a 340B–1-covered entity on or after
16 January 1, 2011.

17 “(B) 340B–1-COVERED ENTITY DE-
18 FINED.—In this subsection, the term ‘340B–1-
19 covered entity’ means an entity described in
20 section 340B–1(b) of the Public Health Service
21 Act.”; and

22 (2) in subsection (c)(1)(C)(i)(I)—

23 (A) by striking “or” before “a covered en-
24 tity”; and

1 (B) by inserting before the semicolon the
2 following: “, or a covered entity for a covered
3 inpatient drug (as such terms are defined in
4 section 340B–1of the Public Health Service
5 Act)”.

6 **SEC. 517. CONTINUED INCLUSION OF ORPHAN DRUGS IN**
7 **DEFINITION OF COVERED OUTPATIENT**
8 **DRUGS WITH RESPECT TO CHILDREN’S HOS-**
9 **PITALS UNDER THE 340B DRUG DISCOUNT**
10 **PROGRAM.**

11 (a) DEFINITION OF COVERED OUTPATIENT DRUG.—

12 (1) AMENDMENT.—Subsection (e) of section
13 340B of the Public Health Service Act (42 U.S.C.
14 256b) is amended by striking “covered entities de-
15 scribed in subparagraph (M)”and inserting “covered
16 entities described in subparagraph (M) (other than
17 a children’s hospital described in subparagraph
18 (M))”.

19 (2) EFFECTIVE DATE.—The amendment made
20 by paragraph (1) shall take effect as if included in
21 the enactment of section 2302 of the Health Care
22 and Education Reconciliation Act of 2010 (Public
23 Law 111–152).

24 (b) TECHNICAL AMENDMENT.—Subparagraph (B) of
25 section 1927(a)(5) of the Social Security Act (42 U.S.C.

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 SERV-**
6 **ICES.**

7 Effective as if included in section 10501(i)(2)(A) of
8 Public Law 111–148, section 1833(a)(3)(A) of the Social
9 Security Act (42 U.S.C. 1395l(a)(3)(A)) is amended by
10 striking “section 1861(s)(10)(A)” and inserting “section
11 1861(ddd)(3)”.

12 **SEC. 519. CLARIFICATION OF EFFECTIVE DATE OF PART B**
13 **SPECIAL ENROLLMENT PERIOD FOR DIS-**
14 **ABLED TRICARE BENEFICIARIES.**

15 Effective as if included in the enactment of Public
16 Law 111–148, section 3110(a)(2) of such Act is amended
17 to read as follows:

18 “(2) EFFECTIVE DATE.—The amendment made
19 by paragraph (1) shall apply to elections made after
20 the date of the enactment of this Act.”.

21 **SEC. 520. ADJUSTMENT TO MEDICARE PAYMENT LOCAL-**
22 **ITIES.**

23 (a) IN GENERAL.—Section 1848(e) of the Social Se-
24 curity Act (42 U.S.C.1395w–4(e)) is amended by adding
25 at the end the following new paragraph:

1 “(6) TRANSITION TO USE OF MSAS AS FEE
2 SCHEDULE AREAS IN CALIFORNIA.—

3 “(A) IN GENERAL.—

4 “(i) REVISION.—Subject to clause (ii)
5 and notwithstanding the previous provi-
6 sions of this subsection, for services fur-
7 nished on or after January 1, 2012, the
8 Secretary shall revise the fee schedule
9 areas used for payment under this section
10 applicable to the State of California using
11 the Metropolitan Statistical Area (MSA)
12 iterative Geographic Adjustment Factor
13 methodology as follows:

14 “(I) The Secretary shall con-
15 figure the physician fee schedule areas
16 using the Metropolitan Statistical
17 Areas (each in this paragraph referred
18 to as an ‘MSA’), as defined by the Di-
19 rector of the Office of Management
20 and Budget as of the date of the en-
21 actment of this paragraph, as the
22 basis for the fee schedule areas.

23 “(II) For purposes of this clause,
24 the Secretary shall treat all areas not
25 included in an MSA as a single rest-

1 of-State MSA and any reference in
2 this paragraph to an MSA shall be
3 deemed to include a reference to such
4 rest-of-State MSA.

5 “(III) The Secretary shall list all
6 MSAs within the State by Geographic
7 Adjustment Factor described in para-
8 graph (2) (in this paragraph referred
9 to as a ‘GAF’) in descending order.

10 “(IV) In the first iteration, the
11 Secretary shall compare the GAF of
12 the highest cost MSA in the State to
13 the weighted-average GAF of all the
14 remaining MSAs in the State. If the
15 ratio of the GAF of the highest cost
16 MSA to the weighted-average of the
17 GAF of remaining lower cost MSAs is
18 1.05 or greater, the highest cost MSA
19 shall be a separate fee schedule area.

20 “(V) In the next iteration, the
21 Secretary shall compare the GAF of
22 the MSA with the second-highest
23 GAF to the weighted-average GAF of
24 the all the remaining MSAs (excluding
25 MSAs that become separate fee sched-

1 ule areas). If the ratio of the second-
2 highest MSA's GAF to the weighted-
3 average of the remaining lower cost
4 MSAs is 1.05 or greater, the second-
5 highest MSA shall be a separate fee
6 schedule area.

7 “(VI) The iterative process shall
8 continue until the ratio of the GAF of
9 the MSA with highest remaining GAF
10 to the weighted-average of the remain-
11 ing MSAs with lower GAFs is less
12 than 1.05, and the remaining group of
13 MSAs with lower GAFs shall be treat-
14 ed as a single rest-of-State fee sched-
15 ule area.

16 “(VII) For purposes of the
17 iterative process described in this
18 clause, if two MSAs have identical
19 GAFs, they shall be combined.

20 “(ii) TRANSITION.—For services fur-
21 nished on or after January 1, 2012, and
22 before January 1, 2017, in the State of
23 California, after calculating the work, prac-
24 tice expense, and malpractice geographic
25 indices that would otherwise be determined

1 under clauses (i), (ii), and (iii) of para-
2 graph (1)(A) for a fee schedule area deter-
3 mined under clause (i), if the index for a
4 county within a fee schedule area is less
5 than the index that would otherwise be in
6 effect for such county, the Secretary shall
7 instead apply the index that would other-
8 wise be in effect for such county.

9 “(B) SUBSEQUENT REVISIONS.—After the
10 transition described in subparagraph (A)(ii),
11 not less than every 3 years the Secretary shall
12 review and update the fee schedule areas using
13 the methodology described in subparagraph
14 (A)(i) and any updated MSAs as defined by the
15 Director of the Office of Management and
16 Budget. The Secretary shall review and make
17 any changes pursuant to such reviews concu-
18 rent with the application of the periodic review
19 of the adjustment factors required under para-
20 graph (1)(C) for California.

21 “(C) REFERENCES TO FEE SCHEDULE
22 AREAS.—Effective for services furnished on or
23 after January 1, 2012, for the State of Cali-
24 fornia, any reference in this section to a fee
25 schedule area shall be deemed a reference to a

1 fee schedule area established in accordance with
2 this paragraph.”.

3 (b) CONFORMING AMENDMENT TO DEFINITION OF
4 FEE SCHEDULE AREA.—Section 1848(j)(2) of the Social
5 Security Act (42 U.S.C. 1395w(j)(2)) is amended by strik-
6 ing “The term” and inserting “Except as provided in sub-
7 section (e)(6)(C), the term”.

8 **SEC. 521. EXTENSION OF ARRA INCREASE IN FMAP.**

9 Section 5001 of the American Recovery and Reinvest-
10 ment Act of 2009 (Public Law 111–5) is amended—

11 (1) in subsection (a)(3), by striking “first cal-
12 endar quarter” and inserting “first 3 calendar quar-
13 ters”;

14 (2) in subsection (b)—

15 (A) in paragraph (1), by striking “para-
16 graph (2)” and inserting “paragraphs (2) and
17 (3)”; and

18 (B) by adding at the end the following:

19 “(3) PHASE-DOWN OF GENERAL INCREASE.—

20 “(A) SECOND QUARTER OF FISCAL YEAR
21 2011.—For each State, for the second quarter of
22 fiscal year 2011, the FMAP for the State shall
23 be increased under paragraph (1) or (2) (as ap-
24 plicable) by 5.3 percentage points.

1 “(B) THIRD QUARTER OF FISCAL YEAR
2 2011.—For each State, for the third quarter of
3 fiscal year 2011, the FMAP for the State shall
4 be increased under paragraph (1) or (2) (as ap-
5 plicable) by 3.2 percentage points.”;

6 (3) in subsection (c)—

7 (A) in paragraph (2)(B), by striking “July
8 1, 2010” and inserting “January 1, 2011”;

9 (B) in paragraph (3)(B)(i), by striking
10 “July 1, 2010” and inserting “January 1,
11 2011” each place it appears; and

12 (C) in paragraph (4)(C)(ii), by striking
13 “the 3-consecutive-month period beginning with
14 January 2010” and inserting “any 3-consecu-
15 tive-month period that begins after December
16 2009 and ends before January 2011”;

17 (4) in subsection (e), by adding at the end the
18 following:

19 “Notwithstanding paragraph (5), effective for payments
20 made on or after January 1, 2010, the increases in the
21 FMAP for a State under this section shall apply to pay-
22 ments under title XIX of such Act that are attributable
23 to expenditures for medical assistance provided to non-
24 pregnant childless adults made eligible under a State plan
25 under such title (including under any waiver under such

1 title or under section 1115 of such Act (42 U.S.C. 1315))
2 who would have been eligible for child health assistance
3 or other health benefits under eligibility standards in ef-
4 fect as of December 31, 2009, of a waiver of the State
5 child health plan under the title XXI of such Act.”;

6 (5) in subsection (g)—

7 (A) in paragraph (1), by striking “Sep-
8 tember 30, 2011” and inserting “March 31,
9 2012”;

10 (B) in paragraph (2), by inserting “of such
11 Act” after “1923”; and

12 (C) by adding at the end the following:

13 “(3) CERTIFICATION BY CHIEF EXECUTIVE OF-
14 FICER.—No additional Federal funds shall be paid
15 to a State as a result of this section with respect to
16 a calendar quarter occurring during the period be-
17 ginning on January 1, 2011, and ending on June
18 30, 2011, unless, not later than 45 days after the
19 date of enactment of this paragraph, the chief execu-
20 tive officer of the State certifies that the State will
21 request and use such additional Federal funds.”;
22 and

23 (6) in subsection (h)(3), by striking “December
24 31, 2010” and inserting “June 30, 2011”.

1 **SEC. 522. CLARIFICATION FOR AFFILIATED HOSPITALS FOR**
2 **DISTRIBUTION OF ADDITIONAL RESIDENCY**
3 **POSITIONS.**

4 Effective as if included in the enactment of section
5 5503(a) of Public Law 111–148, section 1886(h)(8) of the
6 Social Security Act (42 U.S.C. 1395ww(h)(8)), as added
7 by such section 5503(a), is amended by adding at the end
8 the following new subparagraph:

9 “(I) AFFILIATION.—The provisions of this
10 paragraph shall be applied to hospitals which
11 are members of the same affiliated group (as
12 defined by the Secretary under paragraph
13 (4)(H)(ii)) and the reference resident level for
14 each such hospital shall be the reference resi-
15 dent level with respect to the cost reporting pe-
16 riod that results in the smallest difference be-
17 tween the reference resident level and the other-
18 wise applicable resident limit.”.

19 **TITLE VI—OTHER PROVISIONS**

20 **SEC. 601. EXTENSION OF NATIONAL FLOOD INSURANCE**
21 **PROGRAM.**

22 (a) EXTENSION.—Section 129 of the Continuing Ap-
23 propriations Resolution, 2010 (Public Law 111–68), as
24 amended by section 7(a) of Public Law 111–157, is
25 amended by striking “by substituting” and all that follows
26 through the period at the end, and inserting “by sub-

1 stituting December 31, 2010, for the date specified in each
2 such section.”.

3 (b) **EFFECTIVE DATE.**—The amendments made by
4 subsection (a) shall be considered to have taken effect on
5 May 31, 2010.

6 **SEC. 602. ALLOCATION OF GEOTHERMAL RECEIPTS.**

7 Notwithstanding any other provision of law, for fiscal
8 year 2010 only, all funds received from sales, bonuses,
9 royalties, and rentals under the Geothermal Steam Act of
10 1970 (30 U.S.C. 1001 et seq.) shall be deposited in the
11 Treasury, of which—

12 (1) 50 percent shall be used by the Secretary
13 of the Treasury to make payments to States within
14 the boundaries of which the leased land and geo-
15 thermal resources are located;

16 (2) 25 percent shall be used by the Secretary
17 of the Treasury to make payments to the counties
18 within the boundaries of which the leased land or
19 geothermal resources are located; and

20 (3) 25 percent shall be deposited in miscella-
21 neous receipts.

22 **SEC. 603. SMALL BUSINESS LOAN GUARANTEE ENHANCE-**
23 **MENT EXTENSIONS.**

24 (a) **APPROPRIATION.**—There is appropriated, out of
25 any funds in the Treasury not otherwise appropriated, for

1 an additional amount for “Small Business Administra-
2 tion—Business Loans Program Account”, \$505,000,000,
3 to remain available through December 31, 2010, for the
4 cost of—

5 (1) fee reductions and eliminations under sec-
6 tion 501 of division A of the American Recovery and
7 Reinvestment Act of 2009 (Public Law 111–5; 123
8 Stat. 151), as amended by this section; and

9 (2) loan guarantees under section 502 of divi-
10 sion A of the American Recovery and Reinvestment
11 Act of 2009 (Public Law 111–5; 123 Stat. 152), as
12 amended by this section.

13 Such costs, including the cost of modifying such loans,
14 shall be as defined in section 502 of the Congressional
15 Budget Act of 1974.

16 (b) EXTENSION OF PROGRAMS.—

17 (1) FEES.—Section 501 of division A of the
18 American Recovery and Reinvestment Act of 2009
19 (Public Law 111–5; 123 Stat. 151) is amended by
20 striking “September 30, 2010” each place it appears
21 and inserting “December 31, 2010”.

