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1 “(B) COORDINATION WITH CREDIT AL-
2 LOWED AGAINST UNITED STATES INCOME
3 TAXES.—No credit shall be allowed under this
4 section for any taxable year to any individual to
5 whom a credit is allowable against taxes im-
6 posed by a possession of the United States with
7 a mirror code tax system by reason of the appli-
8 cation of this section in such possession for
9 such taxable year.

10 “(C) MIRROR CODE TAX SYSTEM.—For
11 purposes of this paragraph, the term ‘mirror
12 code tax system’ means, with respect to any
13 possession of the United States, the income tax
14 system of such possession if the income tax li-
15 ability of the residents of such possession under
16 such system is determined by reference to the
17 income tax laws of the United States as if such
18 possession were the United States.

19 “(2) CROSS REFERENCES RELATED TO APPLI-
20 CATION OF CREDIT TO RESIDENTS OF PUERTO
21 RICO.—

22 “(A) For application of refundable credit
23 to residents of Puerto Rico, see subsection (d).

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1 “(B) For application of advance payment
2 to residents of Puerto Rico, see section
3 7527B(b)(4).

4 “(3) AMERICAN SAMOA.—

5 “(A) IN GENERAL.—The Secretary shall
6 pay to American Samoa amounts estimated by
7 the Secretary as being equal to the aggregate
8 benefits that would have been provided to resi-
9 dents of American Samoa by reason of the ap-
10 plication of this section for taxable years begin-
11 ning after 2022 and before 2026 if the provi-
12 sions of this section had been in effect in Amer-
13 ican Samoa (applied as if American Samoa
14 were the United States and without regard to
15 the application of this section to residents of
16 Puerto Rico under subsection (d)).

17 “(B) DISTRIBUTION REQUIREMENT.—Sub-
18 paragraph (A) shall not apply unless American
19 Samoa has a plan, which has been approved by
20 the Secretary, under which American Samoa
21 will promptly distribute such payments to its
22 residents.

23 “(C) COORDINATION WITH CREDIT AL-
24 LOWED AGAINST UNITED STATES INCOME
25 TAXES.—

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1 “(i) IN GENERAL.—In the case of a
2 taxable year with respect to which a plan
3 is approved under subparagraph (B), this
4 section (other than this subsection) shall
5 not apply to any individual eligible for a
6 distribution under such plan.

7 “(ii) APPLICATION OF SECTION IN
8 EVENT OF ABSENCE OF APPROVED
9 PLAN.—In the case of a taxable year with
10 respect to which a plan is not approved
11 under subparagraph (B), subsection (d)
12 shall be applied by substituting ‘, Puerto
13 Rico, or American Samoa’ for ‘or Puerto
14 Rico’.

15 “(4) TREATMENT OF PAYMENTS.—For pur-
16 poses of section 1324 of title 31, United States
17 Code, the payments under this subsection shall be
18 treated in the same manner as a refund due from
19 a credit provision referred to in subsection (b)(2) of
20 such section.

21 “(j) REGULATIONS.—The Secretary shall issue such
22 regulations or other guidance as the Secretary determines
23 necessary or appropriate to carry out the purposes of this
24 section, including regulations or other guidance—

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1 “(1) for determining whether an individual re-
2 ceives care from a taxpayer for purposes of sub-
3 section (c)(1), and

4 “(2) to coordinate or modify the application of
5 this section and section 24, 7527A, and 7527B in
6 the case of any taxpayer—

7 “(A) whose taxable year is other than a
8 calendar year,

9 “(B) whose filing status for a taxable year
10 is different from the status used for deter-
11 mining one or more monthly payments under
12 section 7527B during such taxable year, or

13 “(C) whose principal place of abode for
14 any month is different from the principal place
15 of abode used for determining the monthly pay-
16 ment under section 7527B for such month.

17 “(k) TERMINATION.—This section shall not apply to
18 taxable years beginning after December 31, 2025.

19 **“SEC. 24B. CREDIT FOR CERTAIN OTHER DEPENDENTS.**

20 “(a) IN GENERAL.—There shall be allowed as a cred-
21 it against the tax imposed by this chapter for the taxable
22 year an amount equal to \$500 with respect to each speci-
23 fied dependent of such taxpayer for such taxable year.

24 “(b) LIMITATION BASED ON MODIFIED ADJUSTED
25 GROSS INCOME.—

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1 “(1) IN GENERAL.—The amount of the credit
2 allowable under subsection (a) shall be reduced (but
3 not below zero) by \$50 for each \$1,000 (or fraction
4 thereof) by which the taxpayer’s modified adjusted
5 gross income exceeds the threshold amount.

6 “(2) THRESHOLD AMOUNT.—For purposes of
7 this subsection, the term ‘threshold amount’
8 means—

9 “(A) \$400,000, in the case of a joint re-
10 turn or surviving spouse (as defined in section
11 2(a)),

12 “(B) \$300,000, in the case of a head of
13 household (as defined in section 2(b)), and

14 “(C) \$200,000, in any other case.

15 “(3) MODIFIED ADJUSTED GROSS INCOME.—
16 For purposes of this subsection, the term ‘modified
17 adjusted gross income’ means adjusted gross income
18 increased by any amount excluded from gross in-
19 come under section 911, 931, or 933.

20 “(c) SPECIFIED DEPENDENT.—For purposes of this
21 section, the term ‘specified dependent’ means, with respect
22 to any taxpayer for any taxable year, any dependent of
23 such taxpayer for such taxable year unless such depend-
24 ent—

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1 “(1) is a specified child of the taxpayer, or any
2 other taxpayer, for any month during such taxable
3 year, or

4 “(2) would not be a dependent if subparagraph
5 (A) of section 152(b)(3) were applied without regard
6 to all that follows ‘resident of the United States’.

7 “(d) IDENTIFICATION REQUIREMENTS.—Rules simi-
8 lar to the rules of section 24(e) shall apply for purposes
9 of this section.

10 “(e) TAXABLE YEAR MUST BE FULL TAXABLE
11 YEAR.—Except in the case of a taxable year closed by rea-
12 son of the death of the taxpayer, no credit shall be allow-
13 able under this section in the case of a taxable year cov-
14 ering a period of less than 12 months.

15 “(f) INFLATION ADJUSTMENT.—

16 “(1) IN GENERAL.—In the case of any taxable
17 year beginning after December 31, 2022, the \$500
18 amount in subsection (a) shall be increased by an
19 amount equal to—

20 “(A) such dollar amount, multiplied by

21 “(B) the percentage (if any) by which—

22 “(i) the CPI (as defined in section
23 1(f)(4)) for the calendar year preceding
24 the calendar year in which such taxable
25 year begins, exceeds

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1 “(ii) the CPI (as so defined) for cal-
2 endar year 2020.

3 “(2) ROUNDING.—If the increase determined
4 under paragraph (1) is not a multiple of \$10, such
5 increase shall be rounded to the nearest multiple of
6 \$10.

7 “(g) REGULATIONS.—The Secretary shall issue such
8 regulations or other guidance as the Secretary determines
9 necessary or appropriate to carry out the purposes of this
10 section.

11 “(h) TERMINATION.—This section shall not apply to
12 taxable years beginning after December 31, 2025.”.

13 (b) MONTHLY PAYMENT OF CHILD TAX CREDIT.—
14 Chapter 77 is amended by inserting after section 7527A
15 the following new section:

16 **“SEC. 7527B. MONTHLY PAYMENTS OF CHILD TAX CREDIT.**

17 “(a) IN GENERAL.—The Secretary shall establish a
18 program for making payments to taxpayers with respect
19 to each calendar month equal to the monthly advance child
20 payment determined with respect to such taxpayer for
21 such month.

22 “(b) MONTHLY ADVANCE CHILD PAYMENT.—For
23 purposes of this section and except as otherwise provided
24 in this section, the term ‘monthly advance child payment’
25 means, with respect to any taxpayer for any calendar

1 month, the amount (if any) which is estimated by the Sec-
2 retary as being equal to the monthly specified child allow-
3 ance which would be determined under section 24A(b)
4 with respect to such taxpayer for such calendar month if—

5 “(1) unless determined by the Secretary based
6 on any information known to the Secretary, the only
7 specified children of such taxpayer for such calendar
8 month are the specified children of such taxpayer for
9 the reference month,

10 “(2) unless determined by the Secretary based
11 on any information known to the Secretary, the ages
12 of such children (and the status of such children as
13 specified children) are determined for such calendar
14 month by taking into account the passage of time
15 since such reference month,

16 “(3) the limitations of section 24A(b)(2) were
17 applied with respect to the reference taxable year
18 rather than with respect to the applicable taxable
19 year, and

20 “(4) unless determined by the Secretary based
21 on any information known to the Secretary, no
22 monthly specified child allowance were determined
23 with respect to such taxpayer for such calendar
24 month unless the taxpayer (in the case of a joint re-
25 turn, either spouse) has a principal place of abode

1 (determined as provided in section 32) in the United
2 States or Puerto Rico for more than one-half of the
3 reference month.

4 “(c) PRESUMPTIVE ELIGIBILITY.—

5 “(1) IN GENERAL.—An individual shall be
6 treated as a specified child of a taxpayer for pur-
7 poses of determining any monthly advance child pay-
8 ment under this section only if such month is part
9 of the period of presumptive eligibility determined by
10 the Secretary under this subsection with respect to
11 such specified child and such taxpayer (determined
12 by treating the month described in subclause (I) of
13 paragraph (2)(A)(ii) as being the first month begin-
14 ning after the determination described in such sub-
15 clause).

16 “(2) PERIOD OF PRESUMPTIVE ELIGIBILITY.—

17 For purposes of this section—

18 “(A) IN GENERAL.—Except as otherwise
19 provided by the Secretary, the term ‘period of
20 presumptive eligibility’ means the period—

21 “(i) beginning with the month for
22 which presumptive eligibility is established,
23 and

24 “(ii) ending with the earliest of—

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1 “(I) the beginning of the month
2 described in clause (i) if the Secretary
3 determines that the taxpayer com-
4 mitted fraud or intentionally dis-
5 regarded rules or regulations in estab-
6 lishing or maintaining presumptive
7 eligibility,

8 “(II) in the case of any notifica-
9 tion from the Secretary that the pe-
10 riod of presumptive eligibility has
11 been terminated or suspended by rea-
12 son of any question regarding eligi-
13 bility of the taxpayer for monthly ad-
14 vance child payments with respect to
15 such child, the month specified in
16 such notice as the month on which
17 such termination or suspension be-
18 gins, and

19 “(III) the month following any
20 failure of the taxpayer to make the re-
21 quired annual renewal of presumptive
22 eligibility by such date as the Sec-
23 retary may provide.

24 “(B) ESTABLISHING PRESUMPTIVE ELIGI-
25 BILITY.—A taxpayer shall establish presumptive

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1 eligibility with respect to any specified child for
2 any month at such time and in such manner as
3 the Secretary may provide. Except as otherwise
4 provided by the Secretary, in order to establish
5 a period of presumptive eligibility the taxpayer
6 must express a reasonable expectation and in-
7 tent that the taxpayer will continue to be eligi-
8 ble with respect to such specified child for at
9 least the two months following the month for
10 which presumptive eligibility is to be estab-
11 lished.

12 “(C) METHOD OF ESTABLISHING PRE-
13 SUMPTIVE ELIGIBILITY.—The Secretary shall
14 ensure information to establish presumptive eli-
15 gibility under this paragraph may be provided
16 on the return of tax for the taxable year ending
17 before the calendar year which includes the
18 month for which such eligibility is to be estab-
19 lished, through the on-line portal described in
20 subsection (c), or in such other manner as the
21 Secretary may provide.

22 “(D) INCLUSION OF AUTOMATIC GRACE
23 PERIODS AND PERIODS OF HARDSHIP.—The pe-
24 riod of presumptive eligibility shall include any

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1 period to which paragraph (1) or (2) of sub-
2 section (g) applies.

3 “(E) AUTOMATIC ELIGIBILITY FOR BIRTH
4 OF CHILD.—The Secretary shall issue regula-
5 tions or other guidance to establish procedures
6 pursuant to which, to the maximum extent ad-
7 ministratively practicable—

8 “(i) a parent of a child born during a
9 calendar month shall be treated as auto-
10 matically establishing presumptive eligi-
11 bility with respect to such child,

12 “(ii) the period of such automatic pre-
13 sumptive eligibility is determined, and

14 “(iii) the first monthly advance child
15 payment with respect to such child is ad-
16 justed to properly take into account each
17 month in the taxable year preceding such
18 birth.

19 “(F) PRESUMPTIVE ELIGIBILITY BASED
20 ON CERTAIN GOVERNMENT PROGRAMS.—The
21 Secretary shall issue regulations or other guid-
22 ance to establish procedures under which—

23 “(i) based on information provided to
24 the Secretary by one or more government
25 entities, a parent or specified relative of a

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1 child is treated as automatically estab-
2 lishing presumptive eligibility with respect
3 to such child, and

4 “(ii) the period for which such auto-
5 matic presumptive eligibility is determined
6 (including any additional circumstances
7 under which such period will terminate).

8 “(G) COORDINATION WITH PRESUMP-
9 TION.—For purposes of determining the status
10 of any individual as a specified child for pur-
11 poses of determining presumptive eligibility
12 with respect to any period, section 24A(c) shall
13 be applied without regard to paragraph (7)
14 thereof.

15 “(3) NOTICE OF TERMINATION OF PRESUMP-
16 TIVE ELIGIBILITY BY REASON OF FAILURE TO MAKE
17 ANNUAL RENEWAL.—If a taxpayer’s period of pre-
18 sumptive eligibility with respect to any specified
19 child terminates by reason of paragraph
20 (2)(A)(ii)(IV), the Secretary shall provide the tax-
21 payer a written notice of such termination.

22 “(d) DETERMINATION OF REFERENCE MONTH AND
23 REFERENCE TAXABLE YEAR.—For purposes of this sec-
24 tion—

1 “(1) REFERENCE MONTH.—The term ‘reference
2 month’ means, with respect to any taxpayer for any
3 calendar month, the most recent of—

4 “(A) in the case of a taxpayer who filed a
5 return of tax for the last taxable year ending
6 before such calendar month, the last month of
7 such taxable year,

8 “(B) in the case of a taxpayer who filed a
9 return of tax for the taxable year preceding the
10 taxable year described in subparagraph (A), the
11 last month of such preceding taxable year, and

12 “(C) in the case of a taxpayer who pro-
13 vides, through a specified alternative mecha-
14 nism, information which is sufficient to esti-
15 mate the taxpayer’s monthly advance child pay-
16 ment for such month, such month.

17 “(2) REFERENCE TAXABLE YEAR.—The term
18 ‘reference taxable year’ means, with respect to any
19 taxpayer for any calendar month, the most recent
20 of—

21 “(A) the taxable year described in subpara-
22 graph (A) or (B) of paragraph (1), or

23 “(B) in the case of a taxpayer who pro-
24 vides, through a specified alternative mecha-
25 nism, information which is sufficient to esti-

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1 mate the taxpayer's modified adjusted gross in-
2 come for the taxable year which includes such
3 month, such taxable year.

4 “(3) AVAILABILITY OF INFORMATION.—Any
5 month or year referred to in subparagraphs (A),
6 (B), or (C) of paragraph (1) or subparagraph (A) or
7 (B) of paragraph (2) shall not be taken into account
8 in determining the reference month or reference tax-
9 able year with respect to any calendar month unless
10 all relevant information with respect to such month
11 or year is available to the Secretary and the Sec-
12 retary has adequate time to make estimates under
13 this section on the basis of such information before
14 the beginning of such calendar month.

15 “(4) TREATMENT OF INSUFFICIENT INFORMA-
16 TION.—Except as otherwise provided by the Sec-
17 retary—

18 “(A) if a taxpayer is not described in sub-
19 paragraph (A), (B), or (C) of paragraph (1)
20 with respect to any calendar month, the month-
21 ly advance child payment with respect to such
22 taxpayer for such calendar month shall be
23 treated as zero unless the Secretary determines
24 that the Secretary can make the estimate de-
25 scribed in subsection (b) on the basis of infor-

1 mation known to the Secretary which the Sec-
2 retary determines is reasonably reliable, and

3 “(B) if the taxpayer is not described in
4 paragraph (1)(C) and the information on the
5 return of tax referred to in subparagraph (A)
6 or (B) of paragraph (1) does not establish the
7 status of the taxpayer (in the case of a joint re-
8 turn, either spouse) as having a principal place
9 of abode (determined as provided in section 32)
10 in the United States or Puerto Rico for more
11 than one-half of the reference month, the Sec-
12 retary shall determine such status based on in-
13 formation known to the Secretary.

14 “(5) TRANSITION RULE.—In any case with re-
15 spect to which section 24A was not in effect for the
16 taxable year described in subparagraph (A), (B), or
17 (C) of paragraph (1) (whichever is applicable), sub-
18 section (b)(1) shall be applied by substituting ‘the
19 qualifying children of such taxpayer for the taxable
20 year which includes the reference month’ for ‘the
21 specified children of such taxpayer for the reference
22 month’.

23 “(e) ON-LINE INFORMATION PORTAL; SPECIFIED AL-
24 TERNATIVE MECHANISMS.—

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1 “(1) ON-LINE INFORMATION PORTAL.—The
2 Secretary shall establish an on-line portal which al-
3 lows taxpayers to—

4 “(A) subject to such restrictions as the
5 Secretary may provide, elect to begin or cease
6 receiving payments under this section, and

7 “(B) provide information to the Secretary
8 which is relevant in determining the monthly
9 advance child payment and the taxpayer’s eligi-
10 bility for such payment, including information
11 regarding—

12 “(i) the number of the taxpayer’s
13 specified children, including by reason of
14 the birth of a child,

15 “(ii) the taxpayer’s marital status,

16 “(iii) the taxpayer’s modified adjusted
17 gross income,

18 “(iv) the taxpayer’s principal place of
19 abode, and

20 “(v) any other factor which the Sec-
21 retary may provide.

22 “(2) SPECIFIED ALTERNATIVE MECHANISM.—
23 For purposes of this section, the term ‘specified al-
24 ternative mechanism’ means the on-line portal estab-
25 lished under paragraph (1), the on-line portal estab-

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1 lished under section 7527A, and any other mecha-
2 nism or method established by the Secretary to allow
3 taxpayer's to provide the information described in
4 paragraph (1) (including in connection with the fil-
5 ing of any return of tax).

6 “(f) SPECIFIED CHILD OF MORE THAN 1 TAX-
7 PAYER.—

8 “(1) IN GENERAL.—In the event that (without
9 regard to this paragraph and determined without re-
10 gard to any election under subsection (e)(1)) any
11 specified child would be taken into account in deter-
12 mining the monthly advance child payment of more
13 than one taxpayer for the same calendar month—

14 “(A) except as provided in subparagraph
15 (B), such child shall be so taken into account
16 only with respect to the taxpayer with the most
17 recent reference month, and

18 “(B) if any such taxpayer is described in
19 subsection (d)(1)(C) (or more than 1 taxpayer
20 is described in subparagraph (A) of this para-
21 graph), the Secretary shall establish procedures
22 under which the Secretary expeditiously adju-
23 dicates the taxpayer's competing claims of pre-
24 sumptive eligibility with respect to the same
25 child.

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1 “(2) PROVISIONS RELATED TO ADJUDICA-
2 TION.—

3 “(A) EXPEDITED PROCESS; APPEALS.—

4 The procedures established under paragraph
5 (1)(B) shall include—

6 “(i) an expedited process for tax-
7 payers who meet such requirements as the
8 Secretary may establish for such expedited
9 process, and

10 “(ii) procedures for adjudicating an
11 appeal of an adverse decision.

12 “(B) INFORMATION RECEIPT AND COORDI-
13 NATION.—The Secretary may enter into agree-
14 ments to receive information from, and other-
15 wise coordinate with—

16 “(i) Federal agencies (including the
17 Social Security Administration and the De-
18 partment of Agriculture),

19 “(ii) any State, local government,
20 Tribal government, or possession of the
21 United States, and

22 “(iii) any other individual or entity
23 that the Secretary determines to be appro-
24 priate for purposes of adjudicating a com-
25 peting claim described in paragraph (1).

1 “(C) ADJUDICATION NOT TREATED AS AS-
2 SESSMENT.—An adjudication under the proce-
3 dures established under paragraph (1)(B) (in-
4 cluding the adjudication of any appeal) shall
5 not be treated as an assessment described in
6 section 6201.

7 “(D) ADJUDICATION NOT TREATED AS IN-
8 SPECTION OF TAXPAYER’S BOOKS OF AC-
9 COUNT.—The inspection of a taxpayer’s books
10 of account in connection with any adjudication
11 under the procedures established under para-
12 graph (1)(B) (including the adjudication of any
13 appeal) shall not be treated as an examination
14 or inspection of a taxpayer’s books of account
15 for purposes of section 7605(b).

16 “(3) RETROACTIVE PAYMENTS.—If, pursuant to
17 the procedures established under paragraph (1)(B),
18 the Secretary determines that a child is a specified
19 child of a taxpayer and the Secretary did not make
20 payments to such taxpayer with respect to such child
21 for any portion of the period during which the deter-
22 mination was made, the Secretary may make a one-
23 time payment to the taxpayer with respect to which
24 such child is the specified child in an amount equal
25 to the aggregate amount by which the monthly ad-

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1 vance child payments to such taxpayer would have
2 increased during such period if such determination
3 had been made immediately.

4 “(4) RECAPTURE OF PAYMENTS.—If, pursuant
5 to the procedures established under paragraph
6 (1)(B), the Secretary makes payments with respect
7 to the child during the period during which the de-
8 termination is made—

9 “(A) the Secretary shall provide each tax-
10 payer which receives such payments notice that
11 such payments may be subject to recapture,
12 and

13 “(B) upon making such determination, the
14 Secretary shall determine on the basis of the
15 facts and circumstances of each such taxpayer
16 whether any such payments should be subject
17 to recapture and shall so notify each such tax-
18 payer.

19 “(g) RULES RELATED TO GRACE PERIODS AND
20 HARDSHIPS.—

21 “(1) AUTOMATIC GRACE PERIOD.—

22 “(A) IN GENERAL.—Notwithstanding sub-
23 section (f), in the case of any failure or delay
24 in establishing a period of presumptive eligi-
25 bility with respect to which the taxpayer elects

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1 the application of this subparagraph, credit
2 under section 24A or retroactive payment under
3 this section (similar to the payment described in
4 subsection (f)(3)) shall be allowed or made with
5 respect to so much of the period of such failure
6 or delay as does not exceed 3 months. The pre-
7 ceding sentence shall not apply if the Secretary
8 determines that such failure or delay was due
9 to fraud or reckless or intentional disregard of
10 rules and regulations.

11 “(B) LIMITATION.—Subparagraph (A)
12 shall not apply with respect to any taxpayer
13 more than once during any 36-month period.

14 “(2) HARDSHIP.—Notwithstanding subsection
15 (f), if the Secretary determines that a failure or
16 delay in establishing a period of presumptive eligi-
17 bility with respect to any specified child was due to
18 domestic violence, serious illness, natural disaster, or
19 any other hardship, credit under section 24A or ret-
20 roactive payment under this section (similar to the
21 payment described in subsection (f)(3)) shall be al-
22 lowed or made with respect to so much of the period
23 of such failure or delay as does not exceed 6 months.

24 “(h) PROVISIONS RELATED TO FORM, MANNER, AND
25 TREATMENT OF PAYMENTS.—

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1 “(1) APPLICATION OF ELECTRONIC FUNDS PAY-
2 MENT REQUIREMENT.—The payments made by the
3 Secretary under subsection (a) shall be made by
4 electronic funds transfer to the same extent and in
5 the same manner as if such payments were Federal
6 payments not made under this title.

7 “(2) APPLICATION OF CERTAIN RULES.—Rules
8 similar to the rules of subparagraphs (B) and (C) of
9 section 6428A(f)(3) shall apply for purposes of this
10 section, applied by substituting ‘January 1, 2022’
11 for ‘January 1, 2019’ in clauses (i) and (ii) of such
12 subparagraph (B).

13 “(3) EXCEPTION FROM REDUCTION OR OFF-
14 SET.—Any payment made to any individual under
15 this section shall not be—

16 “(A) subject to reduction or offset pursu-
17 ant to subsection (c), (d), (e), or (f) of section
18 6402 or any similar authority permitting offset,
19 or

20 “(B) reduced or offset by other assessed
21 Federal taxes that would otherwise be subject
22 to levy or collection.

23 “(4) APPLICATION OF ADVANCE PAYMENTS IN
24 THE POSSESSIONS OF THE UNITED STATES.—

25 “(A) PUERTO RICO.—

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1 “(i) For application of child tax credit
2 to residents of Puerto Rico, see section
3 24A(d).

4 “(ii) For application of monthly ad-
5 vance child payments to residents of Puer-
6 to Rico, see subsection (b)(4).

7 “(B) MIRROR CODE POSSESSIONS.—In the
8 case of any possession of the United States with
9 a mirror code tax system (as defined in section
10 24A(i)(1)(C)), this section shall not be treated
11 as part of the income tax laws of the United
12 States for purposes of determining the income
13 tax law of such possession unless such posses-
14 sion elects to have this section be so treated.

15 “(C) ADMINISTRATIVE EXPENSES OF AD-
16 VANCE PAYMENTS.—

17 “(i) MIRROR CODE POSSESSIONS.—In
18 the case of any possession described in
19 subparagraph (B) which makes the elec-
20 tion described in such subparagraph, the
21 amount otherwise paid by the Secretary to
22 such possession under section 24A(i)(1)(A)
23 with respect to taxable years beginning in
24 2023, 2024, and 2025 shall each be in-
25 creased by \$300,000 if such possession has

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1 a plan, which has been approved by the
2 Secretary, for making monthly advance
3 child payments consistent with such elec-
4 tion.