22 (2) LOAN GUARANTEES.—Section 502(f) of di-
23 vision A of the American Recovery and Reinvest-
24 ment Act of 2009 (Public Law 111–5; 123 Stat.

1 153) is amended by striking “May 31, 2010” and
2 inserting “December 31, 2010”.

3 (c) APPROPRIATION.—There is appropriated for an
4 additional amount, out of any funds in the Treasury not
5 otherwise appropriated, for administrative expenses to
6 carry out sections 501 and 502 of division A of the Amer-
7 ican Recovery and Reinvestment Act of 2009 (Public Law
8 111–5), \$5,000,000, to remain available until expended,
9 which may be transferred and merged with the appropria-
10 tion for “Small Business Administration—Salaries and
11 Expenses”.

12 **SEC. 604. EMERGENCY AGRICULTURAL DISASTER ASSIST-**
13 **ANCE.**

14 (a) DEFINITIONS.—Except as otherwise provided in
15 this section, in this section:

16 (1) DISASTER COUNTY.—

17 (A) IN GENERAL.—The term “disaster
18 county” means a county included in the geo-
19 graphic area covered by a qualifying natural
20 disaster declaration for the 2009 crop year.

21 (B) EXCLUSION.—The term “disaster
22 county” does not include a contiguous county.

23 (2) ELIGIBLE AQUACULTURE PRODUCER.—The
24 term “eligible aquaculture producer” means an

1 aquaculture producer that during the 2009 calendar
2 year, as determined by the Secretary—

3 (A) produced an aquaculture species for
4 which feed costs represented a substantial per-
5 centage of the input costs of the aquaculture
6 operation; and

7 (B) experienced a substantial price in-
8 crease of feed costs above the previous 5-year
9 average.

10 (3) ELIGIBLE PRODUCER.—The term “eligible
11 producer” means an agricultural producer in a dis-
12 aster county.

13 (4) ELIGIBLE SPECIALTY CROP PRODUCER.—
14 The term “eligible specialty crop producer” means
15 an agricultural producer that, for the 2009 crop
16 year, as determined by the Secretary—

17 (A) produced, or was prevented from
18 planting, a specialty crop; and

19 (B) experienced specialty crop losses in a
20 disaster county due to drought, excessive rain-
21 fall, or a related condition.

22 (5) QUALIFYING NATURAL DISASTER DECLARA-
23 TION.—The term “qualifying natural disaster dec-
24 laration” means a natural disaster declared by the
25 Secretary for production losses under section 321(a)

1 of the Consolidated Farm and Rural Development
2 Act (7 U.S.C. 1961(a)).

3 (6) SECRETARY.—The term “Secretary” means
4 the Secretary of Agriculture.

5 (7) SPECIALTY CROP.—The term “specialty
6 crop” has the meaning given the term in section 3
7 of the Specialty Crops Competitiveness Act of 2004
8 (Public Law 108–465; 7 U.S.C. 1621 note).

9 (b) SUPPLEMENTAL DIRECT PAYMENT.—

10 (1) IN GENERAL.—Of the funds of the Com-
11 modity Credit Corporation, the Secretary shall use
12 such sums as are necessary to make supplemental
13 payments under sections 1103 and 1303 of the
14 Food, Conservation, and Energy Act of 2008 (7
15 U.S.C. 8713, 8753) to eligible producers on farms
16 located in disaster counties that had at least 1 crop
17 of economic significance (other than specialty crops
18 or crops intended for grazing) suffer at least a 5-
19 percent crop loss on a farm due to a natural dis-
20 aster, including quality losses, as determined by the
21 Secretary, in an amount equal to 90 percent of the
22 direct payment the eligible producers received for the
23 2009 crop year on the farm.

24 (2) ACRE PROGRAM.—Eligible producers that
25 received direct payments under section 1105 of the

1 Food, Conservation, and Energy Act of 2008 (7
2 U.S.C. 8715) for the 2009 crop year and that other-
3 wise meet the requirements of paragraph (1) shall
4 be eligible to receive supplemental payments under
5 that paragraph in an amount equal to 112.5 percent
6 of the reduced direct payment the eligible producers
7 received for the 2009 crop year under section 1103
8 or 1303 of the Food, Conservation, and Energy Act
9 of 2008 (7 U.S.C. 8713, 8753).

10 (3) RELATIONSHIP TO OTHER LAW.—Assistance
11 received under this subsection shall be included in
12 the calculation of farm revenue for the 2009 crop
13 year under section 531(b)(4)(A) of the Federal Crop
14 Insurance Act (7 U.S.C. 1531(b)(4)(A)) and section
15 901(b)(4)(A) of the Trade Act of 1974 (19 U.S.C.
16 2497(b)(4)(A)).

17 (c) SPECIALTY CROP ASSISTANCE.—

18 (1) IN GENERAL.—Of the funds of the Com-
19 modity Credit Corporation, the Secretary shall use
20 not more than \$300,000,000, to remain available
21 until September 30, 2011, to carry out a program
22 of grants to States to assist eligible specialty crop
23 producers for losses due to a natural disaster affect-
24 ing the 2009 crops, of which not more than—

1 (A) \$150,000,000 shall be used to assist
2 eligible specialty crop producers in counties that
3 have been declared a disaster as the result of
4 drought; and

5 (B) \$150,000,000 shall be used to assist
6 eligible specialty crop producers in counties that
7 have been declared a disaster as the result of
8 excessive rainfall or a related condition.

9 (2) NOTIFICATION.—Not later than 45 days
10 after the date of enactment of this Act, the Sec-
11 retary shall notify the State department of agri-
12 culture (or similar entity) in each State of the avail-
13 ability of funds to assist eligible specialty crop pro-
14 ducers, including such terms as are determined by
15 the Secretary to be necessary for the equitable treat-
16 ment of eligible specialty crop producers.

17 (3) PROVISION OF GRANTS.—

18 (A) IN GENERAL.—The Secretary shall
19 make grants to States for disaster counties on
20 a pro rata basis based on the value of specialty
21 crop losses in those counties during the 2009
22 calendar year, as determined by the Secretary.

23 (B) ADMINISTRATIVE COSTS.—State Sec-
24 retary of Agriculture may not use more than
25 five percent of the funds provided for costs as-

1 sociated with the administration of the grants
2 provided in paragraph (1).

3 (C) ADMINISTRATION OF GRANTS.—State
4 Secretary of Agriculture may enter into a con-
5 tract with the Department of Agriculture to ad-
6 minister the grants provided in paragraph (1).

7 (D) TIMING.—Not later than 90 days after
8 the date of enactment of this Act, the Secretary
9 shall make grants to States to provide assist-
10 ance under this subsection.

11 (E) MAXIMUM GRANT.—The maximum
12 amount of a grant made to a State for counties
13 described in paragraph (1)(B) may not exceed
14 \$40,000,000.

15 (4) REQUIREMENTS.—The Secretary shall
16 make grants under this subsection only to States
17 that demonstrate to the satisfaction of the Secretary
18 that the State will—

19 (A) use grant funds to issue payments to
20 eligible specialty crop producers;

21 (B) provide assistance to eligible specialty
22 crop producers not later than 60 days after the
23 date on which the State receives grant funds;
24 and

1 (C) not later than 30 days after the date
2 on which the State provides assistance to eligi-
3 ble specialty crop producers, submit to the Sec-
4 retary a report that describes—

5 (i) the manner in which the State pro-
6 vided assistance;

7 (ii) the amounts of assistance pro-
8 vided by type of specialty crop; and

9 (iii) the process by which the State
10 determined the levels of assistance to eligi-
11 ble specialty crop producers.

12 (D) RELATION TO OTHER LAW.—Assist-
13 ance received under this subsection shall be in-
14 cluded in the calculation of farm revenue for
15 the 2009 crop year under section 531(b)(4)(A)
16 of the Federal Crop Insurance Act (7 U.S.C.
17 1531(b)(4)(A)) and section 901(b)(4)(A) of the
18 Trade Act of 1974 (19 U.S.C. 2497(b)(4)(A)).

19 (d) COTTONSEED ASSISTANCE.—

20 (1) IN GENERAL.—Of the funds of the Com-
21 modity Credit Corporation, the Secretary shall use
22 not more than \$42,000,000 to provide supplemental
23 assistance to eligible producers and first-handlers of
24 the 2009 crop of cottonseed in a disaster county.

1 (2) GENERAL TERMS.—Except as otherwise
2 provided in this subsection, the Secretary shall pro-
3 vide disaster assistance under this subsection under
4 the same terms and conditions as assistance pro-
5 vided under section 3015 of the Emergency Agricul-
6 tural Disaster Assistance Act of 2006 (title III of
7 Public Law 109–234; 120 Stat. 477).

8 (3) DISTRIBUTION OF ASSISTANCE.—The Sec-
9 retary shall distribute assistance to first handlers for
10 the benefit of eligible producers in a disaster county
11 in an amount equal to the product obtained by mul-
12 tiplying—

13 (A) the payment rate, as determined under
14 paragraph (4); and

15 (B) the county-eligible production, as de-
16 termined under paragraph (5).

17 (4) PAYMENT RATE.—The payment rate shall
18 be equal to the quotient obtained by dividing—

19 (A) the total funds made available to carry
20 out this subsection; by

21 (B) the sum of the county-eligible produc-
22 tion, as determined under paragraph (5).

23 (5) COUNTY-ELIGIBLE PRODUCTION.—The
24 county-eligible production shall be equal to the prod-
25 uct obtained by multiplying—

1 (A) the number of acres planted to cotton
2 in the disaster county, as reported to the Sec-
3 retary by first handlers;

4 (B) the expected cotton lint yield for the
5 disaster county, as determined by the Secretary
6 based on the best available information; and

7 (C) the national average seed-to-lint ratio,
8 as determined by the Secretary based on the
9 best available information for the 5 crop years
10 immediately preceding the 2009 crop, excluding
11 the year in which the average ratio was the
12 highest and the year in which the average ratio
13 was the lowest in such period.

14 (e) AQUACULTURE ASSISTANCE.—

15 (1) IN GENERAL.—Of the funds of the Com-
16 modity Credit Corporation, the Secretary shall use
17 not more than \$25,000,000, to remain available
18 until September 30, 2011, to carry out a program
19 of grants to States to assist eligible aquaculture pro-
20 ducers for losses associated with high feed input
21 costs during the 2009 calendar year.

22 (2) NOTIFICATION.—Not later than 45 days
23 after the date of enactment of this Act, the Sec-
24 retary shall notify the State department of agri-
25 culture (or similar entity) in each State of the avail-

1 ability of funds to assist eligible aquaculture pro-
2 ducers, including such terms as are determined by
3 the Secretary to be necessary for the equitable treat-
4 ment of eligible aquaculture producers.

5 (3) PROVISION OF GRANTS.—

6 (A) IN GENERAL.—The Secretary shall
7 make grants to States under this subsection on
8 a pro rata basis based on the amount of aqua-
9 culture feed used in each State during the 2009
10 calendar year, as determined by the Secretary.

11 (B) TIMING.—Not later than 90 days after
12 the date of enactment of this Act, the Secretary
13 shall make grants to States to provide assist-
14 ance under this subsection.

15 (4) REQUIREMENTS.—The Secretary shall
16 make grants under this subsection only to States
17 that demonstrate to the satisfaction of the Secretary
18 that the State will—

19 (A) use grant funds to assist eligible aqua-
20 culture producers;

21 (B) provide assistance to eligible aqua-
22 culture producers not later than 60 days after
23 the date on which the State receives grant
24 funds; and

1 (C) not later than 30 days after the date
2 on which the State provides assistance to eligi-
3 ble aquaculture producers, submit to the Sec-
4 retary a report that describes—

5 (i) the manner in which the State pro-
6 vided assistance;

7 (ii) the amounts of assistance pro-
8 vided per species of aquaculture; and

9 (iii) the process by which the State
10 determined the levels of assistance to eligi-
11 ble aquaculture producers.

12 (5) REDUCTION IN PAYMENTS.—An eligible
13 aquaculture producer that receives assistance under
14 this subsection shall not be eligible to receive any
15 other assistance under the supplemental agricultural
16 disaster assistance program established under sec-
17 tion 531 of the Federal Crop Insurance Act (7
18 U.S.C. 1531) and section 901 of the Trade Act of
19 1974 (19 U.S.C. 2497) for any losses in 2009 relat-
20 ing to the same species of aquaculture.

21 (6) REPORT TO CONGRESS.—Not later than
22 240 days after the date of enactment of this Act, the
23 Secretary shall submit to the appropriate committees
24 of Congress a report that—

1 (A) describes in detail the manner in which
2 this subsection has been carried out; and

3 (B) includes the information reported to
4 the Secretary under paragraph (4)(C).

5 (f) HAWAII TRANSPORTATION COOPERATIVE.—Not-
6 withstanding any other provision of law, the Secretary
7 shall use \$21,000,000 of funds of the Commodity Credit
8 Corporation to make a payment to an agricultural trans-
9 portation cooperative in the State of Hawaii, the members
10 of which are eligible to participate in the commodity loan
11 program of the Farm Service Agency, for assistance to
12 maintain and develop employment.

13 (g) LIVESTOCK FORAGE DISASTER PROGRAM.—

14 (1) DEFINITION OF DISASTER COUNTY.—In
15 this subsection:

16 (A) IN GENERAL.—The term “disaster
17 county” means a county included in the geo-
18 graphic area covered by a qualifying natural
19 disaster declaration announced by the Secretary
20 in calendar year 2009.

21 (B) INCLUSION.—The term “disaster
22 county” includes a contiguous county.

23 (2) PAYMENTS.—Of the funds of the Com-
24 modity Credit Corporation, the Secretary shall use
25 not more than \$50,000,000 to carry out a program

1 to make payments to eligible producers that had
2 grazing losses in disaster counties in calendar year
3 2009.

4 (3) CRITERIA.—

5 (A) IN GENERAL.—Except as provided in
6 subparagraph (B), assistance under this sub-
7 section shall be determined under the same cri-
8 teria as are used to carry out the programs
9 under section 531(d) of the Federal Crop In-
10 surance Act (7 U.S.C. 1531(d)) and section
11 901(d) of the Trade Act of 1974 (19 U.S.C.
12 2497(d)).