5 “(ii) AMERICAN SAMOA.— The
6 amount otherwise paid by the Secretary to
7 American Samoa under subparagraph (A)
8 of section 24A(i)(3) with respect to taxable
9 years beginning in 2023, 2024, and 2025
10 shall each be increased by \$300,000 if the
11 plan described in subparagraph (B) of
12 such section includes a program, which has
13 been approved by the Secretary, for mak-
14 ing monthly advance child payments under
15 rules similar to the rules of this section.

16 “(iii) TIMING OF PAYMENT.—The
17 Secretary may pay, upon the request of the
18 possession of the United States to which
19 the payment is to be made, the amount of
20 the increase determined under clause (i) or
21 (ii), respectively, immediately upon ap-
22 proval of the plan with respect to which
23 such payment relates.

24 “(i) APPLICATION OF CERTAIN DEFINITIONS AND
25 RULES APPLICABLE TO CHILD TAX CREDIT.—

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1 “(1) DEFINITIONS.—Except as otherwise pro-
2 vided in this section, terms used in this section
3 which are also used in section 24A shall have the
4 same respective meanings as when used in section
5 24A.

6 “(2) TREATMENT OF CERTAIN DEATHS.—A
7 child shall not be taken into account in determining
8 the monthly advance child payment for any calendar
9 month if the death of such child before the begin-
10 ning of the calendar year which includes such month
11 is known to the Secretary as of date on which the
12 Secretary estimates such payment.

13 “(3) IDENTIFICATION REQUIREMENTS.—Rules
14 similar to the rules which apply under section
15 24A(e) shall apply for purposes of this section ex-
16 cept that such rules shall apply with respect to the
17 return of tax for the reference taxable year or, in the
18 case of information provided through a specified al-
19 ternative mechanism, with respect to the information
20 provided through such mechanism.

21 “(4) RESTRICTIONS ON TAXPAYERS WHO IM-
22 PROPERLY CLAIMED CREDIT OR MONTHLY ADVANCE
23 CHILD PAYMENTS.—For restrictions on taxpayers
24 who improperly claimed credit or monthly advance
25 child payments, see section 24A(f).

2001

1 “(j) NOTICE OF PAYMENTS.—

2 “(1) IN GENERAL.—Not later than January 31
3 of the calendar year following any calendar year dur-
4 ing which the Secretary makes one or more pay-
5 ments to any taxpayer under this section, the Sec-
6 retary shall provide such taxpayer with a written no-
7 tice which includes—

8 “(A) the taxpayer’s taxpayer identity (as
9 defined in section 6103(b)(6)),

10 “(B) the aggregate amount of such pay-
11 ments made to such taxpayer during such cal-
12 endar year, and

13 “(C) such other information as the Sec-
14 retary determines appropriate.

15 “(2) CERTAIN PAYMENTS SUBJECT TO RECAP-
16 TURE.—In the case of any payments made to a tax-
17 payer which the Secretary has determined are sub-
18 ject to recapture, the notice provided under para-
19 graph (1) to such taxpayer shall include the amount
20 of such payments.

21 “(k) REGULATIONS.—The Secretary shall issue such
22 regulations or other guidance as the Secretary determines
23 necessary or appropriate to carry out the purposes of this
24 section.

2002

1 “(l) TERMINATION.—No payments shall be made
2 under the program established under subsection (a) with
3 respect to any month beginning after December 31,
4 2025.”.

5 (c) SUSPENSION OF CHILD TAX CREDIT DURING PE-
6 RIOD THAT MONTHLY CHILD TAX CREDIT IS IN EF-
7 FECT.—Section 24 is amended by adding at the end the
8 following new subsection:

9 “(l) COORDINATION WITH MONTHLY CHILD TAX
10 CREDIT.—This section shall not apply to (and no payment
11 shall be made under subsection (k) with respect to) any
12 taxable year beginning after December 31, 2022, and be-
13 fore January 1, 2026.”.

14 (d) CONFORMING AMENDMENTS.—

15 (1) Section 26(b)(2) is amended by striking
16 “and” at the end of subparagraph (Y), by striking
17 the period at the end of subparagraph (Z) and in-
18 serting “, and”, and by adding at the end the fol-
19 lowing new subparagraph:

20 “(AA) section 24A(g)(2) (relating to recap-
21 ture of certain monthly advance child pay-
22 ments).”.

23 (2) Section 152(f)(6)(B)(ii) is amended to read
24 as follows:

2003

1 “(ii) the credits under sections 24,
2 24A, and 24B and the payments under
3 sections 7527A and 7527B,”.

4 (3) Section 3402(f)(1)(C) is amended by insert-
5 ing “or section 24A (determined after application of
6 subsection (g) thereof)” after “section 24 (deter-
7 mined after application of subsection (j) thereof)”.

8 (4) Section 6103(l)(13)(A)(v) is amended by in-
9 sert “or section 24A, as the case may be” after
10 “section 24”.

11 (5) Section 6211(b)(4)(A) is amended by insert-
12 ing “24A by reason of subsection (d) thereof,” after
13 “24 by reason of subsections (d) and (i)(1) there-
14 of,”.

15 (6) Section 6213(g)(2)(I) is amended by insert-
16 ing “or section 24A(e) (relating to monthly child tax
17 credit)” after “section 24(e) (relating to child tax
18 credit)”.

19 (7) Section 6213(g)(2)(L) is amended by insert-
20 ing “24A,” after “24,”.

21 (8) Section 6213(g)(2)(P) is amended—

22 (A) by inserting “or 24A(f)(2)” after “sec-
23 tion 24(g)(2)”,

24 (B) by inserting “or 24A” after “under
25 section 24”, and

2004

1 (C) by striking “subsection (g)(1) thereof”
2 and inserting “section 24(g)(1) or section
3 24A(f)(1), respectively”.

4 (9) Section 6695(g)(2) is amended by inserting
5 “24A,” after “24,”.

6 (10) Paragraph (2) of section 1324(b) of title
7 31, United States Code, as amended by the pre-
8 ceding provisions of this Act, is amended—

9 (A) by inserting “24A,” after “24,” and

10 (B) by inserting “7527B,” after “7527A,”.

11 (11) The table of sections for subpart A of part
12 IV of subchapter A of chapter 1 is amended by in-
13 serting after the item relating to section 24 the fol-
14 lowing new items:

“Sec. 24A. Monthly child tax credit.

“Sec. 24B. Credit for certain other dependents.”.

15 (12) The table of sections for chapter 77 is
16 amended by inserting after the item relating to sec-
17 tion 7527A the following new item:

“Sec. 7527B. Monthly payments of child tax credit.”.

18 (e) EFFECTIVE DATES.—

19 (1) IN GENERAL.—Except as otherwise pro-
20 vided in this subsection, the amendments made by
21 this section shall apply to taxable years beginning
22 after December 31, 2022.

2005

1 (2) MONTHLY ADVANCE CHILD PAYMENTS.—

2 The amendments made by subsection (b) shall apply
3 to payments made for calendar months beginning
4 after December 31, 2022.

5 **SEC. 137104. REFUNDABLE CHILD TAX CREDIT AFTER 2025.**

6 (a) IN GENERAL.—Section 24, as amended by the
7 preceding provisions of this Act, is amended by adding at
8 the end the following new subsection:

9 “(m) REFUNDABLE CREDIT AFTER 2025.—In the
10 case of any taxable year beginning after December 31,
11 2025, if the taxpayer (in the case of a joint return, either
12 spouse) has a principal place of abode in the United States
13 (determined as provided in section 32) for more than one-
14 half of the taxable year or is a bona fide resident of Puerto
15 Rico (within the meaning of section 937(a)) for such tax-
16 able year—

17 “(1) subsection (d) shall not apply, and

18 “(2) the credit determined under subsection (a)
19 (after application of paragraph (1)) shall be allowed
20 under subpart C (and not allowed under this sub-
21 part).”.

22 (b) CONFORMING AMENDMENTS RELATED TO POS-
23 SESSIONS OF THE UNITED STATES.—

24 (1) PUERTO RICO.—Section 24(k)(2) is amend-
25 ed—

2006

1 (A) in subparagraph (B) (as amended by
2 the preceding provisions of this Act)—

3 (i) by inserting “and before January
4 1, 2026,” after “December 31, 2022,”
5 and

6 (ii) by inserting “AND BEFORE 2026”
7 after “AFTER 2022”, and

8 (B) by adding at the end the following new
9 subparagraph:

10 “(C) APPLICATION TO TAXABLE YEARS
11 AFTER 2025.—For application of refundable
12 credit to residents of Puerto Rico for taxable
13 years after 2025, see subsection (m).”.

14 (2) AMERICAN SAMOA.—Section 24(k)(3)(C)(ii),
15 as amended by the preceding provisions of this Act,
16 is amended—

17 (A) in subclause (I), by striking “and” at
18 the end,

19 (B) in subclause (II)—

20 (i) by inserting “and before January
21 1, 2026,” after “after December 31,
22 2022,” and

23 (ii) by striking the period at the end
24 and inserting “, and”, and

2007

1 (C) by adding at the end the following new
2 subclause:

3 “(III) if such taxable year begins
4 after December 31, 2025, subsection
5 (m) shall be applied by substituting
6 ‘Puerto Rico or American Samoa’ for
7 ‘Puerto Rico’.”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to taxable years beginning after
10 December 31, 2025.

11 **SEC. 137105. APPROPRIATIONS.**

12 Immediately upon the enactment of this Act, in addi-
13 tion to amounts otherwise available, there are appro-
14 priated out of any money in the Treasury not otherwise
15 appropriated:

16 (1) \$9,000,000,000 to remain available until
17 September 30, 2026, for necessary expenses for the
18 Internal Revenue Service to administer the Child
19 Tax Credit, and advance payments of the Child Tax
20 Credit, including the costs of disbursing such pay-
21 ments, which shall supplement and not supplant any
22 other appropriations that may be available for this
23 purpose, and

24 (2) \$1,000,000,000 is appropriated to the De-
25 partment of the Treasury, to remain available until

2008

1 September 30, 2026, to support efforts to increase
2 enrollment of eligible families in the Child Tax Credit,
3 it, for advance payments of the Child Tax Credit,
4 and for other tax benefits, including but not limited
5 to program outreach, costs of data sharing arrange-
6 ments, systems changes, forms changes, and related
7 efforts, and efforts by federal agencies to facilitate
8 the cross-enrollment of beneficiaries of other pro-
9 grams in the Child Tax Credit, and for advance pay-
10 ments of the Child Tax Credit, including by estab-
11 lishing intergovernmental cooperative agreements
12 with states and local governments, tribal govern-
13 ments, and possessions of the United States: Pro-
14 vided, that such amount shall be available in addi-
15 tion to any amounts otherwise available: Provided
16 further, that these funds may be awarded by federal
17 agencies to state and local governments, tribal gov-
18 ernments, and possessions of the United States, and
19 private entities, including organizations dedicated to
20 free tax return preparation.

2010

1 (2) by striking “\$15,000” and inserting
2 “\$125,000”.

3 (d) APPLICATION OF INCREASED DOLLAR LIMITA-
4 TION TO SPOUSES WHO ARE STUDENTS OR INCAPABLE
5 OF CARING FOR THEMSELVES.—Section 21(d)(2) is
6 amended by striking “of not less than—” and all that fol-
7 lows through “In the case of” and inserting “of not less
8 than $\frac{1}{12}$ of the dollar amount in effect under paragraph
9 (1) or (2) of subsection (c) (whichever is applicable to the
10 taxpayer for the taxable year). In the case of”.

11 (e) INFLATION ADJUSTMENT.—Section 21(e) is
12 amended by adding at the end the following new para-
13 graph:

14 “(11) INFLATION ADJUSTMENT.—

15 “(A) IN GENERAL.—In the case of any
16 taxable year beginning after December 31,
17 2021, the \$125,000 amount in subsection
18 (a)(2), the \$8,000 amount in subsection (c)(1),
19 and the \$16,000 amount in subsection (c)(2)
20 shall each be increased by an amount equal
21 to—

22 “(i) such dollar amount, multiplied by

23 “(ii) the cost-of-living adjustment de-
24 termined under section 1(f)(3) for the cal-
25 endar year in which the taxable year be-

2011

1 gins, determined by substituting ‘calendar
2 year 2020’ for ‘calendar year 2016’ in sub-
3 paragraph (A)(ii) thereof.

4 “(B) ROUNDING.—

5 “(i) LIMITATION BASED ON ADJUSTED
6 GROSS INCOME.—If any increase deter-
7 mined under subparagraph (A) of the
8 \$125,000 dollar amount in subsection
9 (a)(2) is not a multiple of \$5,000, such
10 amount shall be rounded to the nearest
11 multiple of \$5,000.

12 “(i) DOLLAR LIMITATIONS.—If any
13 increase determined under subparagraph
14 (A) of any dollar amount in subsection (c)
15 is not a multiple of \$100, such amount
16 shall be rounded to the nearest multiple of
17 \$100.”.

18 (f) APPLICATION OF PHASEOUT TO HIGH INCOME
19 INDIVIDUALS.—

20 (1) IN GENERAL.—Section 21(a)(2) is amended
21 by striking “20 percent” and inserting “the phase-
22 out percentage”.

23 (2) PHASEOUT PERCENTAGE.—Section 21(a) is
24 amended by adding at the end the following new
25 paragraph:

2012

1 “(3) PHASEOUT PERCENTAGE.—For purposes
2 of paragraph (2), the term ‘phaseout percentage’
3 means 20 percent reduced (but not below zero) by
4 1 percentage point for each \$2,000 (or fraction
5 thereof) by which the taxpayer’s adjusted gross in-
6 come for the taxable year exceeds \$400,000.”.

7 (g) APPLICATION OF CREDIT IN POSSESSIONS.—Sec-
8 tion 21(h) is amended—

9 (1) in paragraph (1)—

10 (A) by striking “The Secretary” and in-
11 sserting “With respect to taxable years begin-
12 ning in or with calendar years after 2020, the
13 Secretary”, and

14 (B) by striking “with respect to taxable
15 years beginning in or with 2021”,

16 (2) in paragraph (2)—

17 (A) by striking “The Secretary” and in-
18 sserting “With respect to taxable years begin-
19 ning in or with calendar years after 2020, the
20 Secretary”, and

21 (B) by striking “with respect to taxable
22 years beginning in or with 2021”, and

23 (3) in paragraph (3), by striking “in or with
24 2021” and inserting “after December 31, 2020”.

2013

1 (h) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2021.

4 **SEC. 137202. INCREASE IN EXCLUSION FOR EMPLOYER-**
5 **PROVIDED DEPENDENT CARE ASSISTANCE**
6 **MADE PERMANENT.**

7 (a) IN GENERAL.—Section 129(a)(2)(A) is amended
8 by striking “\$5,000 (\$2,500” and inserting “\$10,500
9 (half such dollar amount”.

10 (b) INFLATION ADJUSTMENT.—Section 129(e) is
11 amended by adding at the end the following new para-
12 graph:

13 “(10) INFLATION ADJUSTMENT.—

14 “(A) IN GENERAL.—In the case of any
15 taxable year beginning after December 31,
16 2021, the \$10,500 amount in subsection
17 (a)(2)(A) shall be increased by an amount equal
18 to—

19 “(i) such dollar amount, multiplied by

20 “(ii) the cost-of-living adjustment de-
21 termined under section 1(f)(3) for the cal-
22 endar year in which the taxable year be-
23 gins, determined by substituting ‘calendar
24 year 2020’ for ‘calendar year 2016’ in sub-
25 paragraph (A)(ii) thereof.

2014

1 “(B) ROUNDING.—If any increase deter-
2 mined under subparagraph (A) is not a multiple
3 of \$100, such amount shall be rounded to the
4 nearest multiple of \$100.”.

5 (c) CONFORMING AMENDMENT.—Section 129(a)(2)
6 is amended by striking subparagraph (D).

7 (d) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to taxable years beginning after
9 December 31, 2021.

10 (e) RETROACTIVE PLAN AMENDMENTS.—A plan that
11 otherwise satisfies all applicable requirements of sections
12 125 and 129 of the Internal Revenue Code of 1986 (in-
13 cluding any rules or regulations thereunder) shall not fail
14 to be treated as a cafeteria plan or dependent care assist-
15 ance program merely because such plan is amended pursu-
16 ant to a provision under this subsection and such amend-
17 ment is retroactive, if—

18 (1) such amendment is adopted no later than
19 the last day of the plan year in which the amend-
20 ment is effective, and

21 (2) the plan is operated consistent with the
22 terms of such amendment during the period begin-
23 ning on the effective date of the amendment and
24 ending on the date the amendment is adopted.

2015

1 **PART 3—SUPPORTING CAREGIVERS**

2 **SEC. 137301. PAYROLL TAX CREDIT FOR CHILD CARE**
3 **WORKERS.**

4 (a) IN GENERAL.—Subchapter D of chapter 21 is
5 amended by adding at the end the following:

6 **“SEC. 3135. PAYROLL CREDIT FOR CERTAIN WAGES PAID**
7 **TO CHILD CARE WORKERS.**

8 “(a) IN GENERAL.—In the case of an eligible child
9 care employer, there shall be allowed as a credit against
10 applicable employment taxes for each calendar quarter an
11 amount equal to 50 percent of the qualified child care
12 wages paid with respect to each eligible employee of such
13 employer for such calendar quarter.

14 “(b) LIMITATIONS AND REFUNDABILITY.—

15 “(1) LIMITATION ON WAGES TAKEN INTO AC-
16 COUNT.—The amount of qualified child care wages
17 with respect to any eligible employee which may be
18 taken into account under subsection (a) by the eligi-
19 ble child care employer for any calendar quarter
20 shall not exceed \$2,500.

21 “(2) CREDIT LIMITED TO CERTAIN EMPLOY-
22 MENT TAXES.—The credit allowed by subsection (a)
23 with respect to any calendar quarter shall not exceed
24 the applicable employment taxes (reduced by any
25 credits allowed under sections 3131, 3132, 3134,
26 and 6432) on the wages paid with respect to the em-

2016

1 ployment of all the employees of the eligible child
2 care employer for such calendar quarter.

3 “(3) REFUNDABILITY OF EXCESS CREDIT.—

4 “(A) CREDIT IS REFUNDABLE.—If the
5 amount of the credit under subsection (a) ex-
6 ceeds the limitation of paragraph (2) for any
7 calendar quarter, such excess shall be treated
8 as an overpayment that shall be refunded under
9 sections 6402(a) and 6413(b).

10 “(B) ADVANCING CREDIT.—In anticipation
11 of the credit, including the refundable portion
12 under subparagraph (A), the credit shall be ad-
13 vanced, according to forms and instructions
14 provided by the Secretary, up to an amount cal-
15 culated under subsection (a), subject to the lim-
16 its under paragraph (1), all calculated through
17 the end of the most recent payroll period in the
18 quarter.

19 “(c) ELIGIBLE CHILD CARE EMPLOYER.—For pur-
20 poses of this section, the term ‘eligible child care employer’
21 means any employer which operates one or more qualified
22 child care facilities.

23 “(d) QUALIFIED CHILD CARE FACILITY.—For pur-
24 poses of this section, the term ‘qualified child care facility’
25 means any facility which is certified as an HHS Partici-

2017

1 pating Child Care Provider by the Secretary of Health and
2 Human Services under section 418A(c) of the Social Secu-
3 rity Act.

4 “(e) ELIGIBLE EMPLOYEE.—For purposes of this
5 section, the term ‘eligible employee’ means, with respect
6 to any eligible child care employer for any calendar quar-
7 ter, any employee of such employer if—

8 “(1) the aggregate wages paid to such employee
9 for such quarter do not exceed 25 percent of the dol-
10 lar amount in effect for such quarter under section
11 414(q)(1)(B)(i) (relating to highly compensated em-
12 ployees), and

13 “(2) the aggregate wages paid to such employee
14 for the 1-year period ending with the close of such
15 quarter do not exceed 100 percent of such dollar
16 amount.

17 “(f) QUALIFIED CHILD CARE WAGES.—For purposes
18 of this section—

19 “(1) IN GENERAL.—The term ‘qualified child
20 care wages’ means, with respect to any eligible em-
21 ployee for any calendar quarter, so much of the child
22 care wages paid by the eligible child care employer
23 to such employee during such quarter as are paid at
24 a rate in excess of the applicable minimum rate.
25 Such term shall not include any wages paid by an

2018

1 eligible child care employer during any period during
2 which the certification described in subsection (d) is
3 not in effect.

4 “(2) APPLICABLE MINIMUM RATE.—The term
5 ‘applicable minimum rate’ means, with respect to
6 wages paid to any eligible employee, the rate of basic
7 pay which is payable for GS-3, step 1 of the General
8 Schedule under subchapter III of chapter 53 of title
9 5, United States Code (including any applicable lo-
10 cality-based comparability payment under section
11 5304 of such title, or similar authority) at the time
12 such wages are paid and determined with respect to
13 the locality in which the services are provided.

14 “(3) CHILD CARE WAGES.—The term ‘child
15 care wages’ means wages paid for the services of the
16 employee to provide child care at a qualified child
17 care facility or to provide support services for such
18 a facility.

19 “(4) EXCEPTION.—The term ‘child care wages’
20 shall not include any wages taken into account
21 under section 41, 45A, 45P, 45R, 51, 1396, 3131,
22 3132, 3134, or 6432.

23 “(g) OTHER DEFINITIONS AND SPECIAL RULES.—
24 For purposes of this section—

2019

1 “(1) APPLICABLE EMPLOYMENT TAXES.—The
2 term ‘applicable employment taxes’ means the fol-
3 lowing:

4 “(A) The taxes imposed under section
5 3111(b).

6 “(B) So much of the taxes imposed under
7 section 3221(a) as are attributable to the rate
8 in effect under section 3111(b).

9 “(2) WAGES.—

10 “(A) IN GENERAL.—The term ‘wages’
11 means wages (as defined in section 3121(a)),
12 determined without regard to paragraphs (1)
13 through (22) of section 3121(b)) and compensa-
14 tion (as defined in section 3231(e), determined
15 without regard to the sentence in paragraph (1)
16 thereof which begins ‘Such term does not in-
17 clude remuneration’).

18 “(B) ALLOWANCE FOR CERTAIN HEALTH
19 PLAN EXPENSES.—

20 “(i) IN GENERAL.—Such term shall
21 include amounts paid by the eligible child
22 care employer to provide and maintain a
23 group health plan (as defined in section
24 5000(b)(1)), but only to the extent that
25 such amounts are excluded from the gross

2020

1 income of employees by reason of section
2 106(a).

3 “(ii) ALLOCATION RULES.—For pur-
4 poses of this section, amounts treated as
5 wages under clause (i) shall be treated as
6 paid with respect to any eligible employee
7 (and with respect to any period) to the ex-
8 tent that such amounts are properly allo-
9 cable to such employee (and to such pe-
10 riod) in such manner as the Secretary may
11 prescribe. Except as otherwise provided by
12 the Secretary, such allocation shall be
13 treated as properly made if made on the
14 basis of being pro rata among periods of
15 coverage.

16 “(3) OTHER TERMS.—Any term used in this
17 section which is also used in this chapter or chapter
18 22 shall have the same meaning as when used in
19 such chapter.

20 “(4) DENIAL OF DOUBLE BENEFIT.—For pur-
21 poses of chapter 1, the gross income of the em-
22 ployer, for the taxable year which includes the last
23 day of any calendar quarter with respect to which a
24 credit is allowed under this section, shall be in-
25 creased by the amount of such credit.

2021

1 “(5) ELECTION TO NOT TAKE CERTAIN WAGES
2 INTO ACCOUNT.—This section shall not apply to so
3 much of the qualified child care wages paid by an
4 eligible child care employer as such employer elects
5 (at such time and in such manner as the Secretary
6 may prescribe) to not take into account for purposes
7 of this section.

8 “(6) CERTAIN GOVERNMENTAL EMPLOYERS.—
9 No credit shall be allowed under this section to the
10 Government of the United States or to any agency
11 or instrumentality thereof. The preceding sentence
12 shall not apply to any organization described in sec-
13 tion 501(c)(1) and exempt from tax under section
14 501(a).

15 “(7) COORDINATION WITH CERTAIN PRO-
16 GRAMS.—

17 “(A) IN GENERAL.—This section shall not
18 apply to so much of the qualified child care
19 wages paid by an eligible child care employer as
20 are taken into account as payroll costs in con-
21 nection with—

22 “(i) a covered loan under section
23 7(a)(37) or 7A of the Small Business Act,

2022

1 “(ii) a grant under section 324 of the
2 Economic Aid to Hard-Hit Small Busi-
3 nesses, Non-Profits, and Venues Act, or

4 “(iii) a restaurant revitalization grant
5 under section 5003 of the American Res-
6 cue Plan Act of 2021.

7 “(B) APPLICATION WHERE PPP LOANS
8 NOT FORGIVEN.—The Secretary shall issue
9 guidance providing that payroll costs paid dur-
10 ing the covered period shall not fail to be treat-
11 ed as qualified child care wages under this sec-
12 tion by reason of subparagraph (A)(i) to the ex-
13 tent that—

14 “(i) a covered loan of the taxpayer
15 under section 7(a)(37) of the Small Busi-
16 ness Act is not forgiven by reason of a de-
17 cision under section 7(a)(37)(J) of such
18 Act, or

19 “(ii) a covered loan of the taxpayer
20 under section 7A of the Small Business
21 Act is not forgiven by reason of a decision
22 under section 7A(g) of such Act.

23 Terms used in the preceding sentence which are
24 also used in section 7A(g) or 7(a)(37)(J) of the
25 Small Business Act shall, when applied in con-

2023

1 nection with either such section, have the same
2 meaning as when used in such section, respec-
3 tively.

4 “(8) AGGREGATION RULE.—All persons treated
5 as a single employer under subsection (a) or (b) of
6 section 52, or subsection (m) or (o) of section 414,
7 shall be treated as one employer for purposes of this
8 section.