13 (B) DROUGHT INTENSITY.—For purposes
14 of this subsection, an eligible producer shall not
15 be required to meet the drought intensity re-
16 quirements of section 531(d)(3)(D)(ii) of the
17 Federal Crop Insurance Act (7 U.S.C.
18 1531(d)(3)(D)(ii)) and section 901(d)(3)(D)(ii)
19 of the Trade Act of 1974 (19 U.S.C.
20 2497(d)(3)(D)(ii)).

21 (4) AMOUNT.—Assistance under this subsection
22 shall be in an amount equal to 1 monthly payment
23 using the monthly payment rate under section
24 531(d)(3)(B) of the Federal Crop Insurance Act (7

1 U.S.C. 1531(d)(3)(B)) and section 901(d)(3)(B) of
2 the Trade Act of 1974 (19 U.S.C. 2497(d)(3)(B)).

3 (5) RELATION TO OTHER LAW.—An eligible
4 producer that receives assistance under this sub-
5 section shall be ineligible to receive assistance for
6 2009 grazing losses under the program carried out
7 under section 531(d) of the Federal Crop Insurance
8 Act (7 U.S.C. 1531(d)) and section 901(d) of the
9 Trade Act of 1974 (19 U.S.C. 2497(d)).

10 (h) EMERGENCY LOANS FOR POULTRY PRO-
11 DUCERS.—

12 (1) DEFINITIONS.—In this subsection:

13 (A) ANNOUNCEMENT DATE.—The term
14 “announcement date” means the date on which
15 the Secretary announces the emergency loan
16 program under this subsection.

17 (B) POULTRY INTEGRATOR.—The term
18 “poultry integrator” means a poultry integrator
19 that filed proceedings under chapter 11 of title
20 11, United States Code, in United States Bank-
21 ruptcy Court during the 30-day period begin-
22 ning on December 1, 2008.

23 (2) LOAN PROGRAM.—

24 (A) IN GENERAL.—Of the funds of the
25 Commodity Credit Corporation, the Secretary

1 shall use not more than \$75,000,000, to remain
2 available until expended, for the cost of making
3 no-interest emergency loans available to poultry
4 producers that meet the requirements of this
5 subsection.

6 (B) TERMS AND CONDITIONS.—Except as
7 otherwise provided in this subsection, emer-
8 gency loans under this subsection shall be sub-
9 ject to such terms and conditions as are deter-
10 mined by the Secretary.

11 (3) LOANS.—

12 (A) IN GENERAL.—An emergency loan
13 made to a poultry producer under this sub-
14 section shall be for the purpose of providing fi-
15 nancing to the poultry producer in response to
16 financial losses associated with the termination
17 or nonrenewal of any contract between the poul-
18 try producer and a poultry integrator.

19 (B) ELIGIBILITY.—

20 (i) IN GENERAL.—To be eligible for
21 an emergency loan under this subsection,
22 not later than 90 days after the announce-
23 ment date, a poultry producer shall submit
24 to the Secretary evidence that—

1 (I) the contract of the poultry
2 producer described in subparagraph
3 (A) was not continued; and

4 (II) no similar contract has been
5 awarded subsequently to the poultry
6 producer.

7 (ii) REQUIREMENT TO OFFER
8 LOANS.—Notwithstanding any other provi-
9 sion of law, if a poultry producer meets the
10 eligibility requirements described in clause
11 (i), subject to the availability of funds
12 under paragraph (2)(A), the Secretary
13 shall offer to make a loan under this sub-
14 section to the poultry producer with a min-
15 imum term of 2 years.

16 (4) ADDITIONAL REQUIREMENTS.—

17 (A) IN GENERAL.—A poultry producer
18 that receives an emergency loan under this sub-
19 section may use the emergency loan proceeds
20 only to repay the amount that the poultry pro-
21 ducer owes to any lender for the purchase, im-
22 provement, or operation of the poultry farm.

23 (B) CONVERSION OF THE LOAN.—A poul-
24 try producer that receives an emergency loan
25 under this subsection shall be eligible to have

1 the balance of the emergency loan converted,
2 but not refinanced, to a loan that has the same
3 terms and conditions as an operating loan
4 under subtitle B of the Consolidated Farm and
5 Rural Development Act (7 U.S.C. 1941 et seq.).

6 (i) STATE AND LOCAL GOVERNMENTS.—Section
7 1001 of the Food Security Act of 1985 (7 U.S.C. 1308)
8 is amended—

9 (1) in subsection (f)(6)—

10 (A) in subparagraph (A), by inserting
11 “and subparagraph (C)” after “subsection (d)”;
12 and

13 (B) by adding at the end the following:

14 “(C) CONSERVATION RESERVE PRO-
15 GRAM.—Subparagraph (A) shall not apply to
16 payments under the conservation reserve pro-
17 gram established under subchapter B of chapter
18 1 of subtitle D of title XII if—

19 “(i) except as otherwise provided in
20 this paragraph or section 1234(f)(4), the
21 payments are generally subject to the same
22 limits applicable to other payees;

23 “(ii) the payments, and any payments
24 made under other programs to a State
25 under subsection (g), are not subject to

1 limits on adjusted gross income under sec-
2 tion 1001D;

3 “(iii) the Secretary establishes an ex-
4 emption to the limitation on the payments
5 that is similar to the public school land ex-
6 ception under subsection (g) except that
7 under this subparagraph, all States may
8 receive the unlimited school land exemption
9 as applicable without regard to the size of
10 the population of the State; and

11 “(iv) for purposes of the payments, a
12 State and any political subdivisions and
13 agencies of the State shall be treated as 1
14 entity.”; and

15 (2) in subsection (g), by adding at the end the
16 following:

17 “(3) EXCEPTION FOR ADJUSTED GROSS INCOME
18 LIMITATION.—The limitations described in section
19 1001D shall not apply to this subsection.”.

20 (j) ADMINISTRATION.—

21 (1) REGULATIONS.—

22 (A) IN GENERAL.—As soon as practicable
23 after the date of enactment of this Act, the Sec-
24 retary shall promulgate such regulations as are

1 necessary to implement this section and the
2 amendment made by this section.

3 (B) PROCEDURE.—The promulgation of
4 the regulations and administration of this sec-
5 tion and the amendment made by this section
6 shall be made without regard to—

7 (i) the notice and comment provisions
8 of section 553 of title 5, United States
9 Code;

10 (ii) the Statement of Policy of the
11 Secretary of Agriculture effective July 24,
12 1971 (36 Fed. Reg. 13804), relating to no-
13 tices of proposed rulemaking and public
14 participation in rulemaking; and

15 (iii) chapter 35 of title 44, United
16 States Code (commonly known as the “Pa-
17 perwork Reduction Act”).

18 (C) CONGRESSIONAL REVIEW OF AGENCY
19 RULEMAKING.—In carrying out this paragraph,
20 the Secretary shall use the authority provided
21 under section 808 of title 5, United States
22 Code.

23 (2) ADMINISTRATIVE COSTS.—Of the funds of
24 the Commodity Credit Corporation, the Secretary
25 may use up to \$10,000,000 to pay administrative

1 costs incurred by the Secretary that are directly re-
2 lated to carrying out this Act.

3 (3) PROHIBITION.—None of the funds of the
4 Agricultural Disaster Relief Trust Fund established
5 under section 902 of the Trade Act of 1974 (19
6 U.S.C. 2497a) may be used to carry out this Act.

7 **SEC. 605. SUMMER EMPLOYMENT FOR YOUTH.**

8 There is appropriated, out of any funds in the Treas-
9 ury not otherwise appropriated, for an additional amount
10 for “Department of Labor—Employment and Training
11 Administration—Training and Employment Services” for
12 activities under the Workforce Investment Act of 1998
13 (“WIA”), \$1,000,000,000 shall be available for obligation
14 on the date of enactment of this Act for grants to States
15 for youth activities, including summer employment for
16 youth: *Provided*, That no portion of such funds shall be
17 reserved to carry out section 127(b)(1)(A) of the WIA:
18 *Provided further*, That for purposes of section
19 127(b)(1)(C)(iv) of the WIA, funds available for youth ac-
20 tivities shall be allotted as if the total amount available
21 for youth activities in the fiscal year does not exceed
22 \$1,000,000,000: *Provided further*, That with respect to the
23 youth activities provided with such funds, section
24 101(13)(A) of the WIA shall be applied by substituting
25 “age 24” for “age 21”: *Provided further*, That the work

1 readiness performance indicator described in section
2 136(b)(2)(A)(ii)(I) of the WIA shall be the only measure
3 of performance used to assess the effectiveness of summer
4 employment for youth provided with such funds: *Provided*
5 *further*, That an amount that is not more than 1 percent
6 of such amount may be used for the administration, man-
7 agement, and oversight of the programs, activities, and
8 grants carried out with such funds, including the evalua-
9 tion of the use of such funds: *Provided further*, That funds
10 available under the preceding proviso, together with funds
11 described in section 801(a) of division A of the American
12 Recovery and reinvestment Act of 2009 (Public Law 111–
13 5), and funds provided in such Act under the heading
14 “Department of Labor–Departmental Management–Sala-
15 ries and Expenses”, shall remain available for obligation
16 through September 30, 2011.

17 **SEC. 606. HOUSING TRUST FUND.**

18 (a) FUNDING.—There is hereby appropriated for the
19 Housing Trust Fund established pursuant to section 1338
20 of the Federal Housing Enterprises Financial Safety and
21 Soundness Act of 1992 (12 U.S.C. 4568),
22 \$1,065,000,000, for use under such section: *Provided*,
23 That of the total amount provided under this heading,
24 \$65,000,000 shall be available to the Secretary of Housing
25 and Urban Development only for incremental project-

1 based voucher assistance to be allocated to States to be
2 used solely in conjunction with grant funds awarded under
3 such section 1338, pursuant to the formula established
4 under section 1338 and taking into account different per
5 unit subsidy needs among states, as determined by the
6 Secretary.

7 (b) AMENDMENTS.—Section 1338 of the Federal
8 Housing Enterprises Financial Safety and Soundness Act
9 of 1992 (12 U.S.C. 4568) is amended—

10 (1) in subsection (c)—

11 (A) in paragraph (4)(A) by inserting after
12 the period at the end the following: “Notwith-
13 standing any other provision of law, for the fis-
14 cal year following enactment of this sentence
15 and thereafter, the Secretary may make such
16 notice available only on the Internet at the ap-
17 propriate government website or websites or
18 through other electronic media, as determined
19 by the Secretary.”;

20 (B) in paragraph (5)(C), by striking “(8)”
21 and inserting “(9)”; and

22 (C) in paragraph (7)(A)—

23 (i) by striking “section
24 1335(a)(2)(B)” and inserting “section
25 1335(a)(1)(B)”; and

1 (ii) by inserting “the units funded
2 under” after “75 percent of”; and

3 (2) by adding at the end the following new sub-
4 section:

5 “(k) ENVIRONMENTAL REVIEW.—For the purpose of
6 environmental compliance review, funds awarded under
7 this section shall be subject to section 288 of the HOME
8 Investment Partnerships Act (12 U.S.C. 12838) and shall
9 be treated as funds under the program established by such
10 Act.”.

11 **SEC. 607. THE INDIVIDUAL INDIAN MONEY ACCOUNT LITI-**
12 **GATION SETTLEMENT ACT OF 2010.**

13 (a) SHORT TITLE.—This section may be cited as the
14 “Individual Indian Money Account Litigation Settlement
15 Act of 2010”.

16 (b) DEFINITIONS.—In this section:

17 (1) AMENDED COMPLAINT.—The term
18 “Amended Complaint” means the Amended Com-
19 plaint attached to the Settlement.

20 (2) LAND CONSOLIDATION PROGRAM.—The
21 term “Land Consolidation Program” means a pro-
22 gram conducted in accordance with the Settlement
23 and the Indian Land Consolidation Act (25 U.S.C.
24 2201 et seq.) under which the Secretary may pur-
25 chase fractional interests in trust or restricted land.

1 (3) LITIGATION.—The term “Litigation” means
2 the case entitled *Elouise Cobell et al. v. Ken Salazar*
3 *et al.*, United States District Court, District of Co-
4 lumbia, Civil Action No. 96–1285 (JR).

5 (4) PLAINTIFF.—The term “Plaintiff” means a
6 member of any class certified in the Litigation.

7 (5) SECRETARY.—The term “Secretary” means
8 the Secretary of the Interior.

9 (6) SETTLEMENT.—The term “Settlement”
10 means the Class Action Settlement Agreement dated
11 December 7, 2009, in the Litigation, as modified by
12 the parties to the Litigation.

13 (7) TRUST ADMINISTRATION CLASS.—The term
14 “Trust Administration Class” means the Trust Ad-
15 ministration Class as defined in the Settlement.

16 (c) PURPOSE.—The purpose of this section is to au-
17 thorize the Settlement.

18 (d) AUTHORIZATION.—The Settlement is authorized,
19 ratified, and confirmed.

20 (e) JURISDICTIONAL PROVISIONS.—

21 (1) IN GENERAL.—Notwithstanding the limita-
22 tion of jurisdiction of district courts contained in
23 section 1346(a)(2) of title 28, United States Code,
24 the United States District Court for the District of
25 Columbia shall have jurisdiction over the claims as-

1 serted in the Amended Complaint for purposes of
2 the Settlement.

3 (2) CERTIFICATION OF TRUST ADMINISTRATION
4 CLASS.—

5 (A) IN GENERAL.—Notwithstanding the
6 requirements of the Federal Rules of Civil Pro-
7 cedure, the court overseeing the Litigation may
8 certify the Trust Administration Class.

9 (B) TREATMENT.—On certification under
10 subparagraph (A), the Trust Administration
11 Class shall be treated as a class under Federal
12 Rule of Civil Procedure 23(b)(3) for purposes
13 of the Settlement.