9 “(9) THIRD PARTY PAYORS.—Any credit al-
10 lowed under this section shall be treated as a credit
11 described in section 3511(d)(2).

12 “(10) INFLATION ADJUSTMENT.—In the case of
13 any taxable year beginning after December 31,
14 2022, the \$2,500 amount in subsection (b)(1) shall
15 be increased by an amount equal to—

16 “(A) such dollar amount, multiplied by

17 “(B) the cost-of-living adjustment deter-
18 mined under section 1(f)(3) for the calendar
19 year in which the taxable year begins, deter-
20 mined by substituting ‘calendar year 2021’ for
21 ‘calendar year 2016’ in subparagraph (A)(ii)
22 thereof.

23 If any amount as adjusted under the preceding sen-
24 tence is not a multiple of \$100, such amount shall
25 be rounded to the nearest multiple of \$100.

2024

1 “(h) REGULATIONS.—The Secretary shall prescribe
2 such regulations or other guidance as may be necessary
3 to carry out the purposes of this section, including—

4 “(1) regulations or other guidance to prevent
5 the avoidance of the purposes of the limitations
6 under this section,

7 “(2) regulations or other guidance to minimize
8 compliance and record-keeping burdens under this
9 section,

10 “(3) regulations or other guidance providing for
11 waiver of penalties for failure to deposit amounts in
12 anticipation of the allowance of the credit allowed
13 under this section,

14 “(4) regulations or other guidance for recap-
15 turing the benefit of credits determined under this
16 section in cases where there is a subsequent adjust-
17 ment to the credit determined under subsection (a),

18 “(5) regulations or other guidance to permit the
19 advancement of the credit determined under sub-
20 section (a), and

21 “(6) regulations or other guidance for applying
22 subsection (f) with respect to eligible employees not
23 paid at a single rate of pay.”.

2025

1 (b) REFUNDS.—Paragraph (2) of section 1324(b) of
2 title 31, United States Code, is amended by inserting
3 “3135,” after “3134,”.

4 (c) CLERICAL AMENDMENT.—The table of sections
5 for subchapter D of chapter 21 is amended by adding at
6 the end the following:

“Sec. 3135. Payroll credit for certain wages paid to child care workers.”.

7 (d) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to calendar quarters beginning
9 after December 31, 2021.

10 **SEC. 137302. CREDIT FOR CAREGIVER EXPENSES.**

11 (a) IN GENERAL.—Subpart A of part IV of sub-
12 chapter A of chapter 1 is amended by inserting after sec-
13 tion 25D the following new section:

14 **“SEC. 25E. CREDIT FOR CAREGIVER EXPENSES.**

15 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
16 dividual for whom there are 1 or more qualified care re-
17 cipients, there shall be allowed as a credit against the tax
18 imposed by this chapter for the taxable year an amount
19 equal to 50 percent of the qualified expenses paid or in-
20 curred by such individual during the taxable year (and not
21 compensated for by insurance or otherwise).

22 “(b) QUALIFIED CARE RECIPIENT.—For purposes of
23 this section—

2026

1 “(1) IN GENERAL.—The term ‘qualified care re-
2 cipient’ means, with respect to any taxable year, any
3 individual who—

4 “(A) is the spouse of the taxpayer, or any
5 other person who bears a relationship to the
6 taxpayer described in any of subparagraphs (A)
7 through (H) of section 152(d)(2),

8 “(B) has been certified, before the due
9 date for filing the return of tax for the taxable
10 year, by a licensed health care practitioner (as
11 defined in section 7702B(c)(4)) as being an in-
12 dividual with long-term care needs (as defined
13 in paragraph (3)) for a period—

14 “(i) which is expected to be at least
15 180 consecutive days, and

16 “(ii) a portion of which occurs within
17 the taxable year, and

18 “(C) resides in a personal residence and
19 not an institutional care facility.

20 “(2) PERIOD FOR MAKING CERTIFICATION.—
21 Notwithstanding paragraph (1)(B), a certification
22 shall not be treated as valid unless it is made within
23 the 18-month period ending on such due date (or
24 such other period as the Secretary prescribes).

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1 “(3) INDIVIDUALS WITH LONG-TERM CARE
2 NEEDS.—For purposes of this subsection, the term
3 ‘individual with long-term care needs’ means any in-
4 dividual who meets the requirements of any of the
5 following subparagraphs:

6 “(A) The individual is at least 6 years of
7 age and—

8 “(i) is unable to perform (without
9 substantial assistance from another indi-
10 vidual) at least 2 activities of daily living
11 (as defined in section 7702B(c)(2)(B)) due
12 to a loss of functional capacity, or

13 “(ii) requires substantial supervision
14 to protect such individual from threats to
15 health and safety due to severe cognitive
16 impairment and is unable to perform, with-
17 out reminding or cuing assistance, at least
18 1 activity of daily living (as so defined) or,
19 to the extent provided in regulations pre-
20 scribed by the Secretary (in consultation
21 with the Secretary of Health and Human
22 Services), is unable to engage in age ap-
23 propriate activities.

24 “(B) The individual is at least 2 but not
25 6 years of age and is unable, due to a loss of

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1 functional capacity, to perform (without sub-
2 stantial assistance from another individual) at
3 least 2 of the following activities:

4 “(i) Eating.

5 “(ii) Transferring.

6 “(iii) Mobility.

7 “(C) The individual is under 2 years of age
8 and requires specific durable medical equipment
9 by reason of a severe health condition or re-
10 quires a skilled practitioner trained to address
11 the individual’s condition to be available if the
12 individual’s parents or guardians are absent.

13 “(4) INSTITUTIONAL CARE FACILITY.—For pur-
14 poses of paragraph (1)(C), an institutional care fa-
15 cility (including two or more places, establishments,
16 or institutions owned by the same legal entity) in-
17 cludes any congregate, protected living residential
18 arrangement that provides or coordinates personal
19 or health care services, including assistance with the
20 activities of daily living and social care, for two or
21 more adults who are aged, infirm, or disabled

22 “(c) QUALIFIED EXPENSES.—For purposes of this
23 section—

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1 “(1) IN GENERAL.—The term ‘qualified ex-
2 penses’ means expenses for goods, services, and sup-
3 ports described in paragraph (2) which—

4 “(A) assist a qualified care recipient with
5 accomplishing activities of daily living (as de-
6 fined in section 7702B(c)(2)(B)) and instru-
7 mental activities of daily living (as defined in
8 section 1915(k)(6)(F) of the Social Security
9 Act), and

10 “(B) are provided solely for use by such
11 qualified care recipient.

12 “(2) ITEMS DESCRIBED.—The goods, services,
13 and supports described in this paragraph are—

14 “(A) human assistance, supervision, cuing,
15 and standby assistance,

16 “(B) health maintenance tasks (such as
17 medication management),

18 “(C) respite care,

19 “(D) assistive technologies and devices (in-
20 cluding remote health monitoring),

21 “(E) accessibility modifications of the
22 qualified care recipient’s residence,

23 “(F) counseling, support groups, or train-
24 ing relating to caring for a qualified care recipi-
25 ent, and

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1 “(G) any other items which directly relate
2 to the health and safety of a qualified care re-
3 cipient, as determined by the Secretary after
4 consultation with the Secretary of Health and
5 Human Services.

6 “(3) DOLLAR LIMITATION.—The amount taken
7 into account as qualified expenses for any taxable
8 year shall not exceed \$4,000.

9 “(4) DENIAL OF DOUBLE BENEFIT.—Amounts
10 taken into account for purposes of section 21, 129,
11 213, or 223(f), or such other circumstances as may
12 be provided by the Secretary, shall not be taken into
13 account as qualified expenses.

14 “(5) DOCUMENTATION REQUIREMENT.—An ex-
15 pense shall not be treated as a qualified expense un-
16 less the taxpayer substantiates such expense under
17 such regulations or guidance as the Secretary shall
18 provide.

19 “(d) CREDIT PHASEOUT.—The 50 percent rate under
20 subsection (a) shall be reduced by 1 percentage point for
21 every \$2,500 or fraction thereof by which the taxpayer’s
22 adjusted gross income exceeds \$75,000.

23 “(e) SPECIAL RULES.—For purposes of this sec-
24 tion—

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1 “(1) PAYMENTS TO RELATED INDIVIDUALS.—
2 Rules similar to the rules of section 21(e)(6) shall
3 apply.

4 “(2) LICENSED HEALTH CARE PRACTI-
5 TIONER.—

6 “(A) IN GENERAL.—The licensed health
7 care practitioner making the certification for
8 purposes of subsection (b)(1)(B)—

9 “(i) shall not be related (within the
10 meaning of section 51(i)(1)) to the tax-
11 payer or the qualified care recipient, or
12 have a conflict of interest (as determined
13 under regulations provided by the Sec-
14 retary) with respect to the taxpayer or the
15 qualified care recipient,

16 “(ii) shall be licensed and eligible
17 under applicable State law to certify limi-
18 tations in performing activities of daily liv-
19 ing, and

20 “(iii) shall be a participant in the
21 Medicaid program, pursuant to sections
22 1902(a)(77) and 1932(d)(6) of the Social
23 Security Act, or the State Children’s
24 Health Insurance Program under section
25 2107(e)(1)(G) of such Act.

1 “(B) IDENTIFICATION REQUIREMENT.—

2 “(i) IN GENERAL.—No credit shall be
3 allowed with respect to any qualified care
4 recipient unless the taxpayer includes the
5 name and specified provider identification
6 number of such licensed health care practi-
7 tioner on the return of tax for the taxable
8 year.

9 “(ii) SPECIFIED PROVIDER IDENTI-
10 FICATION NUMBER.—The term ‘specified
11 provider identification number’ means a
12 valid National Provider Identifier as au-
13 thorized in section 1173 of the Social Se-
14 curity Act.

15 “(3) INDIVIDUAL MAY NOT BE CLAIMED BY
16 MORE THAN 1 TAXPAYER.—An individual shall be
17 treated as a qualified care recipient with respect to
18 only 1 taxpayer, as determined by the Secretary, for
19 any taxable year.

20 “(4) IDENTIFICATION REQUIREMENT.—No
21 credit shall be allowed with respect to any qualified
22 care recipient unless the taxpayer includes the name
23 and taxpayer identification number of the qualified
24 care recipient on the return of tax for the taxable
25 year.

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1 “(f) TERMINATION.—No credit shall be allowed
2 under this section for any taxable year beginning after De-
3 cember 31, 2025.”.

4 (b) MATH ERROR AUTHORITY.—Section 6213(g)(2),
5 as amended by the preceding provisions of this Act, is
6 amended by striking “and” at the end of subparagraph
7 (T), by striking the period at the end of subparagraph
8 (U) and inserting “, and”, and by inserting after subpara-
9 graph (U) the following new subparagraph:

10 “(V) an omission of a correct TIN re-
11 quired under section 25E(e)(4) or a correct
12 specified provider identification number re-
13 quired under section 25E(e)(2)(B).”.

14 (c) CLERICAL AMENDMENT.—The table of sections
15 for subpart A of part IV of subchapter A of chapter 1
16 is amended by inserting after the item relating to section
17 25D the following new item:

“Sec. 25E. Credit for caregiver expenses.”.

18 (d) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to taxable years beginning after
20 December 31, 2021.

21 **PART 4—EARNED INCOME TAX CREDIT**

22 **SEC. 137401. CERTAIN IMPROVEMENTS TO THE EARNED IN-**
23 **COME TAX CREDIT MADE PERMANENT.**

24 (a) DECREASE IN MINIMUM AGE REQUIREMENT.—

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1 (1) IN GENERAL.—Section 32(c)(1)(A)(ii)(II) is
2 amended by striking “age 25” and inserting “the
3 applicable minimum age”.

4 (2) APPLICABLE MINIMUM AGE.—Section 32(c)
5 is amended by adding at the end the following new
6 paragraph:

7 “(5) APPLICABLE MINIMUM AGE.—

8 “(A) IN GENERAL.—The term ‘applicable
9 minimum age’ means—

10 “(i) except as otherwise provided in
11 this subparagraph, age 19,

12 “(ii) in the case of a specified student
13 (other than a qualified former foster youth
14 or a qualified homeless youth), age 24, and

15 “(iii) in the case of a qualified former
16 foster youth or a qualified homeless youth,
17 age 18.

18 “(B) SPECIFIED STUDENT.—For purposes
19 of this paragraph, the term ‘specified student’
20 means, with respect to any taxable year, an in-
21 dividual who is an eligible student (as defined
22 in section 25A(b)(3)) during at least 5 calendar
23 months during the taxable year.

24 “(C) QUALIFIED FORMER FOSTER
25 YOUTH.—For purposes of this paragraph, the

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1 term ‘qualified former foster youth’ means an
2 individual who—

3 “(i) on or after the date that such in-
4 dividual attained age 14, was in foster care
5 provided under the supervision or adminis-
6 tration of an entity administering (or eligi-
7 ble to administer) a plan under part B or
8 part E of title IV of the Social Security
9 Act (without regard to whether Federal as-
10 sistance was provided with respect to such
11 child under such part E), and

12 “(ii) provides (in such manner as the
13 Secretary may provide) consent for entities
14 which administer a plan under part B or
15 part E of title IV of the Social Security
16 Act to disclose to the Secretary informa-
17 tion related to the status of such individual
18 as a qualified former foster youth.

19 “(D) QUALIFIED HOMELESS YOUTH.—For
20 purposes of this paragraph, the term ‘qualified
21 homeless youth’ means, with respect to any tax-
22 able year, an individual who certifies, in a man-
23 ner as provided by the Secretary, that such in-
24 dividual is either an unaccompanied youth who
25 is a homeless child or youth, or is unaccom-

1 panied, at risk of homelessness, and self-sup-
2 porting.”.

3 (b) ELIMINATION OF MAXIMUM AGE FOR CREDIT.—

4 Section 32(c)(1)(A)(ii)(II) is amended by striking “but
5 not attained age 65”.

6 (c) INCREASE IN CREDIT AND PHASEOUT PERCENT-

7 AGES.—The table contained in section 32(b)(1) is amend-
8 ed by striking “7.65” each place it appears therein and
9 inserting “15.3”.

10 (d) INCREASE IN EARNED INCOME AND PHASEOUT
11 AMOUNTS.—

12 (1) IN GENERAL.—The table contained in sec-
13 tion 32(b)(2)(A) is amended—

14 (A) by striking “\$4,220” and inserting
15 “\$9,820”, and

16 (B) by striking “\$5,280” and inserting
17 “\$11,610”.

18 (2) APPLICATION OF INFLATION ADJUST-
19 MENT.—Section 32(j)(1) is amended—

20 (A) by striking “(2021 in the case of the
21 dollar amount in subsection (i)(1))” and insert-
22 ing “(2021 in the case of the \$9,820 and
23 \$11,610 amounts in subsection (b)(2)(A) and
24 the \$10,000 amount in subsection (i)(1))”,

1 (B) in subparagraph (B)(i), by inserting
2 “(other than the \$9,820 and \$11,610
3 amounts)” after “subsection (b)(2)(A)”, and

4 (C) in subparagraph (B)(iii), by inserting
5 “the \$9,820 and \$11,610 amounts in sub-
6 section (b)(2)(A) and” before “the \$10,000
7 amount in subsection (i)(1)”.

8 (e) Section 32, as amended by subsection (f), is
9 amended by adding at the end the following new sub-
10 section:

11 “(n) ELECTION TO DETERMINE EARNED INCOME
12 BASED ON PRIOR TAXABLE YEAR.—

13 “(1) IN GENERAL.—In the case of a taxpayer
14 whose earned income for any taxable year is less
15 than the earned income of such taxpayer for the pre-
16 ceding taxable year, if such taxpayer elects (at such
17 time and in such manner as the Secretary may pro-
18 vide) the application of this subsection for such tax-
19 able year, the earned income of such taxpayer for
20 such taxable year shall be treated for purposes of
21 this section as being equal to the earned income of
22 such taxpayer for such preceding taxable year.

23 “(2) JOINT RETURNS.—For purposes of this
24 subsection, in the case of a joint return, the earned
25 income of the taxpayer for the preceding taxable

1 year shall be the sum of the earned income of each
2 spouse for the preceding taxable year.

3 “(3) TREATMENT AS MATHEMATICAL OR CLER-
4 ICAL ERROR.—In the case of a taxpayer described in
5 paragraph (1) who makes the election described in
6 such paragraph, the use on the return for purposes
7 of this section of an amount of earned income for
8 the preceding taxable year which differs from the
9 amount of such earned income as shown in the elec-
10 tronic files of the Internal Revenue Service shall be
11 treated as a mathematical or clerical error for pur-
12 poses of section 6213.

13 “(4) TREATMENT OF REFERENCES.—Any pro-
14 vision of this title which defines or determines
15 earned income by reference to this section shall be
16 applied without regard to this subsection unless such
17 provision specifically provides otherwise.”

18 (f) REPEAL OF TEMPORARY PROVISIONS.—Section
19 32 is amended by striking subsection (n).

20 (g) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to taxable years beginning after
22 December 31, 2021.

1 **SEC. 137402. FUNDS FOR ADMINISTRATION OF EARNED IN-**
2 **COME TAX CREDITS IN THE TERRITORIES.**

3 (a) PUERTO RICO.—Section 7530(a)(1) is amended
4 by striking “plus” at the end of subparagraph (A), by
5 striking the period at the end of subparagraph (B) and
6 inserting “, plus”, and by adding at the end the following
7 new subparagraph:

8 “(C) reasonable administrative costs asso-
9 ciated with the provision of the earned income
10 tax credit not in excess of \$4,000,000.”.

11 (b) POSSESSIONS WITH MIRROR CODE TAX SYS-
12 TEMS.—Section 7530(b)(1) is amended by striking “plus”
13 at the end of subparagraph (A), by striking the period
14 at the end of subparagraph (B) and inserting “, plus”,
15 and by adding at the end the following new subparagraph:

16 “(C) reasonable administrative costs asso-
17 ciated with the provision of the earned income
18 tax credit not in excess of \$200,000.”.

19 (c) AMERICAN SAMOA.—Section 7530(c)(1) is
20 amended by striking “plus” at the end of subparagraph
21 (A), by striking the period at the end of subparagraph
22 (B) and inserting “, plus”, and by adding at the end the
23 following new subparagraph:

24 “(C) reasonable administrative costs asso-
25 ciated with the provision of the earned income
26 tax credit not in excess of \$200,000.”.

1 (d) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to payments made for calendar
 3 years beginning after December 31, 2021.

4 **PART 5—EXPANDING ACCESS TO HEALTH**
 5 **COVERAGE AND LOWERING COSTS**

6 **SEC. 137501. IMPROVE AFFORDABILITY AND REDUCE PRE-**
 7 **MIUM COSTS OF HEALTH INSURANCE FOR**
 8 **CONSUMERS.**

9 (a) INCREASE IN APPLICABLE PERCENTAGE MADE
 10 PERMANENT.—Section 36B(b)(3)(A) is amended to read
 11 as follows:

12 “(A) APPLICABLE PERCENTAGE.—The ap-
 13 plicable percentage for any taxable year shall be
 14 the percentage such that the applicable percent-
 15 age for any taxpayer whose household income is
 16 within an income tier specified in the following
 17 table shall increase, on a sliding scale in a lin-
 18 ear manner, from the initial premium percent-
 19 age to the final premium percentage specified in
 20 such table for such income tier:

“In the case of household income (expressed as a percent of poverty line) within the following income tier:	The initial premium percentage is—	The final premium percentage is—
Up to 150.0 percent	0	0
150.0 percent up to 200.0 percent	0	2
200.0 percent up to 250.0 percent	2	4
250.0 percent up to 300.0 percent	4	6
300.0 percent up to 400.0 percent	6	8.5
400.0 percent and higher	8.5	8.5”.

1 (b) CREDIT ALLOWED TO TAXPAYERS WHOSE
2 HOUSEHOLD INCOME EXCEEDS 400 PERCENT OF THE
3 POVERTY LINE.—

4 (1) IN GENERAL.—Section 36B(c)(1)(A) is
5 amended by striking “but does not exceed 400 per-
6 cent”.

7 (2) CONFORMING AMENDMENT.—Section
8 36B(c)(1) is amended by striking subparagraph (E).

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to taxable years beginning after
11 December 31, 2021.

12 **SEC. 137502. MODIFICATION OF EMPLOYER-SPONSORED**
13 **COVERAGE AFFORDABILITY TEST IN HEALTH**
14 **INSURANCE PREMIUM TAX CREDIT.**

15 (a) IN GENERAL.—Section 36B(c)(2)(C) is amend-
16 ed—

17 (1) in clause (i)(II), by striking “9.5 percent”
18 and inserting “8.5 percent”, and

19 (2) by striking clause (iv).

20 (b) QUALIFIED SMALL EMPLOYER HEALTH REIM-
21 BURSEMENT ARRANGEMENTS.—Section 36B(c)(4) is
22 amended—

23 (1) in subparagraph (C)(ii), by striking “9.5
24 percent” and inserting “8.5 percent”, and

25 (2) by striking subparagraph (F).

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2021.

4 **SEC. 137503. TREATMENT OF LUMP-SUM SOCIAL SECURITY**
5 **BENEFITS IN DETERMINING HOUSEHOLD IN-**
6 **COME.**

7 (a) IN GENERAL.—Section 36B(d)(2) is amended by
8 adding at the end the following new subparagraph:

9 “(C) EXCLUSION OF PORTION OF LUMP-
10 SUM SOCIAL SECURITY BENEFITS.—

11 “(i) IN GENERAL.—The term ‘modi-
12 fied adjusted gross income’ shall not in-
13 clude so much of any lump-sum social se-
14 curity benefit payment as is attributable to
15 months ending before the beginning of the
16 taxable year.

17 “(ii) LUMP-SUM SOCIAL SECURITY
18 BENEFIT PAYMENT.—For purposes of this
19 subparagraph, the term ‘lump-sum social
20 security benefit payment’ means any pay-
21 ment of social security benefits (as defined
22 in section 86(d)(1)) which constitutes more
23 than 1 month of such benefits.

24 “(iii) ELECTION TO INCLUDE EX-
25 CLUDABLE AMOUNT.—With respect to any

1 taxable year beginning on or after the ter-
2 mination date (as defined in subsection
3 (h)(2)), a taxpayer may elect (at such time
4 and in such manner as the Secretary may
5 provide) to have this subparagraph not
6 apply for such taxable year.”.

7 (b) EFFECTIVE DATE.—The amendment made by
8 this section shall apply to taxable years beginning after
9 December 31, 2021.

10 **SEC. 137504. TEMPORARY EXPANSION OF HEALTH INSUR-**
11 **ANCE PREMIUM TAX CREDITS FOR CERTAIN**
12 **LOW-INCOME POPULATIONS.**

13 (a) IN GENERAL.—Section 36B is amended by redес-
14 ignating subsection (h) as subsection (i) and by inserting
15 after subsection (g) the following new subsection:

16 “(h) CERTAIN TEMPORARY RULES BEGINNING IN
17 2022.—

18 “(1) IN GENERAL.—With respect to any taxable
19 year beginning after December 31, 2021, and before
20 the termination date—

21 “(A) ELIGIBILITY FOR CREDIT NOT LIM-
22 ITED BASED ON INCOME.—Section
23 36B(c)(1)(A) shall be disregarded in deter-
24 mining whether a taxpayer is an applicable tax-
25 payer.

1 “(B) CREDIT ALLOWED TO CERTAIN LOW-
2 INCOME EMPLOYEES OFFERED EMPLOYER-PRO-
3 VIDED COVERAGE.—Subclause (II) of sub-
4 section (c)(2)(C)(i) shall not apply if the tax-
5 payer’s household income does not exceed 138
6 percent of the poverty line for a family of the
7 size involved. Subclause (II) of subsection
8 (c)(2)(C)(i) shall also not apply to an individual
9 described in the last sentence of such subsection
10 if the taxpayer’s household income does not ex-
11 ceed 138 percent of the poverty line for a fam-
12 ily of the size involved.

13 “(C) CREDIT ALLOWED TO CERTAIN LOW-
14 INCOME EMPLOYEES OFFERED QUALIFIED
15 SMALL EMPLOYER HEALTH REIMBURSEMENT
16 ARRANGEMENTS.—A qualified small employer
17 health reimbursement arrangement shall not be
18 treated as constituting affordable coverage for
19 an employee (or any spouse or dependent of
20 such employee) for any months of a taxable
21 year if the employee’s household income for
22 such taxable year does not exceed 138 percent
23 of the poverty line for a family of the size in-
24 volved.

25 “(D) LIMITATIONS ON RECAPTURE.—

1 “(i) IN GENERAL.—In the case of a
2 taxpayer whose household income is less
3 than 200 percent of the poverty line for
4 the size of the family involved for the tax-
5 able year, the amount of the increase
6 under subsection (f)(2)(A) shall in no
7 event exceed \$300 (one-half of such
8 amount in the case of a taxpayer whose
9 tax is determined under section 1(c) for
10 the taxable year).

11 “(ii) LIMITATION ON INCREASE FOR
12 CERTAIN NON-FILERS.—In the case of any
13 taxpayer who would not be required to file
14 a return of tax for the taxable year but for
15 any requirement to reconcile advance cred-
16 it payments under subsection (f), if an Ex-
17 change established under title I of the Pa-
18 tient Protection and Affordable Care Act
19 has determined that—

20 “(I) such taxpayer is eligible for
21 advance payments under section 1412
22 of such Act for any portion of such
23 taxable year, and

24 “(II) such taxpayer’s household
25 income for such taxable year is pro-

1 jected to not exceed 138 percent of
2 the poverty line for a family of the
3 size involved,
4 subsection (f)(2)(A) shall not apply to such
5 taxpayer for such taxable year and such
6 taxpayer shall not be required to file such
7 return of tax.