14 (f) TRUST LAND CONSOLIDATION.—

15 (1) TRUST LAND CONSOLIDATION FUND.—

16 (A) ESTABLISHMENT.—On final approval
17 (as defined in the Settlement) of the Settle-
18 ment, there shall be established in the Treasury
19 of the United States a fund, to be known as the
20 “Trust Land Consolidation Fund”.

21 (B) AVAILABILITY OF AMOUNTS.—
22 Amounts in the Trust Land Consolidation
23 Fund shall be made available to the Secretary
24 during the 10-year period beginning on the date
25 of final approval of the Settlement—

1 (i) to conduct the Land Consolidation
2 Program; and

3 (ii) for other costs specified in the
4 Settlement.

5 (C) DEPOSITS.—

6 (i) IN GENERAL.—On final approval
7 (as defined in the Settlement) of the Set-
8 tlement, the Secretary of the Treasury
9 shall deposit in the Trust Land Consolida-
10 tion Fund \$2,000,000,000 of the amounts
11 appropriated by section 1304 of title 31,
12 United States Code.

13 (ii) CONDITIONS MET.—The condi-
14 tions described in section 1304 of title 31,
15 United States Code, shall be considered to
16 be met for purposes of clause (i).

17 (D) TRANSFERS.—In a manner designed
18 to encourage participation in the Land Consoli-
19 dation Program, the Secretary may transfer, at
20 the discretion of the Secretary, not more than
21 \$60,000,000 of amounts in the Trust Land
22 Consolidation Fund to the Indian Education
23 Scholarship Holding Fund established under
24 paragraph 2.

1 (2) INDIAN EDUCATION SCHOLARSHIP HOLDING
2 FUND.—

3 (A) ESTABLISHMENT.—On the final ap-
4 proval (as defined in the Settlement) of the Set-
5 tlement, there shall be established in the Treas-
6 ury of the United States a fund, to be known
7 as the “Indian Education Scholarship Holding
8 Fund”.

9 (B) AVAILABILITY.—Notwithstanding any
10 other provision of law governing competition,
11 public notification, or Federal procurement or
12 assistance, amounts in the Indian Education
13 Scholarship Holding Fund shall be made avail-
14 able, without further appropriation, to the Sec-
15 retary to contribute to an Indian Education
16 Scholarship Fund, as described in the Settle-
17 ment, to provide scholarships for Native Ameri-
18 cans.

19 (3) ACQUISITION OF TRUST OR RESTRICTED
20 LAND.—The Secretary may acquire, at the discre-
21 tion of the Secretary and in accordance with the
22 Land Consolidation Program, any fractional interest
23 in trust or restricted land.

24 (4) TREATMENT OF UNLOCATABLE PLAIN-
25 TIFFS.—A Plaintiff the whereabouts of whom are

1 unknown and who, after reasonable efforts by the
2 Secretary, cannot be located during the 5 year pe-
3 riod beginning on the date of final approval (as de-
4 fined in the Settlement) of the Settlement shall be
5 considered to have accepted an offer made pursuant
6 to the Land Consolidation Program.

7 (g) TAXATION AND OTHER BENEFITS.—

8 (1) INTERNAL REVENUE CODE.—For purposes
9 of the Internal Revenue Code of 1986, amounts re-
10 ceived by an individual Indian as a lump sum or a
11 periodic payment pursuant to the Settlement—

12 (A) shall not be included in gross income;

13 and

14 (B) shall not be taken into consideration
15 for purposes of applying any provision of the
16 Internal Revenue Code of 1986 that takes into
17 account excludable income in computing ad-
18 justed gross income or modified adjusted gross
19 income, including section 86 of that Code (re-
20 lating to Social Security and tier 1 railroad re-
21 tirement benefits).

22 (2) OTHER BENEFITS.—Notwithstanding any
23 other provision of law, for purposes of determining
24 initial eligibility, ongoing eligibility, or level of bene-
25 fits under any Federal or federally assisted program,

1 amounts received by an individual Indian as a lump
2 sum or a periodic payment pursuant to the Settle-
3 ment shall not be treated for any household member,
4 during the 1-year period beginning on the date of re-
5 ceipt—

6 (A) as income for the month during which
7 the amounts were received; or

8 (B) as a resource.

9 **SEC. 608. APPROPRIATION OF FUNDS FOR FINAL SETTLE-**
10 **MENT OF CLAIMS FROM IN RE BLACK FARM-**
11 **ERS DISCRIMINATION LITIGATION.**

12 (a) DEFINITIONS.—In this section:

13 (1) SETTLEMENT AGREEMENT.—The term
14 “Settlement Agreement” means the settlement
15 agreement dated February 18, 2010 (including any
16 modifications agreed to by the parties and approved
17 by the court under that agreement) between certain
18 plaintiffs, by and through their counsel, and the Sec-
19 retary of Agriculture to resolve, fully and forever,
20 the claims raised or that could have been raised in
21 the cases consolidated in *In re Black Farmers Dis-*
22 *crimination Litigation*, No. 08–511 (D.D.C.), in-
23 cluding Pigford claims asserted under section 14012
24 of the Food, Conservation, and Energy Act of 2008
25 (Public Law 110–246; 122 Stat. 2209).

1 (2) PIGFORD CLAIM.—The term “Pigford
2 claim” has the meaning given that term in section
3 14012(a)(3) of the Food, Conservation, and Energy
4 Act of 2008 (Public Law 110–246; 122 Stat. 2210).

5 (b) APPROPRIATION OF FUNDS.—There is hereby ap-
6 propriated to the Secretary of Agriculture
7 \$1,150,000,000, to remain available until expended, to
8 carry out the terms of the Settlement Agreement if the
9 Settlement Agreement is approved by a court order that
10 is or becomes final and nonappealable. The funds appro-
11 priated by this subsection are in addition to the
12 \$100,000,000 of funds of the Commodity Credit Corpora-
13 tion made available by section 14012(i) of the Food, Con-
14 servation, and Energy Act of 2008 (Public Law 110–246;
15 122 Stat. 2212) and shall be available for obligation only
16 after those Commodity Credit Corporation funds are fully
17 obligated. If the Settlement Agreement is not approved as
18 provided in this subsection, the \$100,000,000 of funds of
19 the Commodity Credit Corporation made available by sec-
20 tion 14012(i) of the Food, Conservation, and Energy Act
21 of 2008 shall be the sole funding available for Pigford
22 claims.

23 (c) USE OF FUNDS.—The use of the funds appro-
24 priated by subsection (b) shall be subject to the express
25 terms of the Settlement Agreement.

1 (d) TREATMENT OF REMAINING FUNDS.—If any of
2 the funds appropriated by subsection (b) are not obligated
3 and expended to carry out the Settlement Agreement, the
4 Secretary of Agriculture shall return the unused funds to
5 the Treasury and may not make the unused funds avail-
6 able for any purpose related to section 14012 of the Food,
7 Conservation, and Energy Act of 2008, for any other set-
8 tlement agreement executed in *In re Black Farmers Dis-*
9 *crimination Litigation*, No. 08–511 (D.D.C.), or for any
10 other purpose.

11 (e) RULES OF CONSTRUCTION.—Nothing in this sec-
12 tion shall be construed as requiring the United States, any
13 of its officers or agencies, or any other party to enter into
14 the Settlement Agreement or any other settlement agree-
15 ment. Nothing in this section shall be construed as cre-
16 ating the basis for a Pigford claim.

17 (f) CONFORMING AMENDMENTS.—Section 14012 of
18 the Food, Conservation, and Energy Act of 2008 (Public
19 Law 110–246; 122 Stat. 2209) is amended—

20 (1) in subsection (c)(1)—

21 (A) by striking “subsection (h)” and in-
22 serting “subsection (g)”; and

23 (B) by striking “subsection (i)” and insert-
24 ing “subsection (h)”;
25 (2) by striking subsection (e);

1 (3) in subsection (g), by striking “subsection
2 (f)” and inserting “subsection (e)”;

3 (4) in subsection (i)—

4 (A) by striking “(1) IN GENERAL.—Of the
5 funds” and inserting “Of the funds”; and

6 (B) by striking paragraph (2);

7 (5) by striking subsection (j); and

8 (6) by redesignating subsections (f), (g), (h),
9 (i), and (k) as subsections (e), (f), (g), (h), and (i),
10 respectively.

11 **SEC. 609. EXPANSION OF ELIGIBILITY FOR CONCURRENT**
12 **RECEIPT OF MILITARY RETIRED PAY AND**
13 **VETERANS’ DISABILITY COMPENSATION TO**
14 **INCLUDE ALL CHAPTER 61 DISABILITY RE-**
15 **TIREES REGARDLESS OF DISABILITY RATING**
16 **PERCENTAGE OR YEARS OF SERVICE.**

17 (a) PHASED EXPANSION CONCURRENT RECEIPT.—

18 Subsection (a) of section 1414 of title 10, United States
19 Code, is amended to read as follows:

20 “(a) PAYMENT OF BOTH RETIRED PAY AND DIS-
21 ABILITY COMPENSATION.—

22 “(1) PAYMENT OF BOTH REQUIRED.—

23 “(A) IN GENERAL.—Subject to subsection
24 (b), a member or former member of the uni-
25 formed services who is entitled for any month

1 to retired pay and who is also entitled for that
2 month to veterans' disability compensation for a
3 qualifying service-connected disability (in this
4 section referred to as a 'qualified retiree') is en-
5 titled to be paid both for that month without
6 regard to sections 5304 and 5305 of title 38.

7 “(B) APPLICABILITY OF FULL CONCUR-
8 RENT RECEIPT PHASE-IN REQUIREMENT.—Dur-
9 ing the period beginning on January 1, 2004,
10 and ending on December 31, 2013, payment of
11 retired pay to a qualified retiree is subject to
12 subsection (c).

13 “(C) PHASE-IN EXCEPTION FOR 100 PER-
14 CENT DISABLED RETIREES.—The payment of
15 retired pay is subject to subsection (c) only dur-
16 ing the period beginning on January 1, 2004,
17 and ending on December 31, 2004, in the case
18 of the following qualified retirees:

19 “(i) A qualified retiree receiving vet-
20 erans' disability compensation for a dis-
21 ability rated as 100 percent.

22 “(ii) A qualified retiree receiving vet-
23 erans' disability compensation at the rate
24 payable for a 100 percent disability by rea-

1 son of a determination of individual
2 unemployability.

3 “(D) TEMPORARY PHASE-IN EXCEPTION
4 FOR CERTAIN CHAPTER 61 DISABILITY RETIR-
5 EES; TERMINATION.—Subject to subsection (b),
6 during the period beginning on January 1,
7 2011, and ending on September 30, 2012, sub-
8 section (c) shall not apply to a qualified retiree
9 described in subparagraph (B) or (C) of para-
10 graph (2).

11 “(2) QUALIFYING SERVICE-CONNECTED DIS-
12 ABILITY DEFINED.—In this section:

13 “(A) 50 PERCENT RATING THRESHOLD.—
14 In the case of a member or former member re-
15 ceiving retired pay under any provision of law
16 other than chapter 61 of this title, or under
17 chapter 61 with 20 years or more of service
18 otherwise creditable under section 1405 or com-
19 puted under section 12732 of this title, the
20 term ‘qualifying service-connected disability’
21 means a service-connected disability or com-
22 bination of service-connected disabilities that is
23 rated as not less than 50 percent disabling by
24 the Secretary of Veterans Affairs. However,
25 during the period specified in paragraph (1)(D),

1 members or former members receiving retired
2 pay under chapter 61 with 20 years or more of
3 creditable service computed under section
4 12732 of this title, but not otherwise entitled to
5 retired pay under any other provision of this
6 title, shall qualify in accordance with subpara-
7 graphs (B) and (C).

8 “(B) INCLUSION OF MEMBERS NOT OTH-
9 ERWISE ENTITLED TO RETIRED PAY.—In the
10 case of a member or former member receiving
11 retired pay under chapter 61 of this title, but
12 who is not otherwise entitled to retired pay
13 under any other provision of this title, the term
14 ‘qualifying service-connected disability’ means a
15 service-connected disability or combination of
16 service-connected disabilities that is rated by
17 the Secretary of Veterans Affairs at the dis-
18 abling level specified in one of the following
19 clauses (which, subject to paragraph (3), is ef-
20 fective on or after the date specified in the ap-
21 plicable clause):

22 “(i) January 1, 2011, rated 100 per-
23 cent, or a rate payable at 100 percent by
24 reason of individual unemployability or
25 rated 90 percent.

1 “(ii) January 1, 2012, rated 80 per-
2 cent or 70 percent.

3 “(iii) January 1, 2013, rated 60 per-
4 cent or 50 percent.

5 “(C) ELIMINATION OF RATING THRESH-
6 OLD.—In the case of a member or former mem-
7 ber receiving retired pay under chapter 61 re-
8 gardless of being otherwise eligible for retire-
9 ment, the term ‘qualifying service-connected
10 disability’ means a service-connected disability
11 or combination of service-connected disabilities
12 that is rated by the Secretary of Veterans Af-
13 fairs at the disabling level specified in one of
14 the following clauses (which, subject to para-
15 graph (3), is effective on or after the date speci-
16 fied in the applicable clause):

17 “(i) January 1, 2014, rated 40 per-
18 cent or 30 percent.

19 “(ii) January 1, 2015, any rating.

20 “(3) LIMITED DURATION.—Notwithstanding
21 the effective date specified in each clause of subpara-
22 graphs (B) and (C) of paragraph (2), the clause—

23 “(A) shall apply only if the termination
24 date specified in paragraph (1)(D) would occur

1 during or after the calendar year specified in
2 the clause; and

3 “(B) shall not apply beyond the termi-
4 nation date specified in paragraph (1)(D).”.

5 (b) CONFORMING AMENDMENT TO SPECIAL RULES
6 FOR CHAPTER 61 DISABILITY RETIREES.—Subsection (b)
7 of such section is amended to read as follows:

8 “(b) SPECIAL RULES FOR CHAPTER 61 DISABILITY
9 RETIREES WHEN ELIGIBILITY HAS BEEN ESTABLISHED
10 FOR SUCH RETIREES.—

11 “(1) GENERAL REDUCTION RULE.—The retired
12 pay of a member retired under chapter 61 of this
13 title is subject to reduction under sections 5304 and
14 5305 of title 38, but only to the extent that the
15 amount of the members retired pay under chapter
16 61 of this title exceeds the amount of retired pay to
17 which the member would have been entitled under
18 any other provision of law based upon the member’s
19 service in the uniformed services if the member had
20 not been retired under chapter 61 of this title.

21 “(2) CHAPTER 61 RETIREES NOT OTHERWISE
22 ENTITLED TO RETIRED PAY.—

23 “(A) BEFORE TERMINATION DATE.—If a
24 member with a qualifying service-connected dis-
25 ability (as defined in subsection (a)(2)) is re-

1 tired under chapter 61 of this title, but is not
2 otherwise entitled to retired pay under any
3 other provision of this title, and the termination
4 date specified in subsection (a)(1)(D) has not
5 occurred, the retired pay of the member is sub-
6 ject to reduction under sections 5304 and 5305
7 of title 38, but only to the extent that the
8 amount of the member's retired pay under
9 chapter 61 of this title exceeds the amount
10 equal to 2½ percent of the member's years of
11 creditable service multiplied by the member's
12 retired pay base under section 1406(b)(1) or
13 1407 of this title, whichever is applicable to the
14 member.

15 “(B) AFTER TERMINATION DATE.—Sub-
16 section (a) does not apply to a member de-
17 scribed in subparagraph (A) if the termination
18 date specified in subsection (a)(1)(D) has oc-
19 curred.”.

20 (c) CONFORMING AMENDMENT TO FULL CONCUR-
21 RENT RECEIPT PHASE-IN.—Subsection (c) of such section
22 is amended by striking “the second sentence of”.

23 (d) CLERICAL AMENDMENTS.—

24 (1) SECTION HEADING.—The heading of such
25 section is amended to read as follows:

1 **“§ 1414. Concurrent receipt of retired pay and vet-**
2 **erans’ disability compensation”.**

3 (2) TABLE OF SECTIONS.—The table of sections
4 at the beginning of chapter 71 of such title is
5 amended by striking the item related to section 1414
6 and inserting the following new item:

“1414. Concurrent receipt of retired pay and veterans’ disability compensa-
tion.”.

7 (e) EFFECTIVE DATE.—The amendments made by
8 this section shall take effect on January 1, 2011.

9 **SEC. 610. EXTENSION OF USE OF 2009 POVERTY GUIDE-**
10 **LINES.**

11 Section 1012 of the Department of Defense Appro-
12 priations Act, 2010 (Public Law 111–118), as amended
13 by section 6 of the Continuing Extension Act of 2010
14 (Public Law 111–157), is amended—

15 (1) by striking “before May 31, 2010”; and

16 (2) by inserting “for 2011” after “until up-
17 dated poverty guidelines”.

18 **SEC. 611. REFUNDS DISREGARDED IN THE ADMINISTRA-**
19 **TION OF FEDERAL PROGRAMS AND FEDER-**
20 **ALLY ASSISTED PROGRAMS.**

21 (a) IN GENERAL.—Subchapter A of chapter 65 of the
22 Internal Revenue Code of 1986 is amended by adding at
23 the end the following new section:

1 **“SEC. 6409. REFUNDS DISREGARDED IN THE ADMINISTRA-**
2 **TION OF FEDERAL PROGRAMS AND FEDER-**
3 **ALLY ASSISTED PROGRAMS.**

4 “(a) **IN GENERAL.**—Notwithstanding any other pro-
5 vision of law, any refund (or advance payment with respect
6 to a refundable credit) made to any individual under this
7 title shall not be taken into account as income, and shall
8 not be taken into account as resources for a period of 12
9 months from receipt, for purposes of determining the eligi-
10 bility of such individual (or any other individual) for bene-
11 fits or assistance (or the amount or extent of benefits or
12 assistance) under any Federal program or under any State
13 or local program financed in whole or in part with Federal
14 funds.

15 “(b) **TERMINATION.**—Subsection (a) shall not apply
16 to any amount received after December 31, 2010.”.

17 (b) **CLERICAL AMENDMENT.**—The table of sections
18 for such subchapter is amended by adding at the end the
19 following new item:

“Sec. 6409. Refunds disregarded in the administration of Federal programs
and federally assisted programs.”.

20 (c) **EFFECTIVE DATE.**—The amendments made by
21 this section shall apply to amounts received after Decem-
22 ber 31, 2009.

1 **SEC. 612. STATE COURT IMPROVEMENT PROGRAM.**

2 Section 438 of the Social Security Act (42 U.S.C.
3 629h) is amended—

4 (1) in subsection (c)(2)(A), by striking “2010”
5 and inserting “2011”; and

6 (2) in subsection (e), by striking “2010” and
7 inserting “2011”.

8 **SEC. 613. QUALIFYING TIMBER CONTRACT OPTIONS.**

9 (a) DEFINITIONS.—In this section:

10 (1) QUALIFYING CONTRACT.—The term “quali-
11 fying contract” means a contract that has not been
12 terminated by the Bureau of Land Management for
13 the sale of timber on lands administered by the Bu-
14 reau of Land Management that meets all of the fol-
15 lowing criteria:

16 (A) The contract was awarded during the
17 period beginning on January 1, 2005, and end-
18 ing on December 31, 2008.

19 (B) There is unharvested volume remain-
20 ing for the contract.

21 (C) The contract is not a salvage sale.

22 (D) The Secretary determined there is not
23 an urgent need to harvest under the contract
24 due to deteriorating timber conditions that de-
25 veloped after the award of the contract.

1 (2) SECRETARY.—The term “Secretary” means
2 the Secretary of the Interior, acting through the Di-
3 rector of Bureau of Land Management.

4 (3) TIMBER PURCHASER.—The term “timber
5 purchaser” means the party to the qualifying con-
6 tract for the sale of timber from lands administered
7 by the Bureau of Land Management.

8 (b) MARKET-RELATED CONTRACT EXTENSION OP-
9 TION.—Upon a timber purchaser’s written request, the
10 Secretary may make a one-time modification to the quali-
11 fying contract to add 3 years to the contract expiration
12 date if the written request—

13 (1) is received by the Secretary not later than
14 90 days after the date of enactment of this Act; and

15 (2) contains a provision releasing the United
16 States from all liability, including further consider-
17 ation or compensation, resulting from the modifica-
18 tion under this subsection of the term of a qualifying
19 contract.

20 (c) REPORTING.—Not later than 6 months after the
21 date of the enactment of this Act, the Secretary shall sub-
22 mit to Congress a report detailing a plan and timeline to
23 promulgate new regulations authorizing the Bureau of
24 Land Management to extend timber contracts due to
25 changes in market conditions.

1 (d) REGULATIONS.—Not later than 2 years after the
2 date of the enactment of this Act, the Secretary shall pro-
3 mulgate new regulations authorizing the Bureau of Land
4 Management to extend timber contracts due to changes
5 in market conditions.

6 (e) NO SURRENDER OF CLAIMS.—This section shall
7 not have the effect of surrendering any claim by the
8 United States against any timber purchaser that arose
9 under a timber sale contract, including a qualifying con-
10 tract, before the date on which the Secretary adjusts the
11 contract term under subsection (b).

12 **SEC. 614. EXTENSION AND FLEXIBILITY FOR CERTAIN AL-**
13 **LOCATED SURFACE TRANSPORTATION PRO-**
14 **GRAMS.**

15 (a) MODIFICATION OF ALLOCATION RULES.—Section
16 411(d) of the Surface Transportation Extension Act of
17 2010 (Public Law 111–147; 124 Stat. 80) is amended—

18 (1) in paragraph (1)—

19 (A) in the matter preceding subparagraph

20 (A)—

21 (i) by striking “1301, 1302,”; and

22 (ii) by striking “1198, 1204,”; and

23 (B) in subparagraph (A)—

24 (i) in the matter preceding clause (i)

25 by striking “apportioned under sections

1 104(b) and 144 of title 23, United States
2 Code,” and inserting “specified in section
3 105(a)(2) of title 23, United States Code
4 (except the high priority projects pro-
5 gram),”; and

6 (ii) in clause (ii) by striking “appor-
7 tioned under such sections of such Code”
8 and inserting “specified in such section
9 105(a)(2) (except the high priority projects
10 program)”;

11 (2) in paragraph (2)—

12 (A) in the matter preceding subparagraph

13 (A)—

14 (i) by striking “1301, 1302,”; and

15 (ii) by striking “1198, 1204,”; and

16 (B) in subparagraph (A)—

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

24 (ii) in clause (ii) by striking “appor-
25 tioned under such sections of such Code”

1 and inserting “specified in such section
2 105(a)(2) (except the high priority projects
3 program)”;

4 (3) by adding at the end the following:

5 “(5) PROJECTS OF NATIONAL AND REGIONAL
6 SIGNIFICANCE AND NATIONAL CORRIDOR INFRA-
7 STRUCTURE IMPROVEMENT PROGRAMS.—

8 “(A) REDISTRIBUTION AMONG STATES.—

9 Notwithstanding sections 1301(m) and 1302(e)
10 of SAFETEA-LU (119 Stat. 1202 and 1205),
11 the Secretary shall apportion funds authorized
12 to be appropriated under subsection (b) for the
13 projects of national and regional significance
14 program and the national corridor infrastruc-
15 ture improvement program among all States
16 such that each State’s share of the funds so ap-
17 portioned is equal to the State’s share for fiscal
18 year 2009 of funds apportioned or allocated for
19 the programs specified in section 105(a)(2) of
20 title 23, United States Code.

21 “(B) DISTRIBUTION AMONG PROGRAMS.—

22 Funds apportioned to a State pursuant to sub-
23 paragraph (A) shall be—

24 “(i) made available to the State for
25 the programs specified in section 105(a)(2)

1 of title 23, United States Code (except the
2 high priority projects program), and in the
3 same proportion for each such program
4 that—

5 “(I) the amount apportioned to
6 the State for that program for fiscal
7 year 2009; bears to

8 “(II) the amount apportioned to
9 the State for fiscal year 2009 for all
10 such programs; and

11 “(ii) administered in the same manner
12 and with the same period of availability as
13 funding is administered under programs
14 identified in clause (i).”.

15 (b) EXPENDITURE AUTHORITY FROM HIGHWAY
16 TRUST FUND.—Paragraph (1) of section 9503(c) of the
17 Internal Revenue Code of 1986 is amended by striking
18 “Surface Transportation Extension Act of 2010” and in-
19 serting “American Jobs and Closing Tax Loopholes Act
20 of 2010”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall take effect upon the date of enactment
23 of the Surface Transportation Extension Act of 2010
24 (Public Law 111–147; 124 Stat. 78 et seq.) and shall be

1 treated as being included in that Act at the time of the
2 enactment of that Act.

3 (d) SAVINGS CLAUSE.—

4 (1) IN GENERAL.—For fiscal year 2010 and for
5 the period beginning on October 1, 2010, and ending
6 on December 31, 2010, the amount of funds appor-
7 tioned to each State under section 411(d) of the
8 Surface Transportation Extension Act of 2010
9 (Public Law 111–147) that is determined by the
10 amount that the State received or was authorized to
11 receive for fiscal year 2009 to carry out the projects
12 of national and regional significance program and
13 national corridor infrastructure improvement pro-
14 gram shall be the greater of—

15 (A) the amount that the State was author-
16 ized to receive under section 411(d) of the Sur-
17 face Transportation Extension Act of 2010 with
18 respect to each such program according to the
19 provisions of that Act, as in effect on the day
20 before the date of enactment of this Act; or

21 (B) the amount that the State is author-
22 ized to receive under section 411(d) of the Sur-
23 face Transportation Extension Act of 2010 with
24 respect to each such program pursuant to the

1 provisions of that Act, as amended by the
2 amendments made by this section.

3 (2) OBLIGATION AUTHORITY.—For fiscal year
4 2010, the amount of obligation authority distributed
5 to each State shall be the greater of—

6 (A) the amount that the State was author-
7 ized to receive pursuant to section 120(a)(4)(A)
8 (as it pertains to the Appalachian Development
9 Highway System program) of title I of division
10 A of the Consolidated Appropriations Act, 2010
11 (Public Law 111–117) and sections
12 120(a)(4)(B) and 120(a)(6) of such title, as of
13 the day before the date of enactment of this
14 Act; or

15 (B) the amount that the State is author-
16 ized to receive pursuant to section 120(a)(4)(A)
17 (as it pertains to the Appalachian Development
18 Highway System program) of title I of division
19 A of the Consolidated Appropriations Act, 2010
20 (Public Law 111–117) and sections
21 120(a)(4)(B) and 120(a)(6) of such title, as of
22 the date of enactment of this Act.

23 (3) AUTHORIZATION OF APPROPRIATIONS.—
24 There is authorized to be appropriated out of the
25 Highway Trust Fund (other than the Mass Transit

1 Account) such sums as may be necessary to carry
2 out this subsection.

3 (4) INCREASE IN OBLIGATION LIMITATION.—

4 The limitation under the heading “Federal-aid High-
5 ways (Limitation on Obligations) (Highway Trust
6 Fund)” in Public Law 111–117 is increased by such
7 sums as may be necessary to carry out this sub-
8 section.

9 (5) CONTRACT AUTHORITY.—Funds made
10 available to carry out this subsection shall be avail-
11 able for obligation and administered in the same
12 manner as if such funds were apportioned under
13 chapter 1 of title 23, United States Code.

14 (6) AMOUNTS.—The dollar amount specified in
15 section 105(d)(1) of title 23, United States Code,
16 the dollar amount specified in section 120(a)(4)(B)
17 of title I of division A of the Consolidated Appro-
18 priations Act, 2010 (Public Law 111–117), and the
19 dollar amount specified in section 120(b)(10) of
20 such title shall each be increased as necessary to
21 carry out this subsection.