8 “(iii) INFORMATION PROVIDED BY EX-
9 CHANGE.—The information required to be
10 provided by an Exchange to the Secretary
11 and to the taxpayer under subsection (f)(3)
12 shall include such information as is nec-
13 essary to determine whether such Ex-
14 change has made the determinations de-
15 scribed in subclauses (I) and (II) of clause
16 (ii) with respect to such taxpayer.

17 “(2) TERMINATION DATE.—For purposes of
18 this subsection, the term ‘termination date’ means
19 the later of—

20 “(A) January 1, 2025, or

21 “(B) the date on which the Secretary of
22 Health and Human Services makes a written
23 certification to the Secretary that the Secretary
24 of Health and Human Services has fully imple-
25 mented the program described in section 1948

1 of the Social Security Act (relating to Federal
2 Medicaid program to close coverage gap in non-
3 expansion States).”.

4 (b) EMPLOYER SHARED RESPONSIBILITY PROVISION
5 NOT APPLICABLE WITH RESPECT TO CERTAIN LOW-IN-
6 COME TAXPAYERS RECEIVING PREMIUM ASSISTANCE.—

7 Section 4980H(c)(3) is amended to read as follows:

8 “(3) APPLICABLE PREMIUM TAX CREDIT AND
9 COST-SHARING REDUCTION.—

10 “(A) IN GENERAL.—The term ‘applicable
11 premium tax credit and cost-sharing reduction’
12 means—

13 “(i) any premium tax credit allowed
14 under section 36B,

15 “(ii) any cost-sharing reduction under
16 section 1402 of the Patient Protection and
17 Affordable Care Act, and

18 “(iii) any advance payment of such
19 credit or reduction under section 1412 of
20 such Act.

21 “(B) EXCEPTION WITH RESPECT TO CER-
22 TAIN LOW-INCOME TAXPAYERS.—Such term
23 shall not include any premium tax credit, cost-
24 sharing reduction, or advance payment other-
25 wise described in subparagraph (A) if such

1 credit, reduction, or payment is allowed or paid
2 for a taxable year of an employee (beginning
3 after December 31, 2021, and before the termi-
4 nation date, as defined in section 36B(h)(2))
5 with respect to which—

6 “(i) an Exchange established under
7 title I of the Patient Protection and Af-
8 fordable Care Act has determined that
9 such employee’s household income for such
10 taxable year is projected to not exceed 138
11 percent of the poverty line for a family of
12 the size involved, or

13 “(ii) such employee’s household in-
14 come for such taxable year does not exceed
15 138 percent of the poverty line for a family
16 of the size involved.”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to taxable years beginning after
19 December 31, 2021.

20 **SEC. 137505. ENSURING AFFORDABILITY OF COVERAGE**
21 **FOR CERTAIN LOW-INCOME POPULATIONS.**

22 (a) REDUCING COST SHARING UNDER QUALIFIED
23 HEALTH PLANS.—Section 1402 of the Patient Protection
24 and Affordable Care Act (42 U.S.C. 18071) is amended—

25 (1) in subsection (b)—

1 (A) in paragraph (2), by inserting “(or,
2 with respect to plan years 2023 and 2024,
3 whose household income does not exceed 400
4 percent of the poverty line for a family of the
5 size involved)” before the period; and

6 (B) in the matter following paragraph (2),
7 by adding at the end the following new sen-
8 tence: “In the case of an individual with a
9 household income of less than 138 percent of
10 the poverty line for a family of the size involved
11 for any month occurring during the period be-
12 ginning on January 1, 2022, and ending on De-
13 cember 31, 2022, such individual shall, for such
14 month and for each succeeding month during
15 such period, be treated as having household in-
16 come equal to 100 percent for purposes of ap-
17 plying this section.”; and

18 (2) in subsection (c)—

19 (A) in paragraph (1)(A), in the matter
20 preceding clause (i), by inserting “, with respect
21 to eligible insureds (other than, with respect to
22 plan years 2023 and 2024, specified enrollees
23 (as defined in paragraph (6)(C))),” after “first
24 be achieved”;

1 (B) in paragraph (2), in the matter pre-
2 ceding subparagraph (A), by inserting “with re-
3 spect to eligible insureds (other than, with re-
4 spect to plan years 2023 and 2024, specified
5 enrollees)” after “under the plan”;

6 (C) in paragraph (3)—

7 (i) in subparagraph (A), by striking
8 “this subsection” and inserting “paragraph
9 (1) or (2)”; and

10 (ii) in subparagraph (B), by striking
11 “this section” and inserting “paragraphs
12 (1) and (2)”; and

13 (D) by adding at the end the following new
14 paragraph:

15 “(6) SPECIAL RULE FOR SPECIFIED ENROLL-
16 EES.—

17 “(A) IN GENERAL.—The Secretary shall
18 establish procedures under which the issuer of
19 a qualified health plan to which this section ap-
20 plies shall reduce cost-sharing under the plan
21 with respect to months occurring during plan
22 years 2023 and 2024 for enrollees who are
23 specified enrollees (as defined in subparagraph
24 (C)) in a manner sufficient to increase the
25 plan’s share of the total allowed costs of bene-

1 fits provided under the plan to 99 percent of
2 such costs.

3 “(B) METHODS FOR REDUCING COST
4 SHARING.—

5 “(i) IN GENERAL.—An issuer of a
6 qualified health plan making reductions
7 under this paragraph shall notify the Sec-
8 retary of such reductions and the Sec-
9 retary shall, out of funds made available
10 under clause (ii), make periodic and timely
11 payments to the issuer equal to 12 percent
12 of the total allowed costs of benefits pro-
13 vided under each such plan to specified en-
14 rollees during plan years 2023 and 2024.

15 “(ii) APPROPRIATION.—There are ap-
16 propriated, out of any monies in the Treas-
17 ury not otherwise appropriated, such sums
18 as may be necessary to the Secretary for
19 purposes of making payments under clause
20 (i).

21 “(C) SPECIFIED ENROLLEE DEFINED.—

22 For purposes of this section, the term ‘specified
23 enrollee’ means, with respect to a month occur-
24 ring during a plan year, an eligible insured with
25 a household income of less than 138 percent of

1 the poverty line for a family of the size involved
2 during such month. Such insured shall be
3 deemed to be a specified enrollee for each suc-
4 ceeding month in such plan year.”.

5 (b) OPEN ENROLLMENTS APPLICABLE TO CERTAIN
6 LOWER-INCOME POPULATIONS.—Section 1311(c) of the
7 Patient Protection and Affordable Care Act (42 U.S.C.
8 18031(c)) is amended—

9 (1) in paragraph (6)—

10 (A) in subparagraph (C), by striking at the
11 end “and”;

12 (B) in subparagraph (D), by striking the
13 period at the end and inserting “; and”; and

14 (C) by adding at the end the following new
15 subparagraph:

16 “(E) with respect to a qualified health plan
17 with respect to which section 1402 applies, for
18 months occurring during the period beginning
19 on January 1, 2022, and ending on December
20 31, 2024, enrollment periods described in sub-
21 paragraph (A) of paragraph (8) for individuals
22 described in subparagraph (B) of such para-
23 graph.”; and

24 (2) by adding at the end the following new
25 paragraph:

1 “(8) SPECIAL ENROLLMENT PERIOD FOR CER-
2 TAIN LOW-INCOME POPULATIONS.—

3 “(A) IN GENERAL.—The enrollment period
4 described in this paragraph is, in the case of an
5 individual described in subparagraph (B), the
6 continuous period beginning on the first day
7 that such individual is so described.

8 “(B) INDIVIDUAL DESCRIBED.—For pur-
9 poses of subparagraph (A), an individual de-
10 scribed in this subparagraph is an individual—

11 “(i) with a household income of less
12 than 138 percent of the poverty line for a
13 family of the size involved; and

14 “(ii) who is not eligible for minimum
15 essential coverage (as defined in section
16 5000A(f) of the Internal Revenue Code of
17 1986), other than for coverage described in
18 any of subparagraphs (B) through (E) of
19 paragraph (1) of such section.”.

20 (c) ADDITIONAL BENEFITS FOR CERTAIN LOW-IN-
21 COME INDIVIDUALS FOR PLAN YEAR 2024.—Section
22 1301(a) of the Patient Protection and Affordable Care Act
23 (42 U.S.C. 18021(a)) is amended—

24 (1) in paragraph (1)—

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

3 (B) in subparagraph (C)(iv), by striking
4 the period and inserting “; and”; and

5 (C) by adding at the end the following new
6 subparagraph:

7 “(D) provides, with respect to a plan of-
8 fered in the silver level of coverage to which sec-
9 tion 1402 applies during plan year 2024, for
10 benefits described in paragraph (5) in the case
11 of an individual who, for a month during such
12 plan year, has a household income of less than
13 138 percent of the poverty line for a family of
14 the size involved, and who is eligible to receive
15 cost-sharing reductions under section 1402.”;
16 and

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

19 “(5) ADDITIONAL BENEFITS FOR CERTAIN
20 LOW-INCOME INDIVIDUALS FOR PLAN YEAR 2024.—

21 “(A) IN GENERAL.—For purposes of para-
22 graph (1)(D), the benefits described in this
23 paragraph to be provided by a qualified health
24 plan are benefits consisting of non-emergency
25 medical transportation services and services de-

1 scribed in subsection (a)(4)(C) of section 1905
2 of the Social Security Act, without any restric-
3 tion on the choice of a qualified provider from
4 whom such an individual so enrolled in such
5 plan may receive such services described in such
6 subsection, and without any imposition of cost
7 sharing, which are not otherwise provided under
8 such plan as part of the essential health bene-
9 fits package described in section 1302(a).

10 “(B) PAYMENTS FOR ADDITIONAL BENE-
11 FITS.—

12 “(i) IN GENERAL.—An issuer of a
13 qualified health plan making payments for
14 services described in subparagraph (A) fur-
15 nished to individuals described in para-
16 graph (1)(D) during plan year 2024 shall
17 notify the Secretary of such payments and
18 the Secretary shall, out of funds made
19 available under clause (ii), make periodic
20 and timely payments to the issuer equal to
21 payments for such services so furnished.

22 “(ii) APPROPRIATION.—There is ap-
23 propriated, out of any monies in the Treas-
24 ury not otherwise appropriated, such sums
25 as may be necessary to the Secretary for

1 purposes of making payments under clause
2 (i).”.

3 (d) EDUCATION AND OUTREACH ACTIVITIES.—

4 (1) IN GENERAL.—Section 1321(c) of the Pa-
5 tient Protection and Affordable Care Act (42 U.S.C.
6 18041(c)) is amended by adding at the end the fol-
7 lowing new paragraph:

8 “(3) OUTREACH AND EDUCATIONAL ACTIVI-
9 TIES.—

10 “(A) IN GENERAL.—In the case of an Ex-
11 change established or operated by the Secretary
12 within a State pursuant to this subsection, the
13 Secretary shall carry out outreach and edu-
14 cational activities for purposes of informing in-
15 dividuals described in section
16 1902(a)(10)(A)(i)(VIII) of the Social Security
17 Act who reside in States that have not ex-
18 pended amounts under a State plan (or waiver
19 of such plan) under title XIX of such Act for
20 all such individuals about qualified health plans
21 offered through the Exchange, including by in-
22 forming such individuals of the availability of
23 coverage under such plans and financial assist-
24 ance for coverage under such plans. Such out-
25 reach and educational activities shall be pro-

1 vided in a manner that is culturally and linguis-
2 tically appropriate to the needs of the popu-
3 lations being served by the Exchange (including
4 hard-to-reach populations, such as racial and
5 sexual minorities, limited English proficient
6 populations, individuals residing in areas where
7 the unemployment rates exceeds the national
8 average unemployment rate, individuals in rural
9 areas, veterans, and young adults).

10 “(B) LIMITATION ON USE OF FUNDS.—No
11 funds appropriated under this paragraph shall
12 be used for expenditures for promoting non-
13 ACA compliant health insurance coverage.

14 “(C) NON-ACA COMPLIANT HEALTH INSUR-
15 ANCE COVERAGE.—For purposes of subpara-
16 graph (B):

17 “(i) The term ‘non-ACA compliant
18 health insurance coverage’ means health
19 insurance coverage, or a group health plan,
20 that is not a qualified health plan.

21 “(ii) Such term includes the following:

22 “(I) An association health plan.

23 “(II) Short-term limited duration
24 insurance.

1 “(D) FUNDING.—There are appropriated,
2 out of any monies in the Treasury not other-
3 wise appropriated, \$15,000,000 for fiscal year
4 2022, and \$30,000,000 for each of fiscal years
5 2023 and 2024, to carry out this paragraph.
6 Funds appropriated under this subparagraph
7 shall remain available until expended.”.

8 (2) NAVIGATOR PROGRAM.—Section 1311(i)(6)
9 of the Patient Protection and Affordable Care Act
10 (42 U.S.C. 18031(i)(6)) is amended—

11 (A) by striking “FUNDING.—Grants
12 under” and inserting “FUNDING.—

13 “(A) STATE EXCHANGES.—Grants under”;
14 and

15 (B) by adding at the end the following new
16 subparagraph:

17 “(B) FEDERAL EXCHANGES.—For pur-
18 poses of carrying out this subsection, with re-
19 spect to an Exchange established and operated
20 by the Secretary within a State pursuant to sec-
21 tion 1321(c), the Secretary shall obligate
22 \$10,000,000 out of amounts collected through
23 the user fees on participating health insurance
24 issuers pursuant to section 156.50 of title 45,
25 Code of Federal Regulations (or any successor

1 regulations) for fiscal year 2022, and
2 \$20,000,000 for each of fiscal years 2023 and
3 2024. Such amount so obligated for a fiscal
4 year shall remain available until expended.”.

5 **SEC. 137506. ESTABLISHING A HEALTH INSURANCE AF-**
6 **FORDABILITY FUND.**

7 (a) IN GENERAL.—Subtitle D of title I of the Patient
8 Protection and Affordable Care Act is amended by insert-
9 ing after part 5 (42 U.S.C. 18061 et seq.) the following
10 new part:

11 **“PART 6—IMPROVE HEALTH INSURANCE**
12 **AFFORDABILITY FUND**

13 **“SEC. 1351. ESTABLISHMENT OF PROGRAM.**

14 “There is hereby established the ‘Improve Health In-
15 surance Affordability Fund’ to be administered by the Sec-
16 retary of Health and Human Services, acting through the
17 Administrator of the Centers for Medicare & Medicaid
18 Services (in this section referred to as the ‘Adminis-
19 trator’), to provide funding, in accordance with this part,
20 to the 50 States and the District of Columbia (each re-
21 ferred to in this section as a ‘State’) beginning on January
22 1, 2023, for the purposes described in section 1352.

1 **“SEC. 1352. USE OF FUNDS.**

2 “(a) IN GENERAL.—A State shall use the funds allo-
3 cated to the State under this part for one of the following
4 purposes:

5 “(1) To provide reinsurance payments to health
6 insurance issuers with respect to individuals enrolled
7 under individual health insurance coverage (other
8 than through a plan described in subsection (b)) of-
9 fered by such issuers.

10 “(2) To provide assistance (other than through
11 payments described in paragraph (1)) to reduce out-
12 of-pocket costs, such as copayments, coinsurance,
13 premiums, and deductibles, of individuals enrolled
14 under qualified health plans offered on the indi-
15 vidual market through an Exchange and of individ-
16 uals enrolled under standard health plans offered
17 through a basic health program established under
18 section 1331.

19 “(b) EXCLUSION OF CERTAIN GRANDFATHERED
20 PLANS, TRANSITIONAL PLANS, STUDENT HEALTH
21 PLANS, AND EXCEPTED BENEFITS.—For purposes of
22 subsection (a), a plan described in this subsection is the
23 following:

24 “(1) A grandfathered health plan (as defined in
25 section 1251).

1 part for a year (beginning with 2023), a State shall
2 submit to the Administrator an application at such
3 time (but, in the case of allocations for 2023, not
4 later than 120 days after the date of the enactment
5 of this part and, in the case of allocations for a sub-
6 sequent year, not later than January 1 of the pre-
7 vious year) and in such form and manner as speci-
8 fied by the Administrator containing—

9 “(A) a description of how the funds will be
10 used; and

11 “(B) such other information as the Admin-
12 istrator may require.

13 “(2) AUTOMATIC APPROVAL.—An application so
14 submitted is approved (as outlined in the terms of
15 the plan) unless the Administrator notifies the State
16 submitting the application, not later than 90 days
17 after the date of the submission of such application,
18 that the application has been denied for not being in
19 compliance with any requirement of this part and of
20 the reason for such denial.

21 “(3) 5-YEAR APPLICATION APPROVAL.—If an
22 application of a State is approved for a purpose de-
23 scribed in section 1352 for a year, such application
24 shall be treated as approved for such purpose for
25 each of the subsequent 4 years.

1 “(4) OVERSIGHT AUTHORITY AND AUTHORITY
2 TO REVOKE APPROVAL.—

3 “(A) OVERSIGHT.—The Secretary may
4 conduct periodic reviews of the use of funds
5 provided to a State under this section, with re-
6 spect to a purpose described in section 1352, to
7 ensure the State uses such funds for such pur-
8 pose and otherwise complies with the require-
9 ments of this section.

10 “(B) REVOCATION OF APPROVAL.—The
11 approval of an application of a State, with re-
12 spect to a purpose described in section 1352,
13 may be revoked if the State fails to use funds
14 provided to the State under this section for
15 such purpose or otherwise fails to comply with
16 the requirements of this section.

17 “(b) DEFAULT FEDERAL SAFEGUARD FOR 2023 AND
18 2024 FOR CERTAIN STATES.—

19 “(1) IN GENERAL.—For 2023 and 2024, in the
20 case of a State described in paragraph (5), with re-
21 spect to such year, the State shall not be eligible to
22 submit an application under subsection (a), and the
23 Administrator, in consultation with the applicable
24 State authority, shall from the amount calculated
25 under paragraph (3) for such year, carry out the

1 purpose described in paragraph (2) in such State for
2 such year.

3 “(2) SPECIFIED USE.—The amount described
4 in paragraph (3), with respect to a State described
5 in paragraph (5) for 2023 or 2024, shall be used to
6 carry out the purpose described in section
7 1352(a)(1) in such State for such year, as applica-
8 ble, by providing reinsurance payments to health in-
9 surance issuers with respect to attachment range
10 claims (as defined in section 1354(b)(2), using the
11 dollar amounts specified in subparagraph (B) of
12 such section for such year) in an amount equal to,
13 subject to paragraph (4), the percentage (specified
14 for such year by the Secretary under such subpara-
15 graph) of the amount of such claims.

16 “(3) AMOUNT DESCRIBED.—The amount de-
17 scribed in this paragraph, with respect to 2023 or
18 2024, is the amount equal to the total sum of
19 amounts that the Secretary would otherwise esti-
20 mate under section 1354(b)(2)(A)(i) for such year
21 for each State described in paragraph (5) for such
22 year, as applicable, if each such State were not so
23 described for such year.

24 “(4) ADJUSTMENT.—For purposes of this sub-
25 section, the Secretary may apply a percentage under

1 paragraph (3) with respect to a year that is less
2 than the percentage otherwise specified in section
3 1354(b)(2)(B) for such year, if the cost of paying
4 the total eligible attachment range claims for States
5 described in paragraph (5) for such year at such
6 percentage otherwise specified would exceed the
7 amount calculated under paragraph (3) for such
8 year.

9 “(5) STATE DESCRIBED.—A State described in
10 this paragraph, with respect to years 2023 and
11 2024, is a State that, as of January 1 of 2022 or
12 2023, respectively, was not expending amounts
13 under the State plan (or waiver of such plan) for all
14 individuals described in section
15 1902(a)(10)(A)(i)(VIII) during such year.

16 **“SEC. 1354. ALLOCATIONS.**

17 “(a) APPROPRIATION.—For the purpose of providing
18 allocations for States under subsection (b) and payments
19 under section 1353(b) there is appropriated, out of any
20 money in the Treasury not otherwise appropriated,
21 \$10,000,000,000 for 2023 and each subsequent year.

22 “(b) ALLOCATIONS.—

23 “(1) PAYMENT.—

24 “(A) IN GENERAL.—From amounts appro-
25 priated under subsection (a) for a year, the

1 Secretary shall, with respect to a State not de-
2 scribed in section 1353(b) for such year and
3 not later than the date specified under subpara-
4 graph (B) for such year, allocate for such State
5 the amount determined for such State and year
6 under paragraph (2).

7 “(B) SPECIFIED DATE.—For purposes of
8 subparagraph (A), the date specified in this
9 subparagraph is—

10 “(i) for 2023, the date that is 90 days
11 after the date of the enactment of this
12 part; and

13 “(ii) for 2024 or a subsequent year,
14 January 1 of the previous year.

15 “(C) NOTIFICATIONS OF ALLOCATION
16 AMOUNTS.—For 2024 and each subsequent
17 year, the Secretary shall notify each State of
18 the amount determined for such State under
19 paragraph (2) for such year by not later than
20 January 1 of the previous year.

21 “(2) ALLOCATION AMOUNT DETERMINA-
22 TIONS.—

23 “(A) IN GENERAL.—For purposes of para-
24 graph (1), the amount determined under this
25 paragraph for a year for a State described in

1 paragraph (1)(A) for such year is the amount
2 equal to—

3 “(i) the amount that the Secretary es-
4 timates would be expended under this part
5 for such year on attachment range claims
6 of individuals residing in such State if such
7 State used such funds only for the purpose
8 described in paragraph (1) of section
9 1352(a) at the dollar amounts and per-
10 centage specified under subparagraph (B)
11 for such year; minus

12 “(ii) the amount, if any, by which the
13 Secretary determines—

14 “(I) the estimated amount of
15 premium tax credits under section
16 36B of the Internal Revenue Code of
17 1986 that would be attributable to in-
18 dividuals residing in such State for
19 such year without application of this
20 part; exceeds

21 “(II) the estimated amount of
22 premium tax credits under section
23 36B of the Internal Revenue Code of
24 1986 that would be attributable to in-
25 dividuals residing in such State for

1 such year if section 1353(b) applied
2 for such year and applied with respect
3 to such State for such year.

4 For purposes of the previous sentence and sec-
5 tion 1353(b)(3), the term ‘attachment range
6 claims’ means, with respect to an individual, the
7 claims for such individual that exceed a dollar
8 amount specified by the Secretary for a year,
9 but do not exceed a ceiling dollar amount speci-
10 fied by the Secretary for such year, under sub-
11 paragraph (B).

12 “(B) SPECIFICATIONS.—For purposes of
13 subparagraph (A) and section 1353(b)(3), the
14 Secretary shall determine the dollar amounts
15 and the percentage to be specified under this
16 subparagraph for a year in a manner to ensure
17 that the total amount of expenditures under
18 this part for such year is estimated to equal the
19 total amount appropriated for such year under
20 subsection (a) if such expenditures were used
21 solely for the purpose described in paragraph
22 (1) of section 1352(a) for attachment range
23 claims at the dollar amounts and percentage so
24 specified for such year.

1 “(3) AVAILABILITY.—Funds allocated to a
2 State under this subsection for a year shall remain
3 available through the end of the subsequent year.”.

4 (b) BASIC HEALTH PROGRAM FUNDING ADJUST-
5 MENTS.—Section 1331 of the Patient Protection and Af-
6 fordable Care Act (42 U.S.C. 18051) is amended—

7 (1) in subsection (a), by adding at the end the
8 following new paragraph:

9 “(3) PROVISION OF INFORMATION ON QUALI-
10 FIED HEALTH PLAN PREMIUMS.—

11 “(A) IN GENERAL.—For plan years begin-
12 ning on or after January 1, 2023, the program
13 described in paragraph (1) shall provide that a
14 State may not establish a basic health program
15 unless such State furnishes to the Secretary,
16 with respect to each qualified health plan of-
17 fered in such State during a year that receives
18 any reinsurance payment from funds made
19 available under part 6 for such year, the ad-
20 justed premium amount (as defined in subpara-
21 graph (B)) for each such plan and year.

22 “(B) ADJUSTED PREMIUM AMOUNT DE-
23 FINED.—For purposes of subparagraph (A), the
24 term ‘adjusted premium amount’ means, with
25 respect to a qualified health plan and a year,

1 the monthly premium for such plan and year
2 that would have applied had such plan not re-
3 ceived any payments described in subparagraph
4 (A) for such year.”; and

5 (2) in subsection (d)(3)(A)(ii), by adding at the
6 end the following new sentence: “In making such de-
7 termination, the Secretary shall calculate the value
8 of such premium tax credits that would have been
9 provided to such individuals enrolled through a basic
10 health program established by a State during a year
11 using the adjusted premium amounts (as defined in
12 subsection (a)(3)(B)) for qualified health plans of-
13 fered in such State during such year.”.

14 **SEC. 137507. SPECIAL RULE FOR INDIVIDUALS RECEIVING**
15 **UNEMPLOYMENT COMPENSATION.**

16 (a) EXTENSION.—Section 36B(g)(1) is amended by
17 striking “during 2021,” and inserting “after December
18 31, 2020, and before January 1, 2026,”.

19 (b) MODIFICATION OF INCOME NOT TAKEN INTO AC-
20 COUNT.—Section 36B(g)(1)(B) is amended by striking
21 “133 percent” and inserting “150 percent”.

22 (c) CONFORMING AMENDMENT.—Section 36B(g) by
23 inserting “THROUGH 2025” after “2021” in the heading
24 thereof.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2021.

4 **SEC. 137508. PERMANENT CREDIT FOR HEALTH INSURANCE**

5 **COSTS.**

6 (a) IN GENERAL.—Subparagraph (B) of section
7 35(b)(1) of the Internal Revenue Code of 1986 is amended
8 by striking “, and before January 1, 2022” and inserting
9 a period.

10 (b) INCREASE IN CREDIT PERCENTAGE.—Subsection
11 (a) of section 35 of the Internal Revenue Code of 1986
12 is amended by striking “72.5 percent” and inserting “80
13 percent”.