1 **SEC. 615. COMMUNITY COLLEGE AND CAREER TRAINING**
2 **GRANT PROGRAM.**

3 (a) IN GENERAL.—Section 278(a) of the Trade Act
4 of 1974 (19 U.S.C. 2372(a)) is amended by adding at the
5 end the following:

6 “(3) RULE OF CONSTRUCTION.—For purposes
7 of this section, any reference to ‘workers’, ‘workers
8 eligible for training under section 236’, or any other
9 reference to workers under this section shall be
10 deemed to include individuals who are, or are likely
11 to become, eligible for unemployment compensation
12 as defined in section 85(b) of the Internal Revenue
13 Code of 1986, or who remain unemployed after ex-
14 hausting all rights to such compensation.”.

15 (b) DEFINITION OF ELIGIBLE INSTITUTION.—Sec-
16 tion 278(b)(1) of the Trade Act of 1974 (19 U.S.C.
17 2372(b)(1)) is amended—

18 (1) by striking “section 102” and inserting
19 “section 101(a)”; and

20 (2) by striking “1002” and inserting
21 “1001(a)”.

22 (c) AUTHORIZATION OF APPROPRIATIONS.—Section
23 279 of the Trade Act of 1974 (19 U.S.C. 2372a) is
24 amended—

25 (1) in subsection (a), by striking the last sen-
26 tence; and

1 (2) by adding at the end the following:

2 “(c) ADMINISTRATIVE AND RELATED COSTS.—The
3 Secretary may retain not more than 5 percent of the funds
4 appropriated under subsection (b) for each fiscal year to
5 administer, evaluate, and establish reporting systems for
6 the Community College and Career Training Grant pro-
7 gram under section 278.

8 “(d) SUPPLEMENT NOT SUPPLANT.—Funds appro-
9 priated under subsection (b) shall be used to supplement
10 and not supplant other Federal, State, and local public
11 funds expended to support community college and career
12 training programs.

13 “(e) AVAILABILITY.—Funds appropriated under sub-
14 section (b) shall remain available for the fiscal year for
15 which the funds are appropriated and the subsequent fis-
16 cal year.”.

17 **SEC. 616. EXTENSIONS OF DUTY SUSPENSIONS ON COTTON**

18 **SHIRTING FABRICS AND RELATED PROVI-**

19 **SIONS.**

20 (a) EXTENSIONS.—Each of the following headings of
21 the Harmonized Tariff Schedule of the United States is
22 amended by striking the date in the effective date column
23 and inserting “12/31/2013”:

24 (1) Heading 9902.52.08 (relating to woven fab-
25 rics of cotton).

1 (2) Heading 9902.52.09 (relating to woven fab-
2 rics of cotton).

3 (3) Heading 9902.52.10 (relating to woven fab-
4 rics of cotton).

5 (4) Heading 9902.52.11 (relating to woven fab-
6 rics of cotton).

7 (5) Heading 9902.52.12 (relating to woven fab-
8 rics of cotton).

9 (6) Heading 9902.52.13 (relating to woven fab-
10 rics of cotton).

11 (7) Heading 9902.52.14 (relating to woven fab-
12 rics of cotton).

13 (8) Heading 9902.52.15 (relating to woven fab-
14 rics of cotton).

15 (9) Heading 9902.52.16 (relating to woven fab-
16 rics of cotton).

17 (10) Heading 9902.52.17 (relating to woven
18 fabrics of cotton).

19 (11) Heading 9902.52.18 (relating to woven
20 fabrics of cotton).

21 (12) Heading 9902.52.19 (relating to woven
22 fabrics of cotton).

23 (13) Heading 9902.52.20 (relating to woven
24 fabrics of cotton).

1 (14) Heading 9902.52.21 (relating to woven
2 fabrics of cotton).

3 (15) Heading 9902.52.22 (relating to woven
4 fabrics of cotton).

5 (16) Heading 9902.52.23 (relating to woven
6 fabrics of cotton).

7 (17) Heading 9902.52.24 (relating to woven
8 fabrics of cotton).

9 (18) Heading 9902.52.25 (relating to woven
10 fabrics of cotton).

11 (19) Heading 9902.52.26 (relating to woven
12 fabrics of cotton).

13 (20) Heading 9902.52.27 (relating to woven
14 fabrics of cotton).

15 (21) Heading 9902.52.28 (relating to woven
16 fabrics of cotton).

17 (22) Heading 9902.52.29 (relating to woven
18 fabrics of cotton).

19 (23) Heading 9902.52.30 (relating to woven
20 fabrics of cotton).

21 (24) Heading 9902.52.31 (relating to woven
22 fabrics of cotton).

23 (b) EXTENSION OF DUTY REFUNDS AND PIMA COT-
24 TON TRUST FUND; MODIFICATION OF AFFIDAVIT RE-
25 QUIREMENTS.—Section 407 of title IV of division C of the

1 Tax Relief and Health Care Act of 2006 (Public Law 109–
2 432; 120 Stat. 3060) is amended—

3 (1) in subsection (b)—

4 (A) in paragraph (1), by striking
5 “amounts determined by the Secretary” and all
6 that follows through “5208.59.80” and insert-
7 ing “amounts received in the general fund that
8 are attributable to duties received since Janu-
9 ary 1, 2004, on articles classified under heading
10 5208”; and

11 (B) in paragraph (2), by striking “October
12 1, 2008” and inserting “December 31, 2013”;
13 (2) in subsection (d)—

14 (A) in the matter preceding paragraph (1),
15 by inserting “annually” after “provided”; and

16 (B) in paragraph (1), by inserting “during
17 the year in which the affidavit is filed and”
18 after “imported cotton fabric”; and

19 (3) in subsection (f)—

20 (A) in the matter preceding paragraph (1),
21 by inserting “annually” after “provided”; and

22 (B) in paragraph (1), by inserting “during
23 the year in which the affidavit is filed and”
24 after “United States”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect on the date of the enactment
3 of this Act and apply with respect to affidavits filed on
4 or after such date of enactment.

5 **SEC. 617. MODIFICATION OF WOOL APPAREL MANUFAC-**
6 **TURERS TRUST FUND.**

7 (a) IN GENERAL.—Section 4002(c)(2)(A) of the Mis-
8 cellaneous Trade and Technical Corrections Act of 2004
9 (Public Law 108–429; 118 Stat. 2600) is amended by
10 striking “chapter 51” and inserting “chapter 62”.

11 (b) FULL RESTORATION OF PAYMENT LEVELS IN
12 FISCAL YEAR 2010.—

13 (1) TRANSFER OF AMOUNTS.—

14 (A) IN GENERAL.—Not later than 30 days
15 after the date of the enactment of this Act, the
16 Secretary of the Treasury shall transfer to the
17 Wool Apparel Manufacturers Trust Fund, out
18 of the general fund of the Treasury of the
19 United States, amounts determined by the Sec-
20 retary of the Treasury to be equivalent to
21 amounts received in the general fund that are
22 attributable to the duty received on articles
23 classified under chapter 62 of the Harmonized
24 Tariff Schedule of the United States, subject to
25 the limitation in subparagraph (B).

1 (B) LIMITATION.—The Secretary of the
2 Treasury shall not transfer more than the
3 amount determined by the Secretary to be nec-
4 essary for—

5 (i) U.S. Customs and Border Protec-
6 tion to make payments to eligible manufac-
7 turers under section 4002(c)(3) of the Mis-
8 cellaneous Trade and Technical Correc-
9 tions Act of 2004 so that the amount of
10 such payments, when added to any other
11 payments made to eligible manufacturers
12 under section 4002(c)(3) of such Act for
13 calendar year 2010, equal the total amount
14 of payments authorized to be provided to
15 eligible manufacturers under section
16 4002(c)(3) of such Act for calendar year
17 2010; and

18 (ii) the Secretary of Commerce to pro-
19 vide grants to eligible manufacturers under
20 section 4002(c)(6) of the Miscellaneous
21 Trade and Technical Corrections Act of
22 2004 so that the amounts of such grants,
23 when added to any other grants made to
24 eligible manufacturers under section
25 4002(c)(6) of such Act for calendar year

1 2010, equal the total amount of grants au-
2 thorized to be provided to eligible manufac-
3 turers under section 4002(c)(6) of such
4 Act for calendar year 2010.

5 (2) PAYMENT OF AMOUNTS.—U.S. Customs
6 and Border Protection shall make payments de-
7 scribed in paragraph (1) to eligible manufacturers
8 not later than 30 days after such transfer of
9 amounts from the general fund of the Treasury of
10 the United States to the Wool Apparel Manufactur-
11 ers Trust Fund. The Secretary of Commerce shall
12 promptly provide grants described in paragraph (1)
13 to eligible manufacturers after such transfer of
14 amounts from the general fund of the Treasury of
15 the United States to the Wool Apparel Manufactur-
16 ers Trust Fund.

17 (c) RULE OF CONSTRUCTION.—The amendment
18 made by subsection (a) shall not be construed to affect
19 the availability of amounts transferred to the Wool Ap-
20 parel Manufacturers Trust Fund before the date of the
21 enactment of this Act.

22 **SEC. 618. DEPARTMENT OF COMMERCE STUDY.**

23 Not later than 180 days after the date of enactment
24 of this Act, the Secretary of Commerce shall report to
25 Congress detailing—

1 (1) the pattern of job loss in the New England,
2 Mid-Atlantic, and Midwest States over the past 20
3 years;

4 (2) the role of the off-shoring of manufacturing
5 jobs in overall job loss in the regions; and

6 (3) recommendations to attract industries and
7 bring jobs to the region.

8 **SEC. 619. ARRA PLANNING AND REPORTING.**

9 Section 1512 of the American Recovery and Reinvest-
10 ment Act of 2009 (Public Law 111–5; 123 Stat. 287) is
11 amended—

12 (1) in subsection (d)—

13 (A) in the subsection heading, by inserting
14 “PLANS AND” after “AGENCY”;

15 (B) by striking “Not later than” and in-
16 serting the following:

17 “(1) DEFINITION.—In this subsection, the term
18 ‘covered program’ means a program for which funds
19 are appropriated under this division—

20 “(A) in an amount that is—

21 “(i) more than \$2,000,000,000; and

22 “(ii) more than 150 percent of the
23 funds appropriated for the program for fis-
24 cal year 2008; or

1 “(B) that did not exist before the date of
2 enactment of this Act.

3 “(2) PLANS.—Not later than July 1, 2010, the
4 head of each agency that distributes recovery funds
5 shall submit to Congress and make available on the
6 website of the agency a plan for each covered pro-
7 gram, which shall, at a minimum, contain—

8 “(A) a description of the goals for the cov-
9 ered program using recovery funds;

10 “(B) a discussion of how the goals de-
11 scribed in subparagraph (A) relate to the goals
12 for ongoing activities of the covered program, if
13 applicable;

14 “(C) a description of the activities that the
15 agency will undertake to achieve the goals de-
16 scribed in subparagraph (A);

17 “(D) a description of the total recovery
18 funding for the covered program and the recov-
19 ery funding for each activity under the covered
20 program, including identifying whether the ac-
21 tivity will be carried out using grants, con-
22 tracts, or other types of funding mechanisms;

23 “(E) a schedule of milestones for major
24 phases of the activities under the covered pro-
25 gram, with planned delivery dates;

1 “(F) performance measures the agency will
2 use to track the progress of each of the activi-
3 ties under the covered program in meeting the
4 goals described in subparagraph (A), including
5 performance targets, the frequency of measure-
6 ment, and a description of the methodology for
7 each measure;

8 “(G) a description of the process of the
9 agency for the periodic review of the progress of
10 the covered program towards meeting the goals
11 described in subparagraph (A); and

12 “(H) a description of how the agency will
13 hold program managers accountable for achiev-
14 ing the goals described in subparagraph (A).

15 “(3) REPORTS.—

16 “(A) IN GENERAL.—Not later than”;
17 (C) by adding at the end the following:

18 “(B) REPORTS ON PLANS.—Not later than
19 30 days after the end of the calendar quarter
20 ending September 30, 2010, and every calendar
21 quarter thereafter during which the agency obli-
22 gates or expends recovery funds, the head of
23 each agency that developed a plan for a covered
24 program under paragraph (2) shall submit to
25 Congress and make available on a website of

1 the agency a report for each covered program
2 that—

3 “(i) discusses the progress of the
4 agency in implementing the plan;

5 “(ii) describes the progress towards
6 achieving the goals described in paragraph
7 (2)(A) for the covered program;

8 “(iii) discusses the status of each ac-
9 tivity carried out under the covered pro-
10 gram, including whether the activity is
11 completed;

12 “(iv) details the unobligated and un-
13 expired balances and total obligations and
14 outlays under the covered program;

15 “(v) discusses—

16 “(I) whether the covered program
17 has met the milestones for the covered
18 program described in paragraph
19 (2)(E);

20 “(II) if the covered program has
21 failed to meet the milestones, the rea-
22 sons why; and

23 “(III) any changes in the mile-
24 stones for the covered program, in-
25 cluding the reasons for the change;

1 “(vi) discusses the performance of the
2 covered program, including—

3 “(I) whether the covered program
4 has met the performance measures for
5 the covered program described in
6 paragraph (2)(F);

7 “(II) if the covered program has
8 failed to meet the performance meas-
9 ures, the reasons why; and

10 “(III) any trends in information
11 relating to the performance of the cov-
12 ered program; and

13 “(vii) evaluates the ability of the cov-
14 ered program to meet the goals of the cov-
15 ered program given the performance of the
16 covered program.”;

17 (2) in subsection (f)—

18 (A) by striking “Within 180 days” and in-
19 serting the following:

20 “(1) IN GENERAL.—Within 180 days”; and

21 (B) by adding at the end the following:

22 “(2) PENALTIES.—

23 “(A) IN GENERAL.—Subject to subpara-
24 graphs (B), (C), and (D), the Attorney General
25 may bring a civil action in an appropriate

1 United States district court against a recipient
2 of recovery funds from an agency that does not
3 provide the information required under sub-
4 section (c) or knowingly provides information
5 under subsection (c) that contains a material
6 omission or misstatement. In a civil action
7 under this paragraph, the court may impose a
8 civil penalty on a recipient of recovery funds in
9 an amount not more than \$250,000. Any
10 amounts received from a civil penalty under this
11 paragraph shall be deposited in the general
12 fund of the Treasury.