14 (c) CONFORMING AMENDMENTS.—Subsections (b)
15 and (e)(1) of section 7527 of the Internal Revenue Code
16 of 1986 are each amended by striking “72.5 percent” and
17 inserting “80 percent”.

18 (d) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to coverage months beginning after
20 December 31, 2021.

1 “(1) attests he or she—

2 “(A) is or will be a first-generation student
3 of a 4-year college, graduate school, or profes-
4 sional school;

5 “(B) was a Pell Grant recipient; or

6 “(C) lived in a medically underserved area,
7 rural area, or health professional shortage area
8 for a period of 4 or more years prior to attend-
9 ing an undergraduate program;

10 “(2) has accepted enrollment in—

11 “(A) a post-baccalaureate program that is
12 not more than 2 years and intends to enroll in
13 a qualifying medical school within 2 years after
14 completion of such program; or

15 “(B) a qualifying medical school;

16 “(3) will practice medicine in a health profes-
17 sional shortage area, medically underserved area,
18 public hospital, rural area, or as required under sub-
19 section (d)(5); and

20 “(4) submits an application and a signed copy
21 of the agreement described under subsection (c).

22 “(c) APPLICATIONS.—

23 “(1) IN GENERAL.—To be eligible to receive a
24 Pathway to Practice medical scholarship voucher
25 under this section, a qualifying student described in

1 subsection (b) shall submit to the Secretary an ap-
2 plication at such time, in such manner, and con-
3 taining such information as the Secretary may re-
4 quire.

5 “(2) INFORMATION TO BE INCLUDED.—As a
6 part of the application described in paragraph (1),
7 the Secretary shall include a notice of the items
8 which are required to be agreed to under subsection
9 (d)(4) for the purpose of notifying the qualifying
10 student of the terms of the Rural and Underserved
11 Pathway to Practice Training Program.

12 “(d) PATHWAY TO PRACTICE MEDICAL SCHOLAR-
13 SHIP VOUCHER DETAILS.—

14 “(1) NUMBER.—On an annual basis, the Sec-
15 retary may award a Pathway to Practice medical
16 scholarship voucher under the Program to not more
17 than 1,000 qualifying students described in sub-
18 section (b).

19 “(2) PRIORITIZATION CRITERIA.—In deter-
20 mining whether to award a Pathway to Practice
21 medical scholarship voucher under the Program to
22 qualifying students described in subsection (b), the
23 Secretary shall prioritize applications from any such
24 student who attests that he or she—

1 “(A) was a participant in the Health Re-
2 sources and Services Administration Health Ca-
3 reers Opportunity Program or an Area Health
4 Education Center scholar;

5 “(B) is a disadvantaged student (as de-
6 fined by the National Health Service Corps of
7 the Health Resources & Services Administration
8 of the Department of Health and Human Serv-
9 ices); or

10 “(C) attended a historically black college
11 or other minority serving institution (as defined
12 in section 1067q of title 20, United States
13 Code).

14 “(3) DURATION.—Each Pathway to Practice
15 medical scholarship voucher awarded to a qualifying
16 student pursuant to paragraph (1) shall be so
17 awarded to such a student on an annual basis for
18 each year of enrollment in a post-baccalaureate pro-
19 gram and a qualifying medical school (as appro-
20 priate).

21 “(4) AMOUNT.—Subject to paragraph (5), each
22 Pathway to Practice medical scholarship voucher
23 awarded under the Program shall include amounts
24 for—

25 “(A) tuition;

1 “(B) academic fees (as determined by the
2 qualifying medical school);

3 “(C) required textbooks and equipment;

4 “(D) a monthly stipend equal to the
5 amount provided for individuals under the
6 health professions scholarship and financial as-
7 sistance program described in section 2121(c)
8 of title 10, United States Code; and

9 “(E) any other educational expenses nor-
10 mally incurred by students at the post-bacca-
11 laureate program or qualifying medical school
12 (as appropriate).

13 “(5) REQUIRED AGREEMENT.—No amounts
14 under paragraph (4) may be provided a qualifying
15 student awarded a Pathway to Practice medical
16 scholarship voucher under the Program, unless the
17 qualifying student submits to the Secretary an
18 agreement to—

19 “(A) complete a post-baccalaureate pro-
20 gram that is not more than 2 years (if applica-
21 ble pursuant to the option under subsection
22 (b)(2)(A));

23 “(B) graduate from a qualifying medical
24 school;

1 “(C) complete a residency program in an
2 approved residency training program (as de-
3 fined in section 1886(h)(5)(A));

4 “(D) complete an initial residency period
5 or the period of board eligibility;

6 “(E) practice medicine for at least the
7 number of years of the Pathway to Practice
8 medical scholarship voucher awarded under
9 paragraph (2) after a residency program in a
10 health professional shortage area, a medically
11 underserved area, a public hospital, or a rural
12 area, and during such period annually submit
13 documentation with respect to whether the
14 qualifying student practices medicine in such an
15 area and where;

16 “(F) for the purpose of determining com-
17 pliance with subparagraph (E), not later than
18 180 days after the date on which qualifying stu-
19 dent completes a residency program, provide to
20 the Secretary information with respect to where
21 the qualifying student is practicing medicine
22 following the period described in such subpara-
23 graph;

24 “(G) except in the case of a waiver for
25 hardship pursuant to section 1892(f)(3), be lia-

1 ble to the United States pursuant to section
2 1892 for any amounts received under this Pro-
3 gram that is determined a past-due obligation
4 under subsection (b)(3) of such section in the
5 case qualifying student fails to complete all of
6 the requirements of this agreement under this
7 subsection; and

8 “(H) for the purpose of determining the
9 amount of Pathway to Practice medical scholar-
10 ship vouchers paid or incurred by a qualifying
11 medical school or any provider of a post-bacca-
12 laurate program referred to in subsection
13 (b)(2)(A) for the costs of tuition under para-
14 graph (4)(A), consent to any personally identi-
15 fying information being shared with the Sec-
16 retary of the Treasury.

17 “(6) RESPONSIBILITIES OF PARTICIPATING
18 EDUCATIONAL INSTITUTIONS.—Each annual award
19 of an amount of Pathway to Practice medical schol-
20 arship voucher under paragraph (2) shall be made
21 with respect to a specific qualifying medical school
22 or post-baccalaureate program that is not more than
23 2 years and such school or program shall (as a con-
24 dition of, and prior to, such award being made with
25 respect to such school or program)—

1 “(A) submit to the Secretary such infor-
2 mation as the Secretary may require to deter-
3 mine the amount of such award on the basis of
4 the costs of the costs of the items specified
5 under paragraph (4) (except for subparagraph
6 (D)) with respect to such school or program,
7 and

8 “(B) enter into an agreement with the Sec-
9 retary under which such school or provider will
10 verify (in such manner as the Secretary may
11 provide) that amounts paid by such school or
12 provider to the qualifying student are used for
13 such costs.

14 “(e) DEFINITIONS.—In this section:

15 “(1) HEALTH PROFESSIONAL SHORTAGE
16 AREA.—The term ‘health professional shortage area’
17 has the meaning given such term in subparagraphs
18 (A) or (B) of section 332(a)(1) of the Public Health
19 Service Act.

20 “(2) INITIAL RESIDENCY PERIOD.—The term
21 ‘initial residency period’ has the meaning given such
22 term in section 1886(h)(5)(F).

23 “(3) MEDICALLY UNDERSERVED AREA.—The
24 term ‘medically underserved area’ means an area

1 designated pursuant to section 330(b)(3)(A) of the
2 Public Health Service Act.

3 “(4) PELL GRANT RECIPIENT.—The term ‘Pell
4 Grant recipient’ has the meaning given such term in
5 section 322(3) of the Higher Education Act of 1965.

6 “(5) PERIOD OF BOARD ELIGIBILITY.—The
7 term ‘period of board eligibility’ has the meaning
8 given such term in section 1886(h)(5)(G).

9 “(6) QUALIFYING MEDICAL SCHOOL.—The term
10 ‘qualifying medical school’ means a school of medi-
11 cine accredited by the Liaison Committee on Medical
12 Education of the American Medical Association and
13 the Association of American Medical Colleges (or ap-
14 proved by such Committee as meeting the standards
15 necessary for such accreditation) or a school of oste-
16 opathy accredited by the American Osteopathic As-
17 sociation, or approved by such Association as meet-
18 ing the standards necessary for such accreditation
19 which—

20 “(A) for each academic year, enrolls at
21 least 10 qualifying students who are in enrolled
22 in such a school;

23 “(B) requires qualifying students to enroll
24 in didactic coursework and clinical experience
25 applicable to practicing medicine in health pro-

1 fessional shortage areas, medically underserved
2 areas, or rural areas, including—

3 “(i) clinical rotations in such areas in
4 applicable specialties (as applicable and as
5 available);

6 “(ii) coursework or training experi-
7 ences focused on medical issues prevalent
8 in such areas and cultural and structural
9 competency; and

10 “(C) is located in a State (as defined in
11 section 210(h)).

12 “(7) RURAL AREA.—The term ‘rural area’ has
13 the meaning given such term in section
14 1886(d)(2)(D).

15 “(f) PENALTY FOR FALSE INFORMATION.—Any per-
16 son who knowingly and willfully obtains by fraud, false
17 statement, or forgery, or fails to refund any funds, assets,
18 or property provided under this section or attempts to so
19 obtain by fraud, false statement or forgery, or fail to re-
20 fund any funds, assets, or property, received pursuant to
21 this section shall be fined not more than \$20,000 or im-
22 prisoned for not more than 5 years, or both.”.

23 (2) AGREEMENTS.—Section 1892 of the Social
24 Security Act (42 U.S.C. 1395ccc) is amended—

25 (A) in subsection (a)(1)(A)—

1 (i) by striking “, or the” and inserting
2 “, the”; and

3 (ii) by inserting “or the Rural and
4 Underserved Pathway to Practice Training
5 Program for Post- Baccalaureate and Med-
6 ical Students under section 1899C” before
7 “, owes a past-due obligation”;

8 (B) in subsection (b)—

9 (i) in paragraph (1), by striking at
10 the end “or”;

11 (ii) in paragraph (2), by striking the
12 period at the end and inserting “; or”; and

13 (iii) by adding the end the following
14 new paragraph:

15 “(3) subject to subsection (f), owed by an indi-
16 vidual to the United States by breach of an agree-
17 ment under section 1899C(c) and which payment
18 has not been paid by the individual for any amounts
19 received under the Rural and Underserved Pathway
20 to Practice Training Program for Post-Bacca-
21 laureate and Medical Students (and accrued interest
22 determined in accordance with subsection (f)(4)) in
23 the case such individual fails to complete the re-
24 quirements of such agreement.”; and

1 (C) by adding at the end the following new
2 subsection:

3 “(f) AUTHORITIES WITH RESPECT TO THE COLLEC-
4 TION UNDER THE PATHWAY TO PRACTICE TRAINING
5 PROGRAM.—The Secretary—

6 “(1) shall require payment to the United States
7 for any amount of damages that the United States
8 is entitled to recover under subsection (b)(3), within
9 the 5-year period beginning on the date an eligible
10 individual fails to complete the requirements of such
11 agreement under section 1899C(d)(5) (or such
12 longer period beginning on such date as specified by
13 the Secretary), and any such amounts not paid with-
14 in such period shall be subject to collection through
15 deductions in Medicare payments pursuant to sub-
16 section (e);

17 “(2) may allow payments described in para-
18 graph (1) to be paid in installments over such 5-year
19 period, which shall accrue interest in an amount de-
20 termined pursuant to paragraph (5);

21 “(3) may waive the requirement for an indi-
22 vidual to pay a past-due obligation under subsection
23 (b)(3) in the case of hardship (as determined by the
24 Secretary);

1 “(4) may not disclose any past-due obligation
2 under subsection (b)(3) that is owed to the United
3 States to any credit reporting agency that the
4 United States entitled to be recovered the United
5 States under this section; and

6 “(5) shall make a final determination of wheth-
7 er the amount of payment under section 1899C
8 made to a qualifying student (as described in sub-
9 section (b) of such section) was in excess of or less
10 than the amount of payment that is due, and pay-
11 ment of such excess or deficit is not made (or ef-
12 fected by offset) within 90 days of the date of the
13 determination, and interest shall accrue on the bal-
14 ance of such excess or deficit not paid or offset (to
15 the extent that the balance is owed by or owing to
16 the provider) at a rate determined in accordance
17 with the regulations of the Secretary of the Treasury
18 applicable to charges for late payments.”.

19 **SEC. 137602. FUNDING FOR THE RURAL AND UNDERSERVED**
20 **PATHWAY TO PRACTICE TRAINING PRO-**
21 **GRAMS FOR POST-BACCALAUREATE STU-**
22 **DENTS AND MEDICAL STUDENTS.**

23 (a) IN GENERAL.—Subpart C of part IV of sub-
24 chapter A of chapter 1 of the Internal Revenue Code of
25 1986, as amended by the preceding provisions of this Act,

1 is amended by inserting after section 36F the following
2 new section:

3 **“SEC. 36G. PATHWAY TO PRACTICE MEDICAL SCHOLAR-**
4 **SHIP VOUCHER CREDIT.**

5 “(a) IN GENERAL.—In the case of a qualified edu-
6 cational institution, there shall be allowed as a credit
7 against the tax imposed by this subtitle for any taxable
8 year an amount equal to the aggregate amount paid or
9 incurred by such institution during such taxable year pur-
10 suant to any Pathway to Practice medical scholarship
11 voucher awarded to a qualifying student with respect to
12 such institution.

13 “(b) DETERMINATION OF AMOUNTS PAID PURSUANT
14 TO QUALIFIED SCHOLARSHIP VOUCHERS, ETC.—For pur-
15 poses of this section—

16 “(1) an amount shall be treated as paid or in-
17 curred pursuant to an annual award of a Pathway
18 to Practice medical scholarship voucher only if such
19 amount is paid or incurred in reimbursement, or an-
20 ticipation of, an expense described in subparagraphs
21 (A) through (E) of paragraph (4) of section
22 1899C(d) of the Social Security Act and is subject
23 to verification in such manner as the Secretary of
24 Health and Human Services may provide under
25 paragraph (6) of such section, and

1 “(2) in the case of any amount credited by a
2 qualified educational institution against a liability
3 owed by the qualifying student to such institution,
4 such amount shall be treated as paid by such insti-
5 tution to such student as of the date that such liabil-
6 ity would otherwise be due.

7 “(c) DEFINITIONS.—For purposes of this section—

8 “(1) QUALIFIED EDUCATIONAL INSTITUTION.—
9 The term ‘qualified educational institution’ means,
10 with respect to any annual award of a Pathway to
11 Practice medical scholarship voucher—

12 “(A) any qualifying medical school (as de-
13 fined in subsection (e)(6) of section 1899C of
14 the Social Security Act), and

15 “(B) any provider of a post-baccalaureate
16 program referred to in subsection (b)(2)(A) of
17 such section,

18 which meets the requirements of subsection (d)(6) of
19 such section.

20 “(2) QUALIFYING STUDENT.—The term ‘quali-
21 fying student’ means any student to whom the Sec-
22 retary of Health and Human Services has made an
23 annual award of a Pathway to Practice medical
24 scholarship voucher under section 1899C of the So-
25 cial Security Act.

1 “(3) ANNUAL AWARD OF A PATHWAY TO PRAC-
2 TICE MEDICAL SCHOLARSHIP VOUCHER.—The term
3 ‘annual award of a Pathway to Practice medical
4 scholarship voucher’ means the annual award of a
5 Pathway to Practice medical scholarship voucher re-
6 ferred to in section 1899C(d)(3) of the Social Secu-
7 rity Act.

8 “(d) COORDINATION OF ACADEMIC AND TAXABLE
9 YEARS.—The credit allowed under subsection (a) with re-
10 spect to any Pathway to Practice medical scholarship
11 voucher shall not exceed the amount of such voucher which
12 is for expenses described in subparagraphs (A) through
13 (E) of section 1899C(d)(4) of the Social Security Act, re-
14 duced by any amount of such voucher with respect to
15 which credit was allowed under this section for any prior
16 taxable year.

17 “(e) REGULATIONS.—The Secretary shall issue such
18 regulations or other guidance as are necessary or appro-
19 priate to carry out the purposes of this section.”.

20 (b) CONFORMING AMENDMENTS.—

21 (1) Section 6211(b)(4)(A), as amended by the
22 preceding provisions of this Act, is amended by in-
23 serting “36G,” after “36F,”.

24 (2) Paragraph (2) of section 1324(b) of title
25 31, United States Code, as amended by the pre-

1 ceding provisions of this Act, is amended by insert-
2 ing “36G,” after “36F,”.

3 (3) The table of sections for subpart C of part
4 IV of subchapter A of chapter 1 of the Internal Rev-
5 enue Code of 1986, and amended by the preceding
6 provisions of this Act, is amended by inserting after
7 the item relating to section 36F the following new
8 item:

“Sec. 36G. Pathway to Practice medical scholarship voucher credit.”.

9 (c) INFORMATION SHARING.—The Secretary of
10 Health and Human Services shall annually provide the
11 Secretary of the Treasury such information regarding the
12 program under section 1899C of the Social Security Act
13 as the Secretary of the Treasury may require to admin-
14 ister the tax credits determined under section 36G of the
15 Internal Revenue Code of 1986, including information to
16 identify qualifying students and the qualified educational
17 institutions at which such students are enrolled and the
18 amount of the annual award of the Pathway to Practice
19 medical scholarship voucher awarded to each such student
20 with respect to such institution. Terms used in this sub-
21 paragraph shall have the same meaning as when used in
22 such section 36G.

23 (d) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to taxable years ending after the
25 date of the enactment of this Act.

1 **SEC. 137603. ESTABLISHING RURAL AND UNDERSERVED**
2 **PATHWAY TO PRACTICE TRAINING PRO-**
3 **GRAMS FOR MEDICAL RESIDENTS.**

4 Section 1886 of the Social Security Act (42 U.S.C.
5 1395ww) is amended—

6 (1) in subsection (d)(5)(B)(v), by inserting
7 “(h)(4)(H)(vii),” after “The provisions of sub-
8 sections (h)(4)(H)(vi),”; and

9 (2) in subsection (h)(4)(H), by adding at the
10 end the following new clause:

11 “(vii) INCREASE IN FULL-TIME EQUIV-
12 ALENT LIMITATION FOR HOSPITALS IMPL-
13 MENTING PATHWAY TRAINING PRO-
14 GRAMS.—

15 “(I) IN GENERAL.—For cost re-
16 porting periods beginning on or after
17 October 1, 2026, during which a resi-
18 dent trains in an applicable hospital
19 or hospitals (as defined in subclause
20 (II) in an approved medical residency
21 training program), the Secretary
22 shall, after any adjustment made
23 under any preceding provision of this
24 paragraph or under any of paragraphs
25 (7) through (9), subject to subclause
26 (III), increase the limitation under

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1 subparagraph (F) for such cost re-
2 porting period by the number of full-
3 time equivalent residents so trained
4 under such program during such pe-
5 riod (in this clause, referred to as the
6 ‘Rural and Underserved Pathway to
7 Practice Training Programs for Med-
8 ical Residents’ or ‘Program’).

9 “(II) APPLICABLE HOSPITAL OR
10 HOSPITALS DEFINED.—For purposes
11 of this clause, the term ‘applicable
12 hospital or hospitals’ means any hos-
13 pital that has been recognized by the
14 Accreditation Council for Graduate
15 Medical Education as meeting at least
16 the following requirements for their
17 approved medical residency training
18 programs:

19 “(aa) The programs provide
20 mentorships for residents.

21 “(bb) The programs include
22 cultural and structural com-
23 petency as part of the training of
24 residents under the programs.

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1 “(cc) The programs have a
2 demonstrated record of training
3 medical residents in medically
4 underserved areas, rural areas, or
5 health professional shortage
6 areas.

7 “(dd) The hospital agrees to
8 promote community-based train-
9 ing of residents under their pro-
10 grams, as appropriate.

11 “(III) ANNUAL LIMITATION FOR
12 NUMBER OF RESIDENTS IN PRO-
13 GRAM.—The Secretary shall ensure
14 that, during any 1-year period and
15 across all approved medical residency
16 training programs described in sub-
17 clause (I), not more than 1,000 full-
18 time equivalent residents are trained
19 each year.

20 “(IV) OTHER DEFINITIONS.—

21 “(aa) HEALTH PROFES-
22 SIONAL SHORTAGE AREA.—The
23 team ‘health professional short-
24 age area’ has the meaning given
25 such term in subparagraphs (A)

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1 or (B) of section 332(a)(1) of the
2 Public Health Service Act.

3 “(bb) MEDICAL UNDER-
4 SERVED AREA.—The term ‘medi-
5 cally underserved area’ means an
6 area designated pursuant to sec-
7 tion 330(b)(3)(A) of the Public
8 Health Service Act.

9 “(cc) QUALIFYING MEDICAL
10 SCHOOL.—The term ‘qualifying
11 medical school’ has the meaning
12 given such term in section
13 1899C(e)(6).

14 “(dd) QUALIFYING MEDICAL
15 STUDENT.—The term ‘qualifying
16 medical student’ has the meaning
17 given such term in section
18 1899C(b).

19 “(ee) RURAL AREA.—The
20 term ‘rural area’ has the mean-
21 ing given such term in section
22 1886(d)(2)(D).”.

1 **SEC. 137604. ADMINISTRATIVE FUNDING OF THE RURAL**
2 **AND UNDERSERVED PATHWAY TO PRACTICE**
3 **TRAINING PROGRAMS FOR POST-BACCA-**
4 **LAUREATE STUDENTS, MEDICAL STUDENTS,**
5 **AND MEDICAL RESIDENTS.**

6 The Secretary shall provide for the transfer of
7 \$6,000,000 from the Hospital Insurance Trust Fund es-
8 tablished under section 1817 of the Social Security Act
9 (42 U.S.C. 1395i) and the Federal Supplementary Med-
10 ical Insurance Trust Fund under section 1841 of such Act
11 (42 U.S.C. 1395t), in addition to amounts otherwise avail-
12 able to remain available until expended, to carry out the
13 administration of the Rural and Underserved Pathway to
14 Practice Training Program for Post-Baccalaureate and
15 Medical Students under section 1899C of such Act (42
16 U.S.C. 1395mmm) and the Rural and Underserved Path-
17 way to Practice Training Programs for Medical Residents
18 under section 1886(h)(4)(H)(vii) of such Act (42 U.S.C.
19 1395ww(h)(4)(H)(vii)).

20 **PART 7—HIGHER EDUCATION**

21 **SEC. 137701. CREDIT FOR PUBLIC UNIVERSITY RESEARCH**
22 **INFRASTRUCTURE.**

23 (a) IN GENERAL.—Subpart D of part IV of sub-
24 chapter A of chapter 1, as amended by the preceding pro-
25 visions of this Act, is amended by adding at the end the
26 following new section:

1 **“SEC. 45AA. PUBLIC UNIVERSITY RESEARCH INFRASTRUC-**
2 **TURE CREDIT.**

3 “(a) ALLOWANCE OF CREDIT.—For purposes of sec-
4 tion 38, the public university research infrastructure cred-
5 it determined under this section for a taxable year is an
6 amount equal to 40 percent of the qualified cash contribu-
7 tions made by a taxpayer during such taxable year.

8 “(b) QUALIFIED CASH CONTRIBUTION.—

9 “(1) IN GENERAL.—

10 “(A) DEFINED.—For purposes of sub-
11 section (a), the qualified cash contribution for
12 any taxable year is the aggregate amount con-
13 tributed in cash by a taxpayer during such tax-
14 able year to a certified educational institution
15 in connection with a qualifying project that, but
16 for this section, would be treated as a charitable
17 contribution for purposes of section 170(c).

18 “(B) QUALIFIED CASH CONTRIBUTIONS
19 TAKEN INTO ACCOUNT FOR PURPOSES OF
20 CHARITABLE CONTRIBUTION LIMITATIONS.—

21 Any qualified cash contributions made by a tax-
22 payer under this section shall be taken into ac-
23 count for purposes of determining the percent-
24 age limitations under section 170(b).

25 “(2) DESIGNATION REQUIRED.—A contribution
26 shall only be treated as a qualified cash contribution

1 to the extent that it is designated as such by a cer-
2 tified educational institution under subsection (d).

3 “(c) DEFINITIONS.—For purposes of this section—

4 “(1) QUALIFYING PROJECT.—The term ‘quali-
5 fying project’ means a project to purchase, con-
6 struct, or improve research infrastructure property.

7 “(2) RESEARCH INFRASTRUCTURE PROP-
8 erty.—The term ‘research infrastructure property’
9 means any portion of a property, building, or struc-
10 ture of an eligible educational institution, or any
11 land associated with such property, building, or
12 structure, that is used for research.

13 “(3) ELIGIBLE EDUCATIONAL INSTITUTION.—
14 The term ‘eligible educational institution’ means—

15 “(A) an institution of higher education (as
16 such term is defined in section 101 or 102(c)
17 of the Higher Education Act of 1965) that is
18 a college or university described in section
19 511(a)(2)(B), or

20 “(B) an organization described in section
21 170(b)(1)(A)(iv) or section 509(a)(3) to which
22 authority has been delegated by an institution
23 described in subparagraph (A) for purposes of
24 applying for or administering credit amounts on
25 behalf of such institution.

1 “(4) CERTIFIED EDUCATIONAL INSTITUTION.—

2 The term ‘certified educational institution’ means an
3 eligible educational institution which has been allo-
4 cated a credit amount for a qualifying project and—

5 “(A) has received a certification for such
6 project under subsection (d)(2), and

7 “(B) designates credit amounts to tax-
8 payers for qualifying cash contributions toward
9 such project under subsection (d)(4).