13 “(B) NOTIFICATION.—

14 “(i) IN GENERAL.—The head of an
15 agency shall provide a written notification
16 to a recipient of recovery funds from the
17 agency that fails to provide the informa-
18 tion required under subsection (c). A noti-
19 fication under this subparagraph shall pro-
20 vide the recipient with information on how
21 to comply with the necessary reporting re-
22 quirements and notice of the penalties for
23 failing to do so.

24 “(ii) LIMITATION.—A court may not
25 impose a civil penalty under subparagraph

1 (A) relating to the failure to provide infor-
2 mation required under subsection (c) if,
3 not later than 31 days after the date of the
4 notification under clause (i), the recipient
5 of the recovery funds provides the informa-
6 tion.

7 “(C) CONSIDERATIONS.—In determining
8 the amount of a penalty under this paragraph
9 for a recipient of recovery funds, a court shall
10 consider—

11 “(i) the number of times the recipient
12 has failed to provide the information re-
13 quired under subsection (c);

14 “(ii) the amount of recovery funds
15 provided to the recipient;

16 “(iii) whether the recipient is a gov-
17 ernment, nonprofit entity, or educational
18 institution; and

19 “(iv) whether the recipient is a small
20 business concern (as defined under section
21 3 of the Small Business Act (15 U.S.C.
22 632)), with particular consideration given
23 to businesses with not more than 50 em-
24 ployees.

1 “(D) APPLICABILITY.—This paragraph
2 shall apply to any report required to be sub-
3 mitted on or after the date of enactment of this
4 paragraph.

5 “(E) NONEXCLUSIVITY.—The imposition
6 of a civil penalty under this subsection shall not
7 preclude any other criminal, civil, or adminis-
8 trative remedy available to the United States or
9 any other person under Federal or State law.

10 “(3) TECHNICAL ASSISTANCE.—Each agency
11 distributing recovery funds shall provide technical
12 assistance, as necessary, to assist recipients of recov-
13 ery funds in complying with the requirements to pro-
14 vide information under subsection (c), which shall
15 include providing recipients with a reminder regard-
16 ing each reporting requirement.

17 “(4) PUBLIC LISTING.—

18 “(A) IN GENERAL.—Not later than 45
19 days after the end of each calendar quarter,
20 and subject to the notification requirements
21 under paragraph (2)(B), the Board shall make
22 available on the website established under sec-
23 tion 1526 a list of all recipients of recovery
24 funds that did not provide the information re-

1 required under subsection (c) for the calendar
2 quarter.

3 “(B) CONTENTS.—A list made available
4 under subparagraph (A) shall, for each recipi-
5 ent of recovery funds on the list, include the
6 name and address of the recipient, the identi-
7 fication number for the award, the amount of
8 recovery funds awarded to the recipient, a de-
9 scription of the activity for which the recovery
10 funds were provided, and, to the extent known
11 by the Board, the reason for noncompliance.

12 “(5) REGULATIONS AND REPORTING.—

13 “(A) REGULATIONS.—Not later than 90
14 days after the date of enactment of this para-
15 graph, the Attorney General, in consultation
16 with the Director of the Office of Management
17 and Budget and the Chairperson, shall promul-
18 gate regulations regarding implementation of
19 this section.

20 “(B) REPORTING.—

21 “(i) IN GENERAL.—Not later than
22 July 1, 2010, and every 3 months there-
23 after, the Director of the Office of Man-
24 agement and Budget, in consultation with
25 the Chairperson, shall submit to Congress

1 a report on the extent of noncompliance by
2 recipients of recovery funds with the re-
3 porting requirements under this section.

4 “(ii) CONTENTS.—Each report sub-
5 mitted under clause (i) shall include—

6 “(I) information, for the quarter
7 and in total, regarding the number
8 and amount of civil penalties imposed
9 and collected under this subsection,
10 sorted by agency and program;

11 “(II) information on the steps
12 taken by the Federal Government to
13 reduce the level of noncompliance; and

14 “(III) any other information de-
15 termined appropriate by the Direc-
16 tor.”; and

17 (3) by adding at the end the following:

18 “(i) TERMINATION.—The reporting requirements
19 under this section shall terminate on September 30,
20 2013.”.

21 **SEC. 620. AMENDMENT OF TRAVEL PROMOTION ACT OF**

22 **2009.**

23 (a) TRAVEL PROMOTION FUND FEES.—Section
24 217(h)(3)(B) of the Immigration and Nationality Act (8
25 U.S.C. 1187(h)(3)(B)) is amended—

1 (1) by striking “subsection (d) of section 11 of
2 the Travel Promotion Act of 2009.” in clause (ii)
3 and inserting “subsection (d) of the Travel Pro-
4 motion Act of 2009 (22 U.S.C. 2131(d)).”; and

5 (2) by striking “September 30, 2014.” in clause
6 (iii) and inserting “September 30, 2015.”.

7 (b) IMPLEMENTATION BEGINNING IN FISCAL YEAR
8 2011.—Subsection (d) of the Travel Promotion Act of
9 2009 (22 U.S.C. 2131(d)) is amended—

10 (1) by striking “For fiscal year 2010, the” in
11 paragraph (2)(A) and inserting “The”;

12 (2) by striking “quarterly, beginning on Janu-
13 ary 1, 2010,” in paragraph (2)(A) and inserting
14 “monthly, immediately following the collection of
15 fees under section 217(h)(3)(B)(i)(I) of the Immi-
16 gration and Nationality Act (8 U.S.C.
17 1187(h)(3)(B)(i)(I).”;

18 (3) by striking “fiscal years 2011 through
19 2014,” in paragraph (2)(B) and inserting “fiscal
20 years 2012 through 2015,”;

21 (4) by striking “fiscal year 2010,” in paragraph
22 (3)(A) and inserting “fiscal year 2011,”;

23 (5) by striking “fiscal year 2011,” each place it
24 appears in paragraph (3)(A) and inserting “fiscal
25 year 2012,”; and

1 (6) by striking “fiscal year 2010, 2011, 2012,
2 2013, or 2014” in paragraph (4)(B) and inserting
3 “fiscal year 2011, 2012, 2013, 2014, or 2015”.

4 **SEC. 621. LIMITATION ON PENALTY FOR FAILURE TO DIS-**
5 **CLOSE REPORTABLE TRANSACTIONS BASED**
6 **ON RESULTING TAX BENEFITS.**

7 (a) IN GENERAL.—Subsection (b) of section 6707A
8 of the Internal Revenue Code of 1986 is amended to read
9 as follows:

10 “(b) AMOUNT OF PENALTY.—

11 “(1) IN GENERAL.—Except as otherwise pro-
12 vided in this subsection, the amount of the penalty
13 under subsection (a) with respect to any reportable
14 transaction shall be 75 percent of the decrease in
15 tax shown on the return as a result of such trans-
16 action (or which would have resulted from such
17 transaction if such transaction were respected for
18 Federal tax purposes).

19 “(2) MAXIMUM PENALTY.—The amount of the
20 penalty under subsection (a) with respect to any re-
21 portable transaction shall not exceed—

22 “(A) in the case of a listed transaction,
23 \$200,000 (\$100,000 in the case of a natural
24 person), or

1 “(B) in the case of any other reportable
2 transaction, \$50,000 (\$10,000 in the case of a
3 natural person).

4 “(3) MINIMUM PENALTY.—The amount of the
5 penalty under subsection (a) with respect to any
6 transaction shall not be less than \$10,000 (\$5,000
7 in the case of a natural person).”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall apply to penalties assessed after Decem-
10 ber 31, 2006.

11 **SEC. 622. REPORT ON TAX SHELTER PENALTIES AND CER-**
12 **TAIN OTHER ENFORCEMENT ACTIONS.**

13 (a) IN GENERAL.—The Commissioner of Internal
14 Revenue, in consultation with the Secretary of the Treas-
15 ury, shall submit to the Committee on Ways and Means
16 of the House of Representatives and the Committee on
17 Finance of the Senate an annual report on the penalties
18 assessed by the Internal Revenue Service during the pre-
19 ceding year under each of the following provisions of the
20 Internal Revenue Code of 1986:

21 (1) Section 6662A (relating to accuracy-related
22 penalty on understatements with respect to report-
23 able transactions).

24 (2) Section 6700(a) (relating to promoting abu-
25 sive tax shelters).

1 (3) Section 6707 (relating to failure to furnish
2 information regarding reportable transactions).

3 (4) Section 6707A (relating to failure to include
4 reportable transaction information with return).

5 (5) Section 6708 (relating to failure to main-
6 tain lists of advisees with respect to reportable
7 transactions).

8 (b) ADDITIONAL INFORMATION.—The report re-
9 quired under subsection (a) shall also include information
10 on the following with respect to each year:

11 (1) Any action taken under section 330(b) of
12 title 31, United States Code, with respect to any re-
13 portable transaction (as defined in section 6707A(c)
14 of the Internal Revenue Code of 1986).

15 (2) Any extension of the time for assessment of
16 tax enforced, or assessment of any amount under
17 such an extension, under paragraph (10) of section
18 6501(c) of the Internal Revenue Code of 1986.

19 (c) DATE OF REPORT.—The first report required
20 under subsection (a) shall be submitted not later than De-
21 cember 31, 2010.

1 **TITLE VII—TRANSPARENCY RE-**
2 **QUIREMENTS FOR FOREIGN-**
3 **HELD DEBT**

4 **SEC. 701. SHORT TITLE.**

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

7 **SEC. 702. DEFINITIONS.**

8 In this title:

9 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**
10 **TEES.**—The term “appropriate congressional com-
11 mittees” means the following:

12 (A) The Committee on Armed Services, the
13 Committee on Foreign Relations, the Com-
14 mittee on Finance, and the Committee on the
15 Budget of the Senate.

16 (B) The Committee on Armed Services,
17 the Committee on Foreign Affairs, the Com-
18 mittee on Ways and Means, and the Committee
19 on the Budget of the House of Representatives.

20 (2) **DEBT INSTRUMENTS OF THE UNITED**
21 **STATES.**—The term “debt instruments of the United
22 States” means all bills, notes, and bonds issued or
23 guaranteed by the United States or by an entity of
24 the United States Government, including any Gov-
25 ernment-sponsored enterprise.

1 **SEC. 703. SENSE OF CONGRESS.**

2 It is the sense of Congress that—

3 (1) the growing Federal debt of the United
4 States has the potential to jeopardize the national
5 security and economic stability of the United States;

6 (2) the increasing dependence of the United
7 States on foreign creditors has the potential to make
8 the United States vulnerable to undue influence by
9 certain foreign creditors in national security and
10 economic policymaking;

11 (3) the People's Republic of China is the largest
12 foreign creditor of the United States, in terms of its
13 overall holdings of debt instruments of the United
14 States;

15 (4) the current level of transparency in the
16 scope and extent of foreign holdings of debt instru-
17 ments of the United States is inadequate and needs
18 to be improved, particularly regarding the holdings
19 of the People's Republic of China;

20 (5) through the People's Republic of China's
21 large holdings of debt instruments of the United
22 States, China has become a super creditor of the
23 United States;

24 (6) under certain circumstances, the holdings of
25 the People's Republic of China could give China a
26 tool with which China can try to manipulate the do-

1 mestic and foreign policymaking of the United
2 States, including the United States relationship with
3 Taiwan;

4 (7) under certain circumstances, if the People's
5 Republic of China were to be displeased with a given
6 United States policy or action, China could attempt
7 to destabilize the United States economy by rapidly
8 divesting large portions of China's holdings of debt
9 instruments of the United States; and

10 (8) the People's Republic of China's expansive
11 holdings of such debt instruments of the United
12 States could potentially pose a direct threat to the
13 United States economy and to United States na-
14 tional security. This potential threat is a significant
15 issue that warrants further analysis and evaluation.

16 **SEC. 704. QUARTERLY REPORT ON RISKS POSED BY FOR-**
17 **EIGN HOLDINGS OF DEBT INSTRUMENTS OF**
18 **THE UNITED STATES.**

19 (a) QUARTERLY REPORT.—Not later than March 31,
20 June 30, September 30, and December 31 of each year,
21 the President shall submit to the appropriate congres-
22 sional committees a report on the risks posed by foreign
23 holdings of debt instruments of the United States, in both
24 classified and unclassified form.

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

3 (1) The most recent data available on foreign
4 holdings of debt instruments of the United States,
5 which data shall not be older than the date that is
6 7 months preceding the date of the report.

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

9 (3) The total amount of debt instruments of the
10 United States that are held by the foreign creditors,
11 broken out by the creditors' country of domicile and
12 by public, quasi-public, and private creditors.

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

15 (A) an analysis of the country's purpose in
16 holding debt instruments of the United States
17 and long-term intentions with regard to such
18 debt instruments;

19 (B) an analysis of the current and foresee-
20 able risks to the long-term national security and
21 economic stability of the United States posed by
22 each country's holdings of debt instruments of
23 the United States; and

1 (C) a specific determination of whether the
2 level of risk identified under subparagraph (B)
3 is acceptable or unacceptable.

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

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

10 (a) IN GENERAL.—Not later than December 31 of
11 each year, the Comptroller General of the United States
12 shall submit to the appropriate congressional committees
13 a report on the risks to the United States posed by the
14 Federal debt of the United States.

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

17 (1) An analysis of the current and foreseeable
18 risks to the long-term national security and eco-
19 nomic stability of the United States posed by the
20 Federal debt of the United States.

21 (2) A specific determination of whether the lev-
22 els of risk identified under paragraph (1) are sus-
23 tainable.

24 (3) If the determination under paragraph (2) is
25 that the levels of risk are unsustainable, specific rec-

1 **TITLE VIII—TRANSPARENCY RE-**
2 **QUIREMENTS FOR FOREIGN-**
3 **HELD DEBT**

4 **SEC. 801. SHORT TITLE.**

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

7 **SEC. 802. DEFINITIONS.**

8 In this title:

9 (1) APPROPRIATE CONGRESSIONAL COMMIT-
10 TEES.—The term “appropriate congressional com-
11 mittees” means the following:

12 (A) The Committee on Armed Services, the
13 Committee on Foreign Relations, the Com-
14 mittee on Finance, the Committee on Banking,
15 Housing, and Urban Affairs, and the Com-
16 mittee on the Budget of the Senate.