10 “(d) QUALIFYING UNIVERSITY RESEARCH INFRA-
11 STRUCTURE PROGRAM.—

12 “(1) ESTABLISHMENT.—

13 “(A) IN GENERAL.—Not later than 180
14 days after the date of the enactment of this sec-
15 tion, the Secretary, after consultation with the
16 Secretary of Education, shall establish a pro-
17 gram to—

18 “(i) certify and allocate credit
19 amounts for qualifying projects to eligible
20 educational institutions, and

21 “(ii) allow certified educational insti-
22 tutions to designate cash contributions for
23 qualifying projects of such certified edu-
24 cational institutions as qualified cash con-
25 tributions.

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1 “(B) LIMITATIONS.—

2 “(i) ALLOCATION LIMITATION PER IN-
3 STITUTION.—The credit amounts allocated
4 to a certified educational institution under
5 subparagraph (A)(i) for all projects shall
6 not exceed \$50,000,000 per calendar year.

7 “(ii) OVERALL ALLOCATION LIMITA-
8 TION.—

9 “(I) IN GENERAL.—The total
10 amount of qualifying project credit
11 amounts that may be allocated under
12 subparagraph (A)(i) shall not ex-
13 ceed—

14 “(aa) \$500,000,000 for each
15 of calendar years 2022, 2023,
16 2024, 2025, and 2026, and

17 “(bb) \$0 for each subse-
18 quent year.

19 “(II) ROLLOVER OF
20 UNALLOCATED CREDIT AMOUNTS.—

21 Any credit amounts described in sub-
22 clause (I) that are unallocated during
23 a calendar year shall be carried to the
24 succeeding calendar year and added to
25 the limitation allowable under such

1 subclause for such succeeding cal-
2 endar year.

3 “(iii) DESIGNATION LIMITATION.—

4 The aggregate amount of cash contribu-
5 tions which are designated by a certified
6 educational institution as qualifying cash
7 contributions with respect to any quali-
8 fying project shall not exceed 250 percent
9 of the credit amount allocated to such cer-
10 tified educational institution for a quali-
11 fying project under subparagraph (A)(i).

12 “(2) CERTIFICATION APPLICATION.—Each eligi-
13 ble educational institution which applies for certifi-
14 cation of a project under this paragraph shall sub-
15 mit an application in such time, form, and manner
16 as the Secretary may require.

17 “(3) SELECTION CRITERIA FOR ALLOCATIONS
18 TO ELIGIBLE EDUCATIONAL INSTITUTIONS.—The
19 Secretary, after consultation with the Secretary of
20 Education, shall select applications from eligible
21 educational institutions—

22 “(A) based on the extent of the expected
23 expansion of an eligible educational institution’s
24 targeted research within disciplines in science,
25 mathematics, engineering, and technology, and

1 “(B) in a manner that ensures consider-
2 ation is given to eligible educational institutions
3 with full-time student populations of less than
4 12,000.

5 “(4) DESIGNATION OF QUALIFIED CASH CON-
6 TRIBUTIONS TO TAXPAYERS.—The Secretary, after
7 consultation with the Secretary of Education, shall
8 establish a process by which certified educational in-
9 stitutions shall designate cash contributions to such
10 institutions as qualified cash contributions.

11 “(5) DISCLOSURE OF ALLOCATIONS AND DES-
12 IGNATIONS.—

13 “(A) ALLOCATIONS.—The Secretary shall,
14 upon allocating credit amounts to an applicant
15 under this subsection, publicly disclose the iden-
16 tity of the applicant and the credit amount allo-
17 cated to such applicant.

18 “(B) DESIGNATIONS.—Each certified edu-
19 cational institution shall, upon designating con-
20 tributions of a taxpayer as qualified cash con-
21 tributions under this subsection, publicly dis-
22 close the identity of the taxpayer and the
23 amount of contributions designated in such
24 time, form, and manner as the Secretary may
25 require.

1 “(e) REGULATIONS AND GUIDANCE.—The Secretary,
2 after consultation with the Secretary of Education when
3 applicable, shall prescribe such regulations and guidance
4 as may be necessary or appropriate to carry out the pur-
5 poses of this section, including regulations for—

6 “(1) prevention of abuse,

7 “(2) establishment of reporting requirements,

8 “(3) establishment of selection criteria for ap-
9 plications, and

10 “(4) disclosure of allocations.

11 “(f) PENALTY FOR NONCOMPLIANCE.—

12 “(1) IN GENERAL.—If at any time during the
13 5-year period beginning on the date of the allocation
14 of credit amounts to a certified educational institu-
15 tion under subsection (d)(1)(A)(i) there is a non-
16 compliance event with respect to such credit
17 amounts, then the following rules shall apply:

18 “(A) GENERAL RULE.—Any cash contribu-
19 tion designated as a qualifying cash contribu-
20 tion with respect to a qualifying project for
21 which such credit amounts were allocated under
22 subsection (d)(1)(A)(ii) shall be treated as un-
23 related business taxable income (as defined in
24 section 512) of such certified educational insti-
25 tution.

1 “(B) RULE FOR UNUSED CREDIT
2 AMOUNTS.—In the case of unused credit
3 amounts described under paragraph (2)(A) and
4 identified pursuant to subsection (g), the Sec-
5 retary shall reallocate any portion of such un-
6 used credit amounts to certified educational in-
7 stitutions in lieu of imposing the general rule
8 under subparagraph (A).

9 “(2) NONCOMPLIANCE EVENT.—For purposes
10 of this subsection, the term ‘noncompliance event’
11 means, with respect to a credit amount allocated to
12 a certified educational institution—

13 “(A) cash contributions equaling the
14 amount of such credit amount are not des-
15 ignated as qualifying cash contributions within
16 2 years after December 31 of the year such
17 credit amount is allocated,

18 “(B) a qualifying project with respect to
19 which such credit amount was allocated is not
20 placed in service within either—

21 “(i) 4 years after December 31 of the
22 year such credit amount is allocated, or

23 “(ii) a period of time that the Sec-
24 retary determines is appropriate, or

1 “(C) the research infrastructure property
2 placed in service as part of a qualifying project
3 with respect to which such credit amount was
4 allocated ceases to be used for research within
5 five years after such property is placed in serv-
6 ice.

7 “(g) REVIEW AND REALLOCATION OF CREDIT
8 AMOUNTS.—

9 “(1) REVIEW.—Not later than 5 years after the
10 date of enactment of this section, the Secretary shall
11 review the credit amounts allocated under this sec-
12 tion as of such date.

13 “(2) REALLOCATION.—

14 “(A) IN GENERAL.—The Secretary may re-
15 allocate credit amounts allocated under this sec-
16 tion if the Secretary determines, as of the date
17 of the review in paragraph (1), that such credit
18 amounts are subject to a noncompliance event.

19 “(B) ADDITIONAL PROGRAM.—If the Sec-
20 retary determines that credits under this sec-
21 tion are available for reallocation pursuant to
22 the requirements set forth in subparagraph (A),
23 the Secretary is authorized to conduct an addi-
24 tional program for applications for certification.

1 “(C) DEADLINE FOR REALLOCATION.—

2 The Secretary shall not certify any project, or
3 reallocate any credit amount, pursuant to this
4 paragraph after December 31, 2031.

5 “(h) DENIAL OF DOUBLE BENEFIT.—No credit or
6 deduction shall be allowed under any other provision of
7 this chapter for any qualified cash contribution for which
8 a credit is allowed under this section.

9 “(i) RULE FOR TRUSTS AND ESTATES.—For pur-
10 poses of this section, rules similar to the rules of sub-
11 section (d) of section 52 shall apply.

12 “(j) TERMINATION.—This section shall not apply to
13 qualified cash contributions made after December 31,
14 2033.”.

15 (b) CREDIT MADE PART OF GENERAL BUSINESS
16 CREDIT.—Subsection (b) of section 38, as amended by the
17 preceding provisions of this Act, is amended by striking
18 “plus” at the end of paragraph (38), by striking the period
19 at the end of paragraph (39) and inserting “, plus”, and
20 by adding at the end the following new paragraph:

21 “(43) the public university research infrastruc-
22 ture credit determined under section 45AA.”.

23 (c) CLERICAL AMENDMENT.—The table of sections
24 for subpart D of part IV of subchapter A of chapter 1,

1 as amended by the preceding provisions of this Act, is
2 amended by adding at the end the following new item:

“Sec. 45AA. Public university research infrastructure credit.”.

3 (d) **EFFECTIVE DATE.**—The amendments made by
4 this section shall apply to qualified cash contributions
5 made after December 31, 2021.

6 **SEC. 137702. MODIFICATION OF EXCISE TAX ON INVEST-**
7 **MENT INCOME OF PRIVATE COLLEGES AND**
8 **UNIVERSITIES.**

9 (a) **PHASEOUT OF INVESTMENT INCOME EXCISE TAX**
10 **FOR PRIVATE COLLEGES AND UNIVERSITIES PROVIDING**
11 **SUFFICIENT GRANTS AND SCHOLARSHIPS.**—Section 4968
12 is amended by adding at the end the following new sub-
13 section:

14 “(e) **PHASEOUT FOR INSTITUTIONS PROVIDING**
15 **QUALIFIED AID.**—

16 “(1) **IN GENERAL.**—The amount of tax imposed
17 by subsection (a) (determined without regard to this
18 subsection) shall be reduced (but not below zero) by
19 the amount which bears the same ratio to such
20 amount of tax (as so determined) as—

21 “(A) the excess (if any) of—

22 “(i) the aggregate amount of qualified
23 aid awards provided by the institution to
24 its first-time, full-time undergraduate stu-

1 dents for academic periods beginning dur-
2 ing the taxable year, over

3 “(ii) an amount equal to 20 percent of
4 the aggregate undergraduate tuition and
5 fees received by the institution from first-
6 time, full-time undergraduate students for
7 such academic periods, bears to

8 “(B) an amount equal to 13 percent of
9 such aggregate undergraduate tuition and fees
10 so received.

11 “(2) INSTITUTION MUST MEET REPORTING RE-
12 QUIREMENT.—

13 “(A) IN GENERAL.—Paragraph (1) shall
14 not apply to an applicable educational institu-
15 tion for a taxable year unless such institution
16 furnishes to the Secretary, and makes widely
17 available, a statement detailing the average ag-
18 gregate amount of Federal student loans re-
19 ceived by a student for attendance at the insti-
20 tution, averaged among each of the following
21 groups of first-time, full-time undergraduate
22 students who during the taxable year completed
23 a course of study for which the institution
24 awarded a baccalaureate degree:

25 “(i) All such students.

1 “(ii) The students who have been
2 awarded a Federal Pell Grant under sub-
3 part 1 of part A of title IV of the Higher
4 Education Act of 1965 for attendance at
5 the institution.

6 “(iii) The students who received work-
7 study assistance under part C of title IV of
8 such Act for attendance at such institu-
9 tion.

10 “(iv) The students who were provided
11 such Federal student loans.

12 “(B) FORM AND MANNER FOR REPORT.—
13 Such statement shall be furnished at such time
14 and in such form and manner, and made widely
15 available, under such regulations or guidance as
16 the Secretary may prescribe.

17 “(C) FEDERAL STUDENT LOANS.—For
18 purposes of this paragraph, the term ‘Federal
19 student loans’ means a loan made under part D
20 of title IV of the Higher Education Act of
21 1965, except such term does not include a Fed-
22 eral Direct PLUS Loan made on behalf of a de-
23 pendent student.

24 “(3) OTHER DEFINITIONS.—For purposes of
25 this subsection—

1 “(A) FIRST-TIME, FULL-TIME UNDER-
2 GRADUATE STUDENT.—The term ‘first-time,
3 full-time undergraduate student’ shall have the
4 same meaning as when used in section 132 of
5 the Higher Education Act of 1965.

6 “(B) QUALIFIED AID AWARDS.—The term
7 ‘qualified aid awards’ means, with respect to
8 any applicable educational institution, grants
9 and scholarships to the extent used for under-
10 graduate tuition and fees.

11 “(C) UNDERGRADUATE TUITION AND
12 FEES.—The term ‘undergraduate tuition and
13 fees’ means, with respect to any institution, the
14 tuition and fees required for the enrollment or
15 attendance of a student as an undergraduate
16 student at the institution.”.

17 (b) INFLATION ADJUSTMENT TO PER STUDENT
18 ASSET THRESHOLD.—Section 4968(b) is amended by
19 adding at the end the following new paragraph:

20 “(3) INFLATION ADJUSTMENT.—In the case of
21 any taxable year beginning after 2022, the dollar
22 amount in paragraph (1)(D) shall be increased by
23 an amount equal to—

24 “(A) such dollar amount, multiplied by

1 “(B) the cost-of-living adjustment deter-
2 mined under section 1(f)(3) for the calendar
3 year in which the taxable year begins, deter-
4 mined by substituting ‘calendar year 2021’ for
5 ‘calendar year 2016’ in subparagraph (A)(ii)
6 thereof.

7 If any increase determined under this paragraph is
8 not a multiple of \$1,000, such increase shall be
9 rounded to the nearest multiple of \$1,000.”.

10 (c) CLARIFICATION OF 500 STUDENT THRESH-
11 OLD.—Section 4968(b)(1)(A) is amended by inserting
12 “below the graduate level” after “500 tuition-paying stu-
13 dents”.

14 (d) EFFECTIVE DATE.—The amendment made by
15 this section shall apply to taxable years beginning after
16 December 31, 2021.

17 **SEC. 137703. TREATMENT OF FEDERAL PELL GRANTS FOR**
18 **INCOME TAX PURPOSES.**

19 (a) EXCLUSION FROM GROSS INCOME.—Section
20 117(b)(1) is amended by striking “received by an indi-
21 vidual” and all that follows and inserting “received by an
22 individual—

23 “(A) as a scholarship or fellowship grant
24 to the extent the individual establishes that, in
25 accordance with the conditions of the grant,

1 such amount was used for qualified tuition and
2 related expenses, or

3 “(B) as a Federal Pell Grant under section
4 401 of the Higher Education Act of 1965.”.

5 (b) TREATMENT FOR PURPOSES OF AMERICAN OP-
6 PORTUNITY TAX CREDIT AND LIFETIME LEARNING
7 CREDIT.—Section 25A(g)(2) is amended—

8 (1) in subparagraph (A), by inserting “de-
9 scribed in section 117(b)(1)(A)” after “a qualified
10 scholarship”, and

11 (2) in subparagraph (C), by inserting “or Fed-
12 eral Pell Grant under section 401 of the Higher
13 Education Act of 1965” after “within the meaning
14 of section 102(a)”.

15 (c) EFFECTIVE DATE.—The amendment made by
16 this section shall apply to taxable years beginning after
17 December 31, 2021.

18 **SEC. 137704. REPEAL OF DENIAL OF AMERICAN OPPOR-**
19 **TUNITY TAX CREDIT ON BASIS OF FELONY**
20 **DRUG CONVICTION.**

21 (a) IN GENERAL.—Section 25A(b)(2) is amended by
22 striking subparagraph (D).

23 (b) EFFECTIVE DATE.—The amendment made by
24 this section shall apply to taxable years beginning after
25 December 31, 2021.

1 **Subtitle I—Responsibly Funding**
2 **Our Priorities**

3 **SEC. 138001. AMENDMENT OF 1986 CODE.**

4 Except as otherwise expressly provided, whenever in
5 this subtitle an amendment or repeal is expressed in terms
6 of an amendment to, or repeal of, a section or other provi-
7 sion, the reference shall be considered to be made to a
8 section or other provision of the Internal Revenue Code
9 of 1986.

10 **PART 1—CORPORATE AND INTERNATIONAL TAX**
11 **REFORMS**

12 **Subpart A—Corporate Tax Rate**

13 **SEC. 138101. INCREASE IN CORPORATE TAX RATE.**

14 (a) IN GENERAL.—Section 11(b) is amended to read
15 as follows:

16 “(b) AMOUNT OF TAX.—

17 “(1) IN GENERAL.—The amount of the tax im-
18 posed by subsection (a) shall be the sum of—

19 “(A) 18 percent of so much of the taxable
20 income as does not exceed \$400,000,

21 “(B) 21 percent of so much of the taxable
22 income as exceeds \$400,000 but does not ex-
23 ceed \$5,000,000, and

24 “(C) 26.5 percent of so much of the tax-
25 able income as exceeds \$5,000,000.

1 In the case of a corporation which has taxable in-
2 come in excess of \$10,000,000 for any taxable year,
3 the amount of tax determined under the preceding
4 sentence for such taxable year shall be increased by
5 the lesser of (i) 3 percent of such excess, or (ii)
6 \$287,000.

7 “(2) CERTAIN PERSONAL SERVICE CORPORA-
8 TION NOT ELIGIBLE FOR GRADUATED RATES.—Not-
9 withstanding paragraph (1), the amount of the tax
10 imposed by subsection (a) on the taxable income of
11 a qualified personal service corporation (as defined
12 in section 448(d)(2)) shall be equal to 26.5 percent
13 of the taxable income.”.

14 (b) PROPORTIONAL ADJUSTMENT OF DEDUCTION
15 FOR DIVIDENDS RECEIVED.—

16 (1) IN GENERAL.—Section 243(a)(1) is amend-
17 ed by striking “50 percent” and inserting “60 per-
18 cent”.

19 (2) DIVIDENDS FROM 20-PERCENT OWNED COR-
20 PORATIONS.—Section 243(c)(1) is amended—

21 (A) prior to amendment by subparagraph
22 (B), by striking “65 percent” and inserting
23 “72.5 percent”, and

24 (B) by striking “50 percent” and inserting
25 “60 percent”.

1 (c) CONFORMING AMENDMENT.—Section 1561 is
2 amended—

3 (1) by amending subsection (a) to read as fol-
4 lows:

5 “(a) IN GENERAL.—The component members of a
6 controlled group of corporations on a December 31 shall,
7 for their taxable years which include such December 31,
8 be limited for purposes of this subtitle to—

9 “(1) amounts in each taxable income bracket in
10 the subparagraphs of section 11(b)(1) which do not
11 aggregate more than the maximum amount in each
12 such bracket to which a corporation which is not a
13 component member of a controlled group is entitled,
14 and

15 “(2) one \$250,000 (\$150,000 if any component
16 member is a corporation described in section
17 535(c)(2)(B)) amount for purposes of computing the
18 accumulated earnings credit under section 535(c)(2)
19 and (3).

20 The amounts specified in paragraph (1) shall be divided
21 equally among the component members of such group on
22 such December 31 unless all of such component members
23 consent (at such time and in such manner as the Secretary
24 shall by regulations prescribe) to an apportionment plan
25 providing for an unequal allocation of such amounts. The

1 amounts specified in paragraph (2) shall be divided equal-
2 ly among the component members of such group on such
3 December 31 unless the Secretary prescribes regulations
4 permitting an unequal allocation of such amounts. Not-
5 withstanding paragraph (1), in applying the last sentence
6 of section 11(b)(1) to such component members, the tax-
7 able income of all such component members shall be taken
8 into account and any increase in tax under such last sen-
9 tence shall be divided among such component members in
10 the same manner as amounts under paragraph (1).”, and

11 (2) by striking “**ACCUMULATED EARNINGS**
12 **CREDIT**” in the heading and inserting “**CERTAIN**
13 **MULTIPLE TAX BENEFITS**”.

14 (d) **EFFECTIVE DATE.**—The amendments made by
15 this section shall apply to taxable years beginning after
16 December 31, 2021.

17 (e) **NORMALIZATION REQUIREMENTS.**—

18 (1) **IN GENERAL.**—A normalization method of
19 accounting shall not be treated as being used with
20 respect to any public utility property for purposes of
21 section 167 or 168 of the Internal Revenue Code of
22 1986 if the taxpayer, in computing its cost of service
23 for ratemaking purposes and reflecting operating re-
24 sults in its regulated books of account, reduces the
25 tax reserve deficit less rapidly or to a lesser extent

1 than such reserve would be reduced under the aver-
2 age rate assumption method.

3 (2) ALTERNATIVE METHOD FOR CERTAIN TAX-
4 PAYERS.—If, as of the first day of the taxable year
5 that includes the date of enactment of this Act—

6 (A) the taxpayer was required by a regu-
7 latory agency to compute depreciation for public
8 utility property on the basis of an average life
9 or composite rate method, and

10 (B) the taxpayer’s books and underlying
11 records did not contain the vintage account
12 data necessary to apply the average rate as-
13 sumption method,

14 the taxpayer will be treated as using a normalization
15 method of accounting if, with respect to such juris-
16 diction, the taxpayer uses the alternative method for
17 public utility property that is subject to the regu-
18 latory authority of that jurisdiction.

19 (3) DEFINITIONS.—For purposes of this sub-
20 section—

21 (A) TAX RESERVE DEFICIT.—The term
22 “tax reserve deficit” means the excess of—

23 (i) the amount which would be the
24 balance in the reserve for deferred taxes
25 (as described in section 168(i)(9)(A)(ii) of

1 the Internal Revenue Code of 1986, or sec-
2 tion 167(l)(3)(G)(ii) of such Code as in ef-
3 fect on the day before the date of the en-
4 actment of the Tax Reform Act of 1986)
5 if the amount of such reserve were deter-
6 mined by assuming that the corporate rate
7 increases provided in the amendments
8 made by this section were in effect for all
9 prior periods, over

10 (ii) the balance in such reserve as of
11 the day before such corporate rate in-
12 creases take effect.

13 (B) AVERAGE RATE ASSUMPTION METH-
14 OD.—The average rate assumption method is
15 the method under which the excess in the re-
16 serve for deferred taxes is reduced over the re-
17 maining lives of the property as used in its reg-
18 ulated books of account which gave rise to the
19 reserve for deferred taxes. Under such method,
20 if timing differences for the property reverse,
21 the amount of the adjustment to the reserve for
22 the deferred taxes is calculated by multi-
23 plying—

24 (i) the ratio of the aggregate deferred
25 taxes for the property to the aggregate

1 timing differences for the property as of
2 the beginning of the period in question, by

3 (ii) the amount of the timing dif-
4 ferences which reverse during such period.

5 (C) ALTERNATIVE METHOD.—The “alter-
6 native method” is the method in which the tax-
7 payer—

8 (i) computes the tax reserve deficit on
9 all public utility property included in the
10 plant account on the basis of the weighted
11 average life or composite rate used to com-
12 pute depreciation for regulatory purposes,
13 and

14 (ii) reduces the tax reserve deficit rat-
15 ably over the remaining regulatory life of
16 the property.

17 (4) TREATMENT OF NORMALIZATION VIOLA-
18 TION.—If, for any taxable year ending after the date
19 of the enactment of this Act, the taxpayer does not
20 use a normalization method of accounting, such tax-
21 payer shall not be treated as using a normalization
22 method of accounting for purposes of subsections
23 (f)(2) and (i)(9)(C) of section 168 of the Internal
24 Revenue Code of 1986.

1 interest includible in the gross income of such cor-
2 poration shall not exceed the allowable percentage of
3 110 percent of such excess.

4 “(2) SPECIFIED DOMESTIC CORPORATION.—For
5 purposes of this subsection—

6 “(A) IN GENERAL.—The term ‘specified
7 domestic corporation’ means any domestic cor-
8 poration other than—

9 “(i) any corporation if the excess of—

10 “(I) the average amount of inter-
11 est paid or accrued by such corpora-
12 tion during the 3-taxable-year period
13 ending with the taxable year to which
14 paragraph (1) applies, over

15 “(II) the average amount of in-
16 terest includible in the gross income
17 of such corporation for such 3-tax-
18 able-year period,

19 does not exceed \$12,000,000,

20 “(ii) any corporation to which para-
21 graph (1) of section 163(j) does not apply
22 by reason of paragraph (3) thereof (relat-
23 ing to exemption for certain small busi-
24 nesses), and

1 “(iii) any S corporation, real estate
2 investment trust, or regulated investment
3 company.

4 “(B) AGGREGATION RULE.—For purposes
5 of subparagraph (A)(i), all domestic corpora-
6 tions which are members of the same inter-
7 national financial reporting group shall be
8 treated as a single corporation.

9 “(3) INTERNATIONAL FINANCIAL REPORTING
10 GROUP.—For purposes of this subsection—

11 “(A) IN GENERAL.—The term ‘inter-
12 national financial reporting group’ means, with
13 respect to any reporting year, two or more enti-
14 ties if—

15 “(i) either—

16 “(I) at least one entity is a for-
17 eign corporation engaged in a trade or
18 business within the United States, or

19 “(II) at least one entity is a do-
20 mestic corporation and another entity
21 is a foreign corporation, and

22 “(ii) such entities are included in the
23 same applicable financial statement with
24 respect to such year.

25 “(B) ADDITIONAL MEMBERS.—

1 “(i) IN GENERAL.—To the extent pro-
2 vided by the Secretary in regulations or
3 other guidance, the specified domestic cor-
4 poration referred to in paragraph (1) may
5 elect (at such time and in such manner as
6 the Secretary may provide) for purposes of
7 this subsection to treat any eligible cor-
8 poration as a member of the international
9 financial reporting group of which such
10 specified domestic corporation is a member
11 if such eligible corporation maintains (and
12 such specified domestic corporation has ac-
13 cess to) such books and records as the Sec-
14 retary determines are satisfactory to allow
15 for the application of this subsection with
16 respect to such eligible corporation. Any
17 election under this clause shall apply only
18 with respect to the specified domestic cor-
19 poration which makes such election.

20 “(ii) ELIGIBLE CORPORATION.—The
21 term ‘eligible corporation’ means, with re-
22 spect to any international financial report-
23 ing group, any corporation if at least 20
24 percent of the stock of such corporation
25 (determined by vote and value) is held (di-

1 rectly or indirectly) by members of such
2 international financial reporting group (de-
3 termined without regard to this clause).

4 “(4) ALLOWABLE PERCENTAGE.—For purposes
5 of this subsection—

6 “(A) IN GENERAL.—The term ‘allowable
7 percentage’ means, with respect to any specified
8 domestic corporation for any taxable year, the
9 ratio (expressed as a percentage and not great-
10 er than 100 percent) of—

11 “(i) such corporation’s allocable share
12 of the international financial reporting
13 group’s reported net interest expense for
14 the reporting year of such group which
15 ends in or with such taxable year of such
16 corporation, over

17 “(ii) such corporation’s reported net
18 interest expense for such reporting year of
19 such group.

20 “(B) REPORTED NET INTEREST EX-
21 PENSE.—The term ‘reported net interest ex-
22 pense’ means—

23 “(i) with respect to any international
24 financial reporting group for any reporting
25 year, the excess of—

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1 “(I) the aggregate amount of in-
2 terest expense reported in such
3 group’s applicable financial state-
4 ments for such taxable year, over

5 “(II) the aggregate amount of in-
6 terest income reported in such group’s
7 applicable financial statements for
8 such taxable year, and

9 “(ii) with respect to any specified do-
10 mestic corporation for any reporting year,
11 the excess of—

12 “(I) the amount of interest ex-
13 pense of such corporation reported in
14 the books and records of the inter-
15 national financial reporting group
16 which are used in preparing such
17 group’s applicable financial state-
18 ments for such taxable year, over

19 “(II) the amount of interest in-
20 come of such corporation reported in
21 such books and records.

22 “(C) ALLOCABLE SHARE OF REPORTED
23 NET INTEREST EXPENSE.—With respect to any
24 specified domestic corporation which is a mem-
25 ber of any international financial reporting

1 group, such corporation's allocable share of
2 such group's reported net interest expense for
3 any reporting year is the portion of such ex-
4 pense which bears the same ratio to such ex-
5 pense as—

6 “(i) the EBITDA of such corporation
7 for such reporting year, bears to

8 “(ii) the EBITDA of such group for
9 such reporting year.

10 “(D) EBITDA.—

11 “(i) IN GENERAL.—The term
12 ‘EBITDA’ means, with respect to any re-
13 porting year, earnings before interest in-
14 come and interest expense, taxes, deprecia-
15 tion, depletion, and amortization—

16 “(I) as determined in the inter-
17 national financial reporting group's
18 applicable financial statements for
19 such year, or

20 “(II) for purposes of subpara-
21 graph (A)(i), as determined in the
22 books and records of the international
23 financial reporting group which are
24 used in preparing such statements if
25 not determined in such statements.

1 “(ii) TREATMENT OF INTRA-GROUP
2 DISTRIBUTIONS.—The EBITDA of any
3 specified domestic corporation shall be de-
4 termined without regard to any distribu-
5 tion received by such corporation from any
6 other member of the international financial
7 reporting group.

8 “(E) SPECIAL RULES FOR NON-POSITIVE
9 EBITDA.—

10 “(i) NON-POSITIVE GROUP EBITDA.—
11 In the case of any international financial
12 reporting group the EBITDA of which is
13 zero or less, paragraph (1) shall not apply
14 to any specified domestic corporation
15 which is a member of such group.

16 “(ii) NON-POSITIVE ENTITY
17 EBITDA.—In the case of any specified do-
18 mestic corporation the EBITDA of which
19 is zero or less, the allowable percentage
20 shall be 0 percent.

21 “(5) APPLICABLE FINANCIAL STATEMENT.—
22 For purposes of this subsection, the term ‘applicable
23 financial statement’ has the meaning given such
24 term in section 451(b)(3).

1 “(6) REPORTING YEAR.—For purposes of this
2 subsection, the term ‘reporting year’ means any year
3 for which an applicable financial statement is pre-
4 pared or required to be prepared.

5 “(7) FOREIGN CORPORATIONS ENGAGED IN
6 TRADE OR BUSINESS WITHIN THE UNITED
7 STATES.—For purposes of this subsection, any for-
8 eign corporation engaged in a trade or business
9 within the United States shall be treated as a do-
10 mestic corporation with respect to any earnings, in-
11 terest income and interest expense, or other amount,
12 which is effectively connected with the conduct of a
13 trade or business in the United States.

14 “(8) REGULATIONS.—The Secretary may issue
15 such regulations or other guidance as are necessary
16 or appropriate to carry out the purposes of this sub-
17 section, including regulations or other guidance
18 which—

19 “(A) allows or requires the adjustment of
20 amounts reported on applicable financial state-
21 ments,

22 “(B) allows or requires any corporation to
23 be included or excluded as a member of any
24 international financial reporting group for pur-

1 poses of any determination or calculation under
2 this subsection,

3 “(C) provides rules for the application of
4 this subsection with respect to—

5 “(i) a domestic corporation that is a
6 partner (directly or indirectly) in a part-
7 nership, and

8 “(ii) foreign corporation to which this
9 subsection applies by reason of paragraph
10 (7).”.

11 (b) MODIFICATION OF APPLICATION OF LIMITATION
12 ON BUSINESS INTEREST TO PARTNERSHIPS AND S COR-
13 PORATIONS.—Section 163(j)(4) is amended to read as fol-
14 lows:

15 “(4) APPLICATION TO PARTNERSHIPS AND S
16 CORPORATIONS.—In the case of any partnership or
17 S corporation, this subsection shall be applied at the
18 partner or shareholder level, respectively.”.

19 (c) CARRYFORWARD OF DISALLOWED INTEREST.—

20 (1) IN GENERAL.—Section 163 is amended by
21 inserting after subsection (n), as added by sub-
22 section (a), the following new subsection:

23 “(o) CARRYFORWARD OF CERTAIN DISALLOWED IN-
24 TEREST.—

1 “(1) IN GENERAL.—The amount of any interest
2 not allowed as a deduction for any taxable year by
3 reason of subsection (j)(1) or (n)(1) (whichever im-
4 poses the lower limitation with respect to such tax-
5 able year) shall be treated as interest (and as busi-
6 ness interest for purposes of subsection (j)(1)) paid
7 or accrued in the succeeding taxable year.

8 “(2) LIMITATION ON CARRYFORWARD.—Inter-
9 est paid or accrued in a taxable year beginning after
10 December 31, 2021 (determined without regard to
11 paragraph (1)), shall not be carried forward under
12 paragraph (1) past the fifth taxable year following
13 the taxable year in which such interest was so paid
14 or accrued. For purposes of the preceding sentence,
15 interest shall be treated as allowed as a deduction on
16 a first-in, first-out basis.”.

17 (2) CONFORMING AMENDMENTS.—

18 (A) Section 163(j)(2) is amended to read
19 as follows:

20 “(2) CARRYFORWARD CROSS-REFERENCE.—For
21 carryforward treatment, see subsection (o).”.

22 (B) Section 381(c)(20) is amended to read
23 as follows:

24 “(20) CARRYFORWARD OF DISALLOWED INTER-
25 EST.—The carryover of disallowed interest described

1 in section 163(o) to taxable years ending after the
2 date of distribution or transfer.”.

3 (C) Section 382(d)(3) is amended to read
4 as follows:

5 “(3) APPLICATION TO CARRYFORWARD OF DIS-
6 ALLOWED INTEREST.—The term ‘pre-change loss’
7 shall include any carryover of disallowed interest de-
8 scribed in section 163(o) under rules similar to the
9 rules of paragraph (1).”.

10 (d) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to taxable years beginning after
12 December 31, 2021.

13 (e) TRANSITION RULE.—In the case of a partner’s
14 first succeeding taxable year described in subclause (II)
15 of section 163(j)(4)(B)(ii) of the Internal Revenue Code
16 of 1986 (as in effect before the amendment made by sub-
17 section (b)) which begins after December 31, 2021, the
18 amount of excess business interest which would (but for
19 such amendment) be carried to such taxable year under
20 such subclause shall be treated as interest (and as busi-
21 ness interest for purposes of section 163(j) of such Code,
22 as amended by this section) paid or accrued in such tax-
23 able year. For carryover of any such interest disallowed
24 for such taxable year, see section 163(o) of such Code,
25 as amended by this section.

1 **Subpart C—Outbound International Provisions**

2 **SEC. 138121. MODIFICATIONS TO DEDUCTION FOR FOR-**
3 **EIGN-DERIVED INTANGIBLE INCOME AND**
4 **GLOBAL INTANGIBLE LOW-TAXED INCOME.**

5 (a) IN GENERAL.—Section 250(a) is amended to
6 read as follows:

7 “(a) IN GENERAL.—In the case of a domestic cor-
8 poration for any taxable year, there shall be allowed as
9 a deduction an amount equal to the sum of—

10 “(1) 21.875 percent of the foreign-derived in-
11 tangible income of such domestic corporation for
12 such taxable year, plus

13 “(2) 37.5 percent of—

14 “(A) the global intangible low-taxed income
15 (if any) which is included in the gross income
16 of such domestic corporation under section
17 951A for such taxable year, and

18 “(B) the amount treated as a dividend re-
19 ceived by such corporation under section 78
20 which is attributable to the amount described in
21 subparagraph (A).”.

22 (b) DEDUCTION TAKEN INTO ACCOUNT IN DETER-
23 MINING NET OPERATING LOSS DEDUCTION.—Section
24 172(d) is amended by striking paragraph (9).

25 (c) CERTAIN OTHER MODIFICATIONS.—

26 (1) Section 250(b)(3) is amended—

1 (A) in subparagraph (A)(i)—

2 (i) by striking “and” at the end of
3 subclause (V),

4 (ii) by striking “over” at the end of
5 subclause (VI), and

6 (iii) by adding at the end the fol-
7 lowing new subclauses:

8 “(VII) any income received or ac-
9 crued which is of a kind which would
10 be foreign personal holding company
11 income (as defined in section 954(c)),

12 “(VIII) any amount included in
13 the gross income of such corporation
14 under section 1293, and

15 “(IX) any disqualified
16 extraterritorial income, over”, and

17 (B) by adding at the end the following new
18 subparagraph:

19 “(C) DISQUALIFIED EXTRATERRITORIAL
20 INCOME.—

21 “(i) IN GENERAL.—For purposes of
22 subparagraph (A)(i)(IX), the term ‘dis-
23 qualified extraterritorial income’ means
24 any amount included in the gross income
25 of the corporation with respect to any

1 transaction for any taxable year if any
2 amount could (determined after application
3 of clause (ii) but without regard to any
4 election under section 942(a)(3) as in ef-
5 fect before its repeal) be excluded from the
6 gross income of the corporation with re-
7 spect to such transaction for such taxable
8 year by reason of section 114 pursuant to
9 the application of subsection (d) or (f) of
10 section 101 of the American Jobs Creation
11 Act of 2004.

12 “(ii) ELECTION OUT OF
13 EXTRATERRITORIAL INCOME BENEFITS.—

14 “(I) IN GENERAL.—Except as
15 provided in subclause (II), the cor-
16 poration referred to in clause (i) may
17 make an irrevocable election (at such
18 time and in such form and manner as
19 the Secretary may provide) to have
20 subsections (d) and (f) of section 101
21 of the American Jobs Creation Act of
22 2004 not apply with respect to such
23 corporation for the taxable year for
24 which such election is made and all
25 succeeding taxable years (applicable

1 with respect to all transactions, in-
2 cluding transactions occurring before
3 such taxable year).

4 “(II) EXPANDED AFFILIATED
5 GROUPS.—In the case of any corpora-
6 tion which is a member of an ex-
7 panded affiliated group, the election
8 described in subclause (I) may be
9 made only by the common parent of
10 such group and shall apply with re-
11 spect to all members of such group.
12 For purposes of the preceding sen-
13 tence, the term ‘expanded affiliated
14 group’ means an affiliated group as
15 defined in section 1504(a), determined
16 without regard to section 1504(b)(3)
17 and by substituting ‘more than 50
18 percent’ for ‘at least 80 percent’ each
19 place it appears.”.

20 (2) Section 613A(d)(1) is amended by striking
21 “and” at the end of subparagraph (D), by striking
22 the period at the end of subparagraph (E) and in-
23 serting “, and”, and by inserting after subparagraph
24 (E) the following new subparagraph:

1 “(F) any deduction allowable under section
2 250.”.

3 (d) EFFECTIVE DATE.—

4 (1) IN GENERAL.—Except as otherwise pro-
5 vided in this subsection, the amendments made by
6 this section shall apply to taxable years beginning
7 after December 31, 2021.

8 (2) CERTAIN OTHER MODIFICATIONS.—The
9 amendments made by subsection (c) shall apply to
10 taxable years beginning after December 31, 2017.

11 (e) TRANSITIONAL RULE FOR ACCELERATED PER-
12 CENTAGE REDUCTION.—

13 (1) IN GENERAL.—In the case of any taxable
14 year which includes December 31, 2021 (other than
15 a taxable year with respect to which such date is the
16 last day of such taxable year)—

17 (A) the percentage in effect under section
18 250(a)(1)(A) of the Internal Revenue Code of
19 1986 shall be treated as being equal to the sum
20 of—

21 (i) the pre-effective date percentage of
22 37.5 percent, plus

23 (ii) the post-effective date percentage
24 of 21.875 percent, and

1 (B) the percentage in effect under section
2 250(a)(1)(B) of such Code shall be treated as
3 being equal to the sum of—

4 (i) the pre-effective date percentage of
5 50 percent, plus

6 (ii) the post-effective date percentage
7 of 37.5 percent.

8 (2) PRE- AND POST-EFFECTIVE DATE PER-
9 CENTAGES.—For purposes of this subsection, with
10 respect to any taxable year—

11 (A) the term “pre-effective date percent-
12 age” means the ratio that the portion of such
13 taxable year which precedes January 1, 2022,
14 bears to the entire taxable year, and

15 (B) the term “post-effective date percent-
16 age” means the ratio that the remainder of
17 such taxable year bears to the entire taxable
18 year.

19 **SEC. 138122. REPEAL OF ELECTION FOR 1-MONTH DEFER-**
20 **RAL IN DETERMINATION OF TAXABLE YEAR**
21 **OF SPECIFIED FOREIGN CORPORATIONS.**

22 (a) IN GENERAL.—Section 898(c) is amended by
23 striking paragraph (2) and redesignating paragraph (3)
24 as paragraph (2).

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years of specified foreign
3 corporations beginning after November 30, 2021.

4 (c) TRANSITION RULE.—A taxpayer’s first taxable
5 year beginning after November 30, 2021, shall end at the
6 same time as the first required year (within the meaning
7 of section 898(c)(1) of the Internal Revenue Code of
8 1986) ending after such date.

9 **SEC. 138123. MODIFICATIONS OF FOREIGN TAX CREDIT**
10 **RULES APPLICABLE TO CERTAIN TAXPAYERS**
11 **RECEIVING SPECIFIC ECONOMIC BENEFITS.**

12 (a) IN GENERAL.—Section 901 is amended by redess-
13 ignating subsection (n) as subsection (o) and by inserting
14 after subsection (m) the following new subsection:

15 “(n) SPECIAL RULES RELATING TO DUAL CAPACITY
16 TAXPAYERS.—

17 “(1) GENERAL RULE.—Notwithstanding any
18 other provision of this chapter, any amount paid or
19 accrued by a dual capacity taxpayer to a foreign
20 country or possession of the United States for any
21 period shall not be considered a tax—

22 “(A) if, for such period, the foreign coun-
23 try or possession does not impose a generally
24 applicable income tax, or

1 “(B) to the extent such amount exceeds
2 the amount which would be paid or accrued by
3 such dual capacity taxpayer under the generally
4 applicable income tax imposed by such country
5 or possession if such taxpayer were not a dual
6 capacity taxpayer.

7 Nothing in this paragraph shall be construed to
8 imply the proper treatment of any such amount
9 not in excess of the amount determined under
10 subparagraph (B).

11 “(2) DUAL CAPACITY TAXPAYER.—For pur-
12 poses of this subsection, the term ‘dual capacity tax-
13 payer’ means, with respect to any foreign country or
14 possession of the United States, a person who—

15 “(A) is subject to a levy of such country or
16 possession, and

17 “(B) receives (or will receive) directly or
18 indirectly a specific economic benefit from such
19 country or possession.

20 “(3) GENERALLY APPLICABLE INCOME TAX.—
21 For purposes of this subsection, the term ‘generally
22 applicable income tax’ means an income tax (or a se-
23 ries of income taxes) which is generally imposed
24 under the laws of a foreign country or possession of
25 the United States on residents of such foreign coun-

1 try or possession that are not dual capacity tax-
2 payers.”.

3 (b) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years of foreign corpora-
5 tions beginning after December 31, 2021, and to taxable
6 years of United States shareholders in which or with which
7 such taxable years of foreign corporations end.

8 **SEC. 138124. MODIFICATIONS TO FOREIGN TAX CREDIT**
9 **LIMITATIONS.**

10 (a) COUNTRY-BY-COUNTRY APPLICATION OF LIMITA-
11 TION ON FOREIGN TAX CREDIT BASED ON TAXABLE
12 UNITS.—

13 (1) IN GENERAL.—Section 904 is amended by
14 inserting after subsection (d) the following new sub-
15 section:

16 “(e) COUNTRY-BY-COUNTRY APPLICATION BASED ON
17 TAXABLE UNITS.—

18 “(1) IN GENERAL.—The provisions of sub-
19 sections (a), (b), (c), and (d) and sections 907 and
20 960 shall be applied separately with respect to each
21 country by taking into account the aggregate income
22 properly attributable or otherwise allocable to a tax-
23 able unit of the taxpayer which is a tax resident of
24 such country.

25 “(2) TAXABLE UNITS.—

1 “(A) IN GENERAL.—Except as otherwise
2 provided by the Secretary, each item shall be
3 attributable or otherwise allocable to exactly
4 one taxable unit of the taxpayer.

5 “(B) DETERMINATION OF TAXABLE
6 UNITS.—Except as otherwise provided by the
7 Secretary, the taxable units of a taxpayer are
8 as follows:

9 “(i) GENERAL TAXABLE UNIT.—The
10 person that is the taxpayer and that is not
11 otherwise described in a separate clause of
12 this subparagraph.

13 “(ii) CONTROLLED FOREIGN COR-
14 PORATIONS.—Each controlled foreign cor-
15 poration with respect to which the tax-
16 payer is a United States shareholder.

17 “(iii) INTERESTS IN PASS-THROUGH
18 ENTITIES.—Each interest held (directly or
19 indirectly) by the taxpayer or any con-
20 trolled foreign corporation referred to in
21 clause (ii) in a pass-through entity if such
22 pass-through entity is a tax resident of a
23 country other than the country with re-
24 spect to which such taxpayer or controlled

1 foreign corporation (as the case may be) is
2 a tax resident.

3 “(iv) BRANCHES.—Each branch (or
4 portion thereof) the activities of which are
5 directly or indirectly carried on by the tax-
6 payer or any controlled foreign corporation
7 referred to in clause (ii) and which give
8 rise to a taxable presence in a country
9 other than the country in which the tax-
10 payer or any such controlled foreign cor-
11 poration (as the case may be) is a tax resi-
12 dent.

13 “(3) DEFINITIONS AND SPECIAL RULES.—For
14 purposes of this subsection—

15 “(A) TAX RESIDENT.—Except as otherwise
16 provided by the Secretary, the term ‘tax resi-
17 dent’ means a person or arrangement subject to
18 tax under the tax law of a country as a resi-
19 dent, or a person or arrangement that gives rise
20 to a taxable presence by reason of its activities
21 in such country. If an entity is organized under
22 the law of a country, or resident in a country,
23 that does not impose an income tax with re-
24 spect to such entity, such entity shall, except as
25 provided by the Secretary, be treated as subject

1 to tax under the tax law of such country for the
2 purposes of the preceding sentence.

3 “(B) PASS-THROUGH ENTITY.—Except as
4 otherwise provided by the Secretary, the term
5 ‘pass-through entity’ includes any partnership
6 or other entity or arrangement to the extent
7 that income, gain, deduction, or loss of the enti-
8 ty is taken into account in determining the in-
9 come or loss of a person that owns (directly or
10 indirectly) an interest in such entity.

11 “(C) BRANCH.—Except as otherwise pro-
12 vided by the Secretary, the term ‘branch’ means
13 a taxable presence of a tax resident in a coun-
14 try other than its country of residence as deter-
15 mined under such other country’s tax law. The
16 Secretary shall provide regulations or other
17 guidance applying such term to activities in a
18 country that does not subject income to tax on
19 the basis of residence or taxable presence.

20 “(D) TREATMENT OF FISCALLY AUTONO-
21 MOUS JURISDICTIONS.—Any fiscally autono-
22 mous jurisdiction shall be treated as a separate
23 country. Any possession of the United States
24 shall also be treated as separate country. For
25 purposes of the preceding sentence, the term

1 ‘possession of the United States’ means each of
2 American Samoa, the Commonwealth of the
3 Northern Mariana Islands, the Commonwealth
4 of Puerto Rico, Guam, and the Virgin Islands.

5 “(4) REGULATIONS.—The Secretary shall issue
6 such regulations or other guidance as may be nec-
7 essary or appropriate to carry out, or prevent avoid-
8 ance of, the purposes of this subsection, including
9 regulations or other guidance—

10 “(A) providing for the application of this
11 subsection to entities, arrangements, and
12 branches that are otherwise considered a resi-
13 dent of more than one country or no country,

14 “(B) providing for the application of this
15 subsection to hybrid entities or hybrid trans-
16 actions (as such terms are used for purposes of
17 section 267A), pass-through entities, passive
18 foreign investment companies, trusts, and other
19 entities or arrangements not otherwise de-
20 scribed in this subsection, and

21 “(C) providing for the assignment of any
22 item (including foreign taxes and deductions) to
23 taxable units, including in the case of amounts
24 not otherwise taken into account in determining
25 taxable income under this chapter.”.

1 (2) APPLICATION OF RECAPTURE OF OVERALL
2 FOREIGN LOSS.—Section 904(f)(5)(E)(i) is amended
3 by inserting “applied separately with respect to each
4 country (within the meaning of subsection (e)) as
5 provided in subsection (e)” before the period at the
6 end.

7 (3) APPLICATION OF SEPARATE LIMITATION
8 LOSSES WITH RESPECT TO GLOBAL INTANGIBLE
9 LOW-TAXED INCOME.—Section 904(f)(5) is amended
10 by adding at the end the following new subpara-
11 graph:

12 “(G) SPECIAL RULE WITH RESPECT TO
13 GLOBAL INTANGIBLE LOW-TAXED INCOME.—
14 The amount of the separate limitation losses for
15 any taxable year shall reduce income described
16 in subparagraph (d)(1)(A) for such taxable year
17 only to the extent the aggregate amount of such
18 losses exceeds the aggregate amount of the sep-
19 arate limitation incomes for such taxable year.
20 For purposes of this subparagraph, separate
21 limitation income shall exclude income described
22 in subparagraph (d)(1)(A) for the taxable
23 year.”.

24 (b) REPEAL OF SEPARATE APPLICATION TO FOR-
25 EIGN BRANCH INCOME.—

1 (1) IN GENERAL.—Section 904(d)(1) is amend-
2 ed by striking subparagraph (B) and redesignating
3 subparagraphs (C) and (D) as subparagraph (B)
4 and (C).

5 (2) COORDINATION WITH DEDUCTION FOR FOR-
6 EIGN-DERIVED INTANGIBLE INCOME.—Section
7 205(b)(3)(A) is amended—

8 (A) by striking subclause (VI) of clause (i)
9 and inserting the following new subclause:

10 “(VI) the income of a United
11 States person which is attributable to
12 1 or more branches (which would be
13 referred to in clause (iv) of section
14 904(e)(2)(B) if such clause were ap-
15 plied without regard to any reference
16 to a controlled foreign corporation) or
17 pass-through entities (which would be
18 referred to in clause (iii) of section
19 904(e)(2)(B) if such clause were ap-
20 plied without regard to any reference
21 to a controlled foreign corporation) in
22 1 or more foreign countries, over”,
23 and

24 (B) by adding at the end the following
25 flush sentence:

1 “For purposes of clause (i)(VI), the amount of
2 income attributable to a branch or pass-through
3 entity shall be determined under rules estab-
4 lished by the Secretary.”.

5 (3) CONFORMING AMENDMENTS.—

6 (A) Section 904(d)(2)(A)(ii) is amended by
7 striking “, foreign branch income,”.

8 (B) Section 904(d)(2) is amended by strik-
9 ing subparagraph (J).

10 (c) MODIFICATION OF FOREIGN TAX CREDIT
11 CARRYBACK AND CARRYFORWARD.—

12 (1) CARRYOVER LIMITED TO 5 TAXABLE
13 YEARS.—

14 (A) IN GENERAL.—Section 904(c) is
15 amended by striking “10 succeeding taxable
16 years” and inserting “5 succeeding taxable
17 years”.

18 (B) CONFORMING AMENDMENT.—Section
19 6511(d)(3)(A) is amended by striking “10
20 years” and inserting “5 years”.

21 (2) REPEAL OF CARRYBACK.—Section 904(c) is
22 amended—

23 (A) by striking “in the first preceding tax-
24 able year, and”,

1 (B) by striking “preceding or” each place
2 it appears, and

3 (C) by striking “CARRYBACK AND” in the
4 heading thereof.

5 (3) CARRYOVER APPLICABLE TO TAX ON GLOB-
6 AL INTANGIBLE LOW-TAXED INCOME.—Section
7 904(c) is amended by striking the last sentence.

8 (4) APPLICATION TO LIMITATION ON FOREIGN
9 OIL AND GAS TAXES.—Section 907(f)(1) is amend-
10 ed—

11 (A) by striking “in the first preceding tax-
12 able year and”, and

13 (B) by striking “first 10” and inserting
14 “first 5”.

15 (d) TREATMENT OF CERTAIN TAX-EXEMPT DIVI-
16 DENDS.—

17 (1) CERTAIN TAX-EXEMPT DIVIDENDS TAKEN
18 INTO ACCOUNT IN APPLYING LIMITATIONS ON FOR-
19 EIGN TAX CREDITS.—Section 904(b) is amended by
20 striking paragraph (4).