17 (B) The Committee on Armed Services,
18 the Committee on Foreign Affairs, the Com-
19 mittee on Ways and Means, the Committee on
20 Financial Services, and the Committee on the
21 Budget of the House of Representatives.

22 (2) DEBT INSTRUMENTS OF THE UNITED
23 STATES.—The term “debt instruments of the United
24 States” means all bills, notes, and bonds held by the
25 public and issued or guaranteed by the United

1 States or by an entity of the United States Govern-
2 ment.

3 **SEC. 803. SENSE OF CONGRESS.**

4 It is the sense of Congress that—

5 (1) the growing Federal debt of the United
6 States has the potential to jeopardize the national
7 security and economic stability of the United States;

8 (2) large foreign holdings of debt instruments
9 of the United States have the potential to make the
10 United States vulnerable to undue influence by for-
11 eign creditors in national security and economic pol-
12 icymaking;

13 (3) the People’s Republic of China, Japan, and
14 the United Kingdom are the 3 largest foreign hold-
15 ers of debt instruments of the United States; and

16 (4) the current level of transparency in the
17 scope and extent of foreign holdings of debt instru-
18 ments of the United States is inadequate and needs
19 to be improved.

20 **SEC. 804. ANNUAL REPORT ON RISKS POSED BY FOREIGN**
21 **HOLDINGS OF DEBT INSTRUMENTS OF THE**
22 **UNITED STATES.**

23 (a) ANNUAL REPORT.—Not later than March 31 of
24 each year, the Secretary of the Treasury shall submit to
25 the appropriate congressional committees a report on the

1 risks posed by foreign holdings of debt instruments of the
2 United States, in both classified and unclassified form.

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

5 (1) The most recent data available on foreign
6 holdings of debt instruments of the United States,
7 which data shall not be older than the date that is
8 9 months preceding the date of the report.

9 (2) The total amount of debt instruments of the
10 United States that are held by foreign residents,
11 broken out by the residents' country of domicile and
12 by public and private residents.

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

17 (c) PUBLIC AVAILABILITY.—The Secretary of the
18 Treasury shall make each report required by subsection
19 (a) available, in its unclassified form, to the public by post-
20 ing it on the Internet in a conspicuous manner and loca-
21 tion.

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

24 (a) IN GENERAL.—Not later than March 31 of each
25 year, the Comptroller General of the United States shall

1 submit to the appropriate congressional committees a re-
2 port on the risks to the United States posed by the Fed-
3 eral debt of the United States.

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

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

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

12 **SEC. 806. CORRECTIVE ACTION TO ADDRESS UNACCEPT-**
13 **ABLE RISKS TO UNITED STATES NATIONAL**
14 **SECURITY AND ECONOMIC STABILITY.**

15 If the President determines that foreign holdings of
16 debt instruments of the United States pose an unaccept-
17 able risk to the long-term national security or economic
18 stability of the United States, the President shall, within
19 30 days of the determination—

20 (1) formulate a plan of action to reduce such
21 risk;

22 (2) submit to the appropriate congressional
23 committees a report on the plan of action that in-
24 cludes a timeline for the implementation of the plan

1 and recommendations for any legislative action that
2 would be required to fully implement the plan; and

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

6 **TITLE IX—OFFICE OF THE**
7 **HOMEOWNER ADVOCATE**

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

9 (a) ESTABLISHMENT.—There is established in the
10 Department of the Treasury an office to be known as the
11 “Office of the Homeowner Advocate” (in this title referred
12 to as the “Office”).

13 (b) DIRECTOR.—

14 (1) IN GENERAL.—The Director of the Office of
15 the Homeowner Advocate (in this title referred to as
16 the “Director”) shall report directly to the Assistant
17 Secretary of the Treasury for Financial Stability,
18 and shall be entitled to compensation at the same
19 rate as the highest rate of basic pay established for
20 the Senior Executive Service under section 5382 of
21 title 5, United States Code.

22 (2) APPOINTMENT.—The Director shall be ap-
23 pointed by the Secretary, after consultation with the
24 Secretary of the Department of Housing and Urban
25 Development, and without regard to the provisions

1 of title 5, United States Code, relating to appoint-
2 ments in the competitive service or the Senior Exec-
3 utive Service.

4 (3) QUALIFICATIONS.—An individual appointed
5 under paragraph (2) shall have—

6 (A) experience as an advocate for home-
7 owners; and

8 (B) experience dealing with mortgage
9 servicers.

10 (4) RESTRICTION ON EMPLOYMENT.—An indi-
11 vidual may be appointed as Director only if such in-
12 dividual was not an officer or employee of either a
13 mortgage servicer or the Department of the Treas-
14 ury during the 4-year period preceding the date of
15 such appointment.

16 (5) HIRING AUTHORITY.—The Director shall
17 have the authority to hire staff, obtain support by
18 contract, and manage the budget of the Office of the
19 Homeowner Advocate.

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

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

23 (1) to assist homeowners, housing counselors,
24 and housing lawyers in resolving problems with the
25 Home Affordable Modification Program of the Mak-

1 ing Home Affordable initiative of the Secretary, au-
2 thorized under the Emergency Economic Stabiliza-
3 tion Act of 2008 (in this title referred to as the
4 “Home Affordable Modification Program”)

5 (2) to identify areas, both individual and sys-
6 tematic, in which homeowners, housing counselors,
7 and housing lawyers have problems in dealings with
8 the Home Affordable Modification Program;

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

13 (4) to identify potential legislative changes
14 which may be appropriate to mitigate such problems;
15 and

16 (5) to implement other programs and initiatives
17 that the Director deems important to assisting
18 homeowners, housing counselors, and housing law-
19 yers in resolving problems with the Home Affordable
20 Modification Program, which may include—

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

23 (B) providing homeowners with access to
24 housing counseling programs of the Department

1 of Housing and Urban Development at no cost
2 to the homeowner;

3 (C) developing Internet tools related to the
4 Home Affordable Modification Program; and

5 (D) developing training and educational
6 materials.

7 (b) AUTHORITY.—

8 (1) IN GENERAL.—Staff designated by the Di-
9 rector shall have the authority to implement servicer
10 remedies, on a case-by-case basis, subject to the ap-
11 proval of the Assistant Secretary of the Treasury for
12 Financial Stability.

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

17 (c) COMMENCEMENT OF OPERATIONS.—The Office
18 shall commence its operations, as required by this title,
19 not later than 3 months after the date of enactment of
20 this Act.

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

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

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

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

8 (c) COORDINATION.—The Office shall coordinate
9 with the compliance office of the Office of Financial Sta-
10 bility of the Department of the Treasury and the Home-
11 ownership Preservation Office of the Department of the
12 Treasury.

13 **SEC. 904. RULE OF CONSTRUCTION.**

14 Nothing in this section shall prohibit a mortgage
15 servicer from evaluating a homeowner for eligibility under
16 the Home Affordable Foreclosure Alternatives Program
17 while a case is still open with the Office of the Homeowner
18 Advocate. Nothing in this section may be construed to re-
19 lieve any loan services from otherwise applicable rules, di-
20 rectives, or similar guidance under the Home Affordable
21 Modification Program relating to the continuation or com-
22 pletion of foreclosure proceedings.

23 **SEC. 905. REPORTS TO CONGRESS.**

24 (a) TESTIMONY.—The Director shall be available to
25 testify before the Committee on Banking, Housing, and
26 Urban Affairs of the Senate and the Committee on Finan-

1 cial Services of the House of Representatives, not less fre-
2 quently than 4 times a year, or at any time at the request
3 of the Chairs of either committee.

4 (b) REPORTS.—Once annually, the Director shall
5 provide a detailed report to Congress on the Home Afford-
6 able Modification Program. Such report shall contain full
7 and substantive analysis, in addition to statistical informa-
8 tion, including, at a minimum—

9 (1) data and analysis of the types and volume
10 of complaints received from homeowners, housing
11 counselors, and housing lawyers, broken down by
12 category of servicer, except that servicers may not be
13 identified by name in the report;

14 (2) a summary of not fewer than 20 of the
15 most serious problems encountered by Home Afford-
16 able Modification Program participants, including a
17 description of the nature of such problems;

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

22 (4) data and analysis on the resolutions of the
23 complaints received from homeowners, housing coun-
24 selors, and housing lawyers;

1 (5) identification of any programs or initiatives
2 that the Office has taken to improve the Home Af-
3 fordable Modification Program;

4 (6) recommendations for such administrative
5 and legislative action as may be appropriate to re-
6 solve problems encountered by Home Affordable
7 Modification Program participants; and

8 (7) such other information as the Director may
9 deem advisable.

10 **SEC. 906. FUNDING.**

11 Amounts made available for the costs of administra-
12 tion of the Home Affordable Modification Program that
13 are not otherwise obligated shall be available to carry out
14 the duties of the Office. Funding shall be maintained at
15 levels adequate to reasonably carry out the functions of
16 the Office.

17 **SEC. 907. PROHIBITION ON PARTICIPATION IN MAKING**

18 **HOME AFFORDABLE FOR BORROWERS WHO**

19 **STRATEGICALLY DEFAULT.**

20 No mortgage may be modified under the Making
21 Home Affordable Program, or with any funds from the
22 Troubled Asset Relief Program, unless the servicer of the
23 mortgage loan has determined, in accordance with stand-
24 ards and requirements established by the Secretary of the
25 Treasury, that the mortgagor cannot afford to make pay-

1 ments under the terms of the existing mortgage loan. The
2 Secretary of the Treasury, in consultation with the Sec-
3 retary of Housing and Urban Development, shall issue
4 rules to carry out this section not later than 90 days after
5 the date of enactment of this Act. This section shall not
6 apply to any refinancing or modifications made under the
7 “FHA Program Adjustments to Support Refinancings for
8 Underwater Homeowners,” announced by the Department
9 of the Treasury and the Department of Housing and
10 Urban Development on March 26, 2010, as long as the
11 program continues to be structured so that borrowers par-
12 ticipating in the FHA refinance program cannot be in de-
13 fault on their primary mortgage at the time of refinance
14 and their eligibility in the program is not helped if they
15 are in default on their second mortgage, and thus lack
16 a strategic reason to go into default on either their first
17 or second mortgage to participate in the program.

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

19 (a) **PUBLIC AVAILABILITY OF DATA.**—The Secretary
20 of the Treasury shall revise the guidelines for the Home
21 Affordable Modification Program of the Making Home Af-
22 fordable initiative of the Secretary of the Treasury, au-
23 thorized under the Emergency Economic Stabilization Act
24 of 2008 (Public Law 110–343), to establish that the data
25 collected by the Secretary of the Treasury from each mort-

1 gage servicer and lender participating in the Program is
2 made public in accordance with subsection (b).

3 (b) CONTENT.—Not more than 60 days after each
4 monthly deadline for submission of data by mortgage
5 servicers and lender participating in the program, the
6 Treasury shall make all data tables available to the public
7 at the individual record level. This data shall include but
8 not be limited to—

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

12 (2) disclose—

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

15 (B) whether such rate or pace is increasing
16 or decreasing;

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

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

22 (3) with respect to the loss mitigation efforts of
23 the loan—

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

4 (B) the manner and methods by which
5 such processes and practices are being mon-
6 itored for effectiveness;

7 (4) disclose, with respect to loans that are or
8 become 60 or more days past due, (provided that for
9 purposes of disclosure under this paragraph that
10 each loan should have a unique number that is not
11 the same as any loan number the borrower, origi-
12 nator, or servicer uses), the following attributes—

13 (A) the original loan amount;

14 (B) the current loan amount;

15 (C) the loan-to-value ratio and combined
16 loan-to-value ratio, both at origination and cur-
17 rently, and the number of liens on the property;

18 (D) the property valuation at the time of
19 origination of the loan, and all subsequent prop-
20 erty valuations and the date of each valuation;

21 (E) each relevant credit score of each bor-
22 rower obtained at any time in connection with
23 the loan, with the date of the credit score, to
24 the extent allowed by existing law;

1 (F) whether the loan has any mortgage or
2 other credit insurance or guarantee;

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

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

6 (I) the adjustable rate mortgage index or
7 indices for such loan;

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

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

12 (L) whether the loan is subject to a balloon
13 payment;

14 (M) the date of each modification of the
15 loan;

16 (N) whether any amounts of loan principal
17 has been deferred or written off, and if so, the
18 date and amount of each deferral and the date
19 and amount of each writedown;

20 (O) whether the interest rate was changed
21 from a rate that could adjust to a fixed rate,
22 and if so, the period of time for which the rate
23 will be fixed;

1 (P) the amount by which the interest rate
2 on the loan was reduced, and for what period
3 of time it was reduced;

4 (Q) if the interest rate was reduced or
5 fixed for a period of time less than the remain-
6 ing loan term, on what dates, and to what
7 rates, could the rate potentially increase in the
8 future;

9 (R) whether the loan term was modified,
10 and if so, whether it was extended or shortened,
11 and by what amount of time;

12 (S) whether the loan is in the process of
13 foreclosure or similar procedure, whether judi-
14 cial or otherwise; and

15 (T) whether a foreclosure or similar proce-
16 dure, whether judicial or otherwise, has been
17 completed.

18 (c) GUIDELINES AND REGULATIONS.—The Secretary
19 of the Treasury shall establish guidelines and regulations
20 necessary—

21 (1) to ensure that the privacy of individual con-
22 sumers is appropriately protected in the reports
23 under this section;

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

4 (3) to update the data no less frequently than
5 monthly;

6 (4) to establish procedures for disclosing such
7 data to the public on a public website with no cost
8 to access the data; and

9 (5) to allow the Secretary to make such dele-
10 tions as the Secretary may determine to be appro-
11 priate to protect any privacy interest of any loan
12 modification applicant, including the deletion or al-
13 teration of the applicant's name and identification
14 number.

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