21 (2) CERTAIN TAX-EXEMPT DIVIDENDS NOT
22 TAKEN INTO ACCOUNT IN ALLOCATING INTEREST
23 EXPENSE.—Section 864(e)(3) is amended by strik-
24 ing “or 245(a)” and inserting “, 245(a), or 245A”.

1 (e) RULES FOR ALLOCATION OF CERTAIN DEDUC-
2 TIONS TO FOREIGN SOURCE GLOBAL INTANGIBLE LOW-
3 TAXED INCOME FOR PURPOSES OF FOREIGN TAX CREDIT
4 LIMITATION.—Section 904(b), as amended by the pre-
5 ceding provisions of this Act, is amended by adding at the
6 end the following new paragraph:

7 “(4) DEDUCTIONS TREATED AS ALLOCABLE TO
8 FOREIGN SOURCE GLOBAL INTANGIBLE LOW-TAXED
9 INCOME.—In the case of a domestic corporation and
10 solely for purposes of the application of subsection
11 (a) with respect to amounts described in subsection
12 (d)(1)(A), the taxpayer’s taxable income from
13 sources without the United States shall be deter-
14 mined by—

15 “(A) allocating any deduction allowed
16 under section 250 to such income, and

17 “(B) by treating any expense of such do-
18 mestic corporation as not allocable to such in-
19 come.”.

20 (f) TREATMENT OF CERTAIN ASSET DISPOSI-
21 TIONS.—Section 904(b), as amended by the preceding pro-
22 visions of this Act, is amended by adding at the end the
23 following new paragraph:

24 “(5) TREATMENT OF CERTAIN ASSET DISPOSI-
25 TIONS.—

1 “(A) IN GENERAL.—Except as otherwise
2 provided by the Secretary, in the case of any
3 covered asset disposition, the principles of sec-
4 tion 338(h)(16) shall apply in determining the
5 source and character of any item for purposes
6 of this part.

7 “(B) COVERED ASSET DISPOSITION.—For
8 purposes of this paragraph, the term ‘covered
9 asset disposition’ means any transaction
10 which—

11 “(i) is treated as a disposition of as-
12 sets for purposes of subchapter N of this
13 chapter, and

14 “(ii) is treated as a disposition of
15 stock of a corporation (or is disregarded)
16 for purposes of the tax laws of the relevant
17 foreign country or possession of the United
18 States.

19 “(C) REGULATIONS.—The Secretary shall
20 issue such regulations or other guidance as is
21 necessary or appropriate to carry out, or to the
22 prevent the avoidance of, the purposes of this
23 paragraph.”.

24 (g) REDETERMINATION OF FOREIGN TAXES AND RE-
25 LATED CLAIMS.—

1 (1) IN GENERAL.—Section 905(c)(1) is amend-
2 ed by striking “or” at the end of subparagraph (B)
3 and by inserting after subparagraph (C) the fol-
4 lowing new subparagraphs:

5 “(D) the taxpayer makes a timely change
6 in its choice to claim a credit or deduction for
7 taxes paid or accrued, or

8 “(E) there is any other change in the
9 amount, or treatment, of taxes, which affects
10 the taxpayer’s tax liability under this chapter.”.

11 (2) MODIFICATION TO TIME FOR CLAIMING
12 CREDIT OR DEDUCTION.—Section 901(a) is amended
13 by striking the second sentence and inserting the fol-
14 lowing: “The choice to claim a credit for such
15 amounts may be made at any time before the expira-
16 tion of the period prescribed by section
17 6511(d)(3)(A), and the choice to claim a deduction
18 in lieu of a credit may be made at any time before
19 the expiration of the period prescribed by section
20 6511(a), for making a claim for refund or credit of
21 the tax imposed by this chapter for such taxable
22 year, or such later period prescribed by section
23 6511(e) if the period is extended by agreement.”.

24 (3) MODIFICATION TO SPECIAL PERIOD OF LIM-
25 ITATION.—Section 6511(d)(3)(A) is amended—

1 (A) by inserting “change in the liability
2 for” before “any taxes paid or accrued”,

3 (B) by striking “actually paid” and insert-
4 ing “paid (or deemed paid under section 960)”,
5 and

6 (C) by inserting “CHANGE IN THE LIABIL-
7 ITY FOR” before “FOREIGN TAXES” in the head-
8 ing thereof.

9 (h) EFFECTIVE DATES.—

10 (1) IN GENERAL.—Except as otherwise pro-
11 vided in this subsection, the amendments made by
12 this section shall apply to taxable years beginning
13 after December 31, 2021.

14 (2) MODIFICATION OF FOREIGN TAX CREDIT
15 CARRYBACK AND CARRYFORWARD.—Except as other-
16 wise provided in paragraph (3), the amendments
17 made by subsection (c) shall apply to taxes paid or
18 accrued in taxable years beginning after December
19 31, 2021.

20 (3) CERTAIN MODIFICATIONS.—The amend-
21 ment made by subsection (c)(4)(B) shall apply to
22 taxable years of foreign corporations beginning after
23 December 31, 2017, and to taxable years of United
24 States shareholders in which or with which such tax-
25 able years of foreign corporations end.

1 (4) REDETERMINATION OF FOREIGN TAXES
2 AND RELATED CLAIMS.—The amendments made by
3 subsection (g) shall take effect on the date which is
4 60 days after the date of the enactment of this Act.

5 (i) REGULATIONS.—The Secretary shall prescribe
6 rules providing for the application of subsection (e) of sec-
7 tion 904 of the Internal Revenue Code of 1986, as added
8 by this section, to any amounts carried over under sub-
9 section (c) of such section from a taxable year with respect
10 to which such subsection (e) did not apply to a taxable
11 year with respect to which such subsection (e) does apply.

12 **SEC. 138125. FOREIGN OIL AND GAS EXTRACTION INCOME**
13 **AND FOREIGN OIL RELATED INCOME TO IN-**
14 **CLUDE OIL SHALE AND TAR SANDS.**

15 (a) IN GENERAL.—Paragraphs (1)(A) and (2)(A) of
16 section 907(c) are each amended by inserting “(or oil
17 shale or tar sands)” after “oil or gas wells”.

18 (b) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to taxable years of foreign corpora-
20 tions beginning after December 31, 2021, and to taxable
21 years of United States shareholders in which or with which
22 such taxable years of foreign corporations end.

1 **SEC. 138126. MODIFICATIONS TO INCLUSION OF GLOBAL IN-**
2 **TANGIBLE LOW-TAXED INCOME.**

3 (a) COUNTRY-BY-COUNTRY APPLICATION OF SEC-
4 TION BASED ON CFC TAXABLE UNITS.—Section 951A is
5 amended by adding at the end the following new sub-
6 section:

7 “(g) COUNTRY-BY-COUNTRY APPLICATION OF SEC-
8 TION BASED ON CFC TAXABLE UNITS.—

9 “(1) IN GENERAL.—If any CFC taxable unit of
10 a United States shareholder is a tax resident of a
11 country which is different from the country with re-
12 spect to which any other CFC taxable unit of such
13 United States shareholder is a tax resident—

14 “(A) such shareholder’s global intangible
15 low-taxed income for purposes of subsection (a)
16 shall be the sum of the amounts of global intan-
17 gible low-taxed income determined separately
18 with respect to each country with respect to
19 which any CFC taxable unit of such share-
20 holder is a tax resident, and

21 “(B) for purposes of determining such sep-
22 arate amounts of global intangible low-taxed in-
23 come—

24 “(i) any reference in subsection (b),
25 (c), or (d) to a controlled foreign corpora-
26 tion of such shareholder shall be treated as

1 reference to a CFC taxable unit of such
2 shareholder, and

3 “(ii) net CFC tested income, net
4 deemed tangible income return, qualified
5 business asset investment, interest expense
6 described in subsection (b)(2)(B), and such
7 other items and amounts as the Secretary
8 may provide, shall be determined sepa-
9 rately with respect to each such country by
10 determining such amounts with respect to
11 each CFC taxable unit of such shareholder
12 which is a tax resident of such country.

13 “(2) DEFINITIONS.—For purposes of this sub-
14 section—

15 “(A) CFC TAXABLE UNIT.—The term
16 ‘CFC taxable unit’ means any taxable unit de-
17 scribed clause (ii), (iii), or (iv) of section
18 904(e)(2)(B) (determined without regard to the
19 references to the taxpayer in clauses (iii) and
20 (iv) of such section).

21 “(B) APPLICATION OF OTHER DEFINI-
22 TIONS.—Terms used in this subsection which
23 are also used in section 904(e) shall have the
24 same meaning as when used in such section.

1 “(3) SPECIAL RULES.—For purposes of this
2 subsection—

3 “(A) APPLICATION OF CERTAIN RULES.—
4 Except as otherwise provided by the Secretary,
5 rules similar to the rules of section 904(e) shall
6 apply.

7 “(B) ALLOCATION OF GLOBAL INTANGIBLE
8 LOW-TAXED INCOME TO CONTROLLED FOREIGN
9 CORPORATIONS.—Except as otherwise provided
10 by the Secretary, subsection (f)(2) shall be ap-
11 plied separately with respect to each CFC tax-
12 able unit.”.

13 (b) REGULATORY AUTHORITY.—

14 (1) IN GENERAL.—Section 951A, as amended
15 by subsection (a), is amended by adding at the end
16 the following new subsection:

17 “(h) REGULATIONS.—The Secretary shall issue such
18 regulations or other guidance as may be necessary or ap-
19 propriate to carry out, or prevent the avoidance of, the
20 purposes of this section, including regulations or guidance
21 which provide for—

22 “(1) the treatment of property if such property
23 is transferred, or held, temporarily,

1 “(2) the treatment of property if the avoidance
2 of the purposes of this section is a factor in the
3 transfer or holding of such property, and

4 “(3) appropriate adjustments to the basis of
5 stock and other ownership interests, and to earnings
6 and profits, to reflect tested losses.”.

7 (2) CONFORMING AMENDMENT.—Section
8 951A(d) is amended by striking paragraph (4).

9 (3) ADDITIONAL REGULATORY AUTHORITY.—
10 Section 951A(h), as added by paragraph (1), is
11 amended by striking “and” at the end of paragraph
12 (2), by striking the period at the end of paragraph
13 (3) and inserting a comma, and by adding at the
14 end the following new paragraphs:

15 “(4) rules similar to the rules provided under
16 the regulations or guidance issued under section
17 904(e)(5),

18 “(5) appropriate basis adjustments, and

19 “(6) appropriate adjustment to made, and ap-
20 propriate tax attributes and records to be main-
21 tained, separately with respect to CFC taxable
22 units.”.

23 (c) CARRYOVER OF NET CFC TESTED LOSS.—

24 (1) IN GENERAL.—Section 951A(c) is amended
25 by adding at the end the following new paragraph:

1 “(3) CARRYOVER OF NET CFC TESTED LOSS.—

2 “(A) IN GENERAL.—If the amount de-
3 scribed in paragraph (1)(B) with respect to any
4 United States shareholder for any taxable year
5 of such United States shareholder (determined
6 after the application of this paragraph) exceeds
7 the amount described in paragraph (1)(A) with
8 respect to such shareholder of such taxable
9 year, the amount otherwise described in para-
10 graph (1)(B) with respect to such shareholder
11 for the succeeding taxable year shall be in-
12 creased by the amount of such excess.

13 “(B) PROPER ADJUSTMENT IN ALLOCA-
14 TIONS OF GLOBAL INTANGIBLE LOW-TAXED IN-
15 COME TO CONTROLLED FOREIGN CORPORA-
16 TIONS.—Proper adjustments shall be made in
17 the application of subsection (f)(2)(B) to take
18 into account any decrease in global intangible
19 low-taxed income by reason of the application of
20 subparagraph (A).”.

21 (2) COORDINATION WITH COUNTRY-BY-COUN-
22 TRY APPLICATION.—Section 951A(g)(1)(B)(ii), as
23 added by subsection (a), is amended by inserting
24 “any increase determined under subsection

1 (c)(3)(A),” after “interest expense described in sub-
2 section (b)(2)(B),”.

3 (3) APPLICATION OF RULES WITH RESPECT TO
4 OWNERSHIP CHANGES.—Section 382(d) is amended
5 by adding at the end the following new paragraph:

6 “(4) APPLICATION TO CARRYOVER OF NET CFC
7 TESTED LOSS.—The term ‘pre-change loss’ shall in-
8 clude any excess carried over under section
9 951A(c)(3) under rules similar to the rules of para-
10 graph (1).”.

11 (d) REDUCTION IN NET DEEMED TANGIBLE INCOME
12 RETURN FOR PURPOSES OF DETERMINING GLOBAL IN-
13 TANGIBLE LOW-TAXED INCOME.—

14 (1) IN GENERAL.—Section 951A(b)(2)(A) is
15 amended by striking “10 percent” and inserting “5
16 percent”.

17 (2) APPLICATION TO ASSETS LOCATED IN POS-
18 SESSIONS OF THE UNITED STATES.—Section
19 951A(b) is amended by adding at the end the fol-
20 lowing new paragraph:

21 “(3) APPLICATION TO ASSETS LOCATED IN POS-
22 SESSIONS OF THE UNITED STATES.—In the case of
23 any specified tangible property located in a posses-
24 sion of the United States, paragraph (2)(A) and

1 subsection (d) shall be applied by substituting ‘10
2 percent’ for ‘5 percent’ in paragraph (2)(A).”.

3 (e) INCLUSION OF FOREIGN OIL AND GAS EXTRAC-
4 TION INCOME IN DETERMINING TESTED INCOME AND
5 LOSS.—Section 951A(c)(2)(A) is amended by inserting
6 “and” at the end of subclause (III), by striking “and”
7 at the end of subclause (IV) and inserting “over”, and
8 by striking subclause (V).

9 (f) COORDINATION WITH OTHER PROVISIONS.—Sec-
10 tion 951A(f)(1) is amended by adding at the end the fol-
11 lowing new subparagraph:

12 “(C) TREATMENT OF CERTAIN REF-
13 ERENCES.—Except as otherwise provided by the
14 Secretary, references to section 951 or section
15 951(a) in sections 959, 961, 962 and such
16 other sections as the Secretary may identify
17 shall include references to section 951A or sec-
18 tion 951A(a), respectively.”.

19 (g) EFFECTIVE DATE.—

20 (1) IN GENERAL.—Except as otherwise pro-
21 vided in this subsection, the amendments made by
22 this section shall apply to taxable years of foreign
23 corporations beginning after December 31, 2021,
24 and to taxable years of United States shareholders

1 in which or with which such taxable years of foreign
2 corporations end.

3 (2) CERTAIN RELATED MODIFICATIONS.—The
4 amendments made by subsections (b)(1), (b)(2), and
5 (f) shall apply to taxable years of foreign corpora-
6 tions beginning after December 31, 2017, and to
7 taxable years of United States shareholders in which
8 or with which such taxable years of foreign corpora-
9 tions end.

10 **SEC. 138127. MODIFICATIONS TO DETERMINATION OF**
11 **DEEMED PAID CREDIT FOR TAXES PROPERLY**
12 **ATTRIBUTABLE TO TESTED INCOME.**

13 (a) INCREASE IN DEEMED PAID CREDIT.—Section
14 960(d)(1) is amended by striking “80 percent” and insert-
15 ing “95 percent (100 percent in the case of tested foreign
16 income taxes paid or accrued to a possession of the United
17 States)”.

18 (b) INCLUSION OF TAXES PROPERLY ATTRIBUTABLE
19 TO TESTED LOSS.—Section 960(d)(3) is amended to read
20 as follows:

21 “(3) TESTED FOREIGN INCOME TAXES.—For
22 purposes of paragraph (1), the term ‘tested foreign
23 income taxes’ means, with respect to any domestic
24 corporation which is a United States shareholder of
25 a controlled foreign corporation, such shareholder’s

1 pro rata share (as determined under section
2 951A(e)(1)) of—

3 “(A) the foreign income taxes (within the
4 meaning of section 904(d)(2)(F)) which are
5 properly attributable to amounts taken into ac-
6 count in determining tested income or tested
7 loss under section 951A(b)(2), and

8 “(B) solely to the extent provided in regu-
9 lations prescribed by the Secretary, the foreign
10 income taxes (as so defined) paid or accrued by
11 a foreign corporation (other than such con-
12 trolled foreign corporation) which owns, directly
13 or indirectly, 80 percent or more (by vote or
14 value) of the stock in such domestic corporation
15 but only if—

16 “(i) such foreign income taxes are
17 properly attributable to amounts of such
18 controlled foreign corporation taken into
19 account in determining tested income or
20 tested loss under section 951A(b)(2), and

21 “(ii) no credit is allowed, in whole or
22 in part, for such foreign taxes in any for-
23 eign jurisdiction.”.

24 (c) APPLICATION OF FOREIGN TAX CREDIT LIMITA-
25 TION TO AMOUNTS INCLUDED UNDER SECTION 78.—

1 (1) Section 904(d)(2) is amended by redesignig-
2 nating subparagraph (K) as subparagraph (L) and
3 by inserting after subparagraph (J) the following
4 new subparagraph:

5 “(K) AMOUNTS INCLUDIBLE UNDER SEC-
6 TION 78.—Any amount includible in gross in-
7 come under section 78 shall be treated as in-
8 come in the same separate category as the re-
9 lated foreign taxes deemed paid.”.

10 (2) Section 904(d)(3)(G) is amended by strik-
11 ing the second sentence and inserting the following:
12 “Any amount included in gross income under section
13 78 shall not be treated as a dividend.”.

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 of foreign corporations
18 beginning after December 31, 2021, and to taxable
19 years of United States shareholders in which or with
20 which such taxable years of foreign corporations
21 end.

22 (2) APPLICATION OF FOREIGN TAX CREDIT
23 LIMITATION TO AMOUNTS INCLUDED UNDER SEC-
24 TION 78.—The amendments made by subsection (c)

1 shall apply to taxable years beginning after Decem-
2 ber 31, 2017.

3 **SEC. 138128. DEDUCTION FOR FOREIGN SOURCE PORTION**
4 **OF DIVIDENDS LIMITED TO CONTROLLED**
5 **FOREIGN CORPORATIONS, ETC.**

6 (a) IN GENERAL.—Section 245A is amended—

7 (1) in subsections (a), (c)(1), and (c)(2), by
8 striking “specified 10-percent owned foreign cor-
9 poration” each place it appears and inserting “con-
10 trolled foreign corporation”, and

11 (2) by striking subsection (b).

12 (b) MODIFICATIONS RELATED TO DETERMINATION
13 OF STATUS AS A CONTROLLED FOREIGN CORPORA-
14 TION.—

15 (1) Subpart F of part III of subchapter N of
16 chapter 1 is amended by inserting after section
17 951A the following new section:

18 **“SEC. 951B. AMOUNTS INCLUDED IN GROSS INCOME OF**
19 **FOREIGN CONTROLLED UNITED STATES**
20 **SHAREHOLDERS.**

21 “(a) IN GENERAL.—In the case of any foreign con-
22 trolled United States shareholder of a foreign controlled
23 foreign corporation—

24 “(1) this subpart (other than sections 951A,
25 951(b), 957, and 965) shall be applied with respect

1 to such shareholder (separately from, and in addi-
2 tion to, the application of this subpart without re-
3 gard to this section)—

4 “(A) by substituting ‘foreign controlled
5 United States shareholder’ for ‘United States
6 shareholder’ each place it appears therein, and

7 “(B) by substituting ‘foreign controlled
8 foreign corporation’ for ‘controlled foreign cor-
9 poration’ each place it appears therein, and

10 “(2) sections 951A and 965 shall be applied
11 with respect to such shareholder —

12 “(A) by treating each reference to ‘United
13 States shareholder’ in such sections as includ-
14 ing a reference to such shareholder, and

15 “(B) by treating each reference to ‘con-
16 trolled foreign corporation’ in such sections as
17 including a reference to such foreign controlled
18 foreign corporation.

19 “(b) FOREIGN CONTROLLED UNITED STATES
20 SHAREHOLDER.—For purposes of this section, the term
21 ‘foreign controlled United States shareholder’ means, with
22 respect to any foreign corporation, any United States per-
23 son which would be a United States shareholder with re-
24 spect to such foreign corporation if—

1 “(1) section 951(b) were applied by substituting
2 ‘more than 50 percent’ for ‘10 percent or more’, and

3 “(2) section 958(b) were applied without regard
4 to paragraph (4) thereof.

5 “(c) FOREIGN CONTROLLED FOREIGN CORPORA-
6 TION.—For purposes of this section, the term ‘foreign con-
7 trolled foreign corporation’ means a foreign corporation,
8 other than a controlled foreign corporation, which would
9 be a controlled foreign corporation if section 957(a) were
10 applied—

11 “(1) by substituting ‘foreign controlled United
12 States shareholders’ for ‘United States share-
13 holders’, and

14 “(2) by substituting ‘section 958(b) (other than
15 paragraph (4) thereof)’ for ‘section 958(b)’.

16 “(d) REGULATIONS.—The Secretary shall prescribe
17 such regulations or other guidance as may be necessary
18 or appropriate to carry out the purposes of this section,
19 including regulations or other guidance—

20 “(1) to treat a foreign controlled United States
21 shareholder or a foreign controlled foreign corpora-
22 tion as a United States shareholder or as a con-
23 trolled foreign corporation, respectively, for purposes
24 of provisions of this title other than this subpart,
25 and

1 “(2) to prevent the avoidance of the purposes of
2 this section.”.

3 (2) Section 957(a) is amended to read as fol-
4 lows:

5 “(a) CONTROLLED FOREIGN CORPORATION.—For
6 purposes of this title—

7 “(1) IN GENERAL.—The term ‘controlled for-
8 eign corporation’ means any foreign corporation if
9 more than 50 percent of—

10 “(A) the total combined voting power of all
11 classes of stock of such corporation entitled to
12 vote, or

13 “(B) the total value of the stock of such
14 corporation,

15 is owned (within the meaning of section 958(a)), or
16 is considered as owned by applying the rules of own-
17 ership of section 958(b), by United States share-
18 holders on any day during the taxable year of such
19 foreign corporation.

20 “(2) ELECTION TO TREAT A FOREIGN COR-
21 PORATION AS A CONTROLLED FOREIGN CORPORA-
22 TION FOR CERTAIN PURPOSES.—

23 “(A) IN GENERAL.—In the case of a for-
24 eign corporation with respect to which an elec-
25 tion is in effect under this paragraph, such for-

1 eign corporation shall be treated as controlled
2 foreign corporation with respect to all United
3 States shareholders of such foreign corporation.

4 “(B) EXCEPTIONS.—Notwithstanding sub-
5 paragraph (A), such foreign corporation shall
6 not be treated as a controlled foreign corpora-
7 tion for purposes of section 951B(e) or for any
8 other purpose if the Secretary determines that
9 treatment of such foreign corporation as a con-
10 trolled foreign corporation for such purpose
11 would be inconsistent with the purposes of this
12 subchapter.

13 “(C) ELECTION.—

14 “(i) BY WHOM.—An election under
15 subparagraph (A) shall be effective only if
16 made by the foreign corporation and by all
17 United States shareholders of such foreign
18 corporation (determined as of the time of
19 such election by such foreign corporation).

20 “(ii) WITH RESPECT TO WHOM.—Any
21 election under this paragraph, once effec-
22 tive, shall apply to such foreign corporation
23 and to all United States shareholders of
24 such foreign corporation (including any
25 person who becomes a United States

1 shareholder of such foreign corporation
2 after such election takes effect).

3 “(iii) TIME, MANNER, ETC.—The elec-
4 tion under this paragraph shall be made at
5 such time and in such manner as the Sec-
6 retary may provide and, once effective,
7 may be revoked only with the consent of
8 the Secretary.

9 “(D) REGULATIONS.—The Secretary shall
10 issue such regulations or other guidance as may
11 be necessary or appropriate to carry out the
12 purposes of this paragraph, including regula-
13 tions or other guidance for the application of
14 this paragraph to an acquisition of assets de-
15 scribed in section 381(a) from any corporation
16 with respect to which an election under this
17 paragraph applies.”.

18 (3) Section 958(b) is amended—

19 (A) by inserting after paragraph (3) the
20 following:

21 “(4) Subparagraphs (A), (B), and (C) of sec-
22 tion 318(a)(3) shall not be applied so as to consider
23 a United States person as owning stock which is
24 owned by a person who is not a United States per-
25 son.”, and

1 (B) by striking “Paragraph (1)” in the
2 last sentence and inserting “Paragraphs (1)
3 and (4)”.

4 (4) The table of sections for subpart F of part
5 III of subchapter N of chapter 1 is amended by in-
6 serting after the item relating to section 951A the
7 following new item:

“Sec. 951B. Amounts included in gross income of foreign controlled United
States shareholders.”.

8 (c) CERTAIN OTHER MODIFICATIONS.—

9 (1) Section 245A(b)(1) is amended by striking
10 “with respect to such corporation”.

11 (2) Section 245A(e)(4) is amended by striking
12 “an amount received” and all that follows through
13 “for which the controlled foreign corporation re-
14 ceived a deduction” and inserting “any dividend re-
15 ceived from a controlled foreign corporation for
16 which such controlled foreign corporation received a
17 deduction”.

18 (3) Section 245A(e)(1) is amended—

19 (A) by striking “any dividend” and insert-
20 ing “any hybrid dividend”, and

21 (B) by striking “if the dividend is a hybrid
22 dividend”.

23 (4) Section 245A(g) is amended to read as fol-
24 lows:

1 “(g) REGULATIONS.—The Secretary shall prescribe
2 such regulations or other guidance as may be necessary
3 or appropriate to carry out the provisions of this section,
4 including regulations or other guidance for—

5 “(1) the treatment of United States share-
6 holders owning stock of a controlled foreign corpora-
7 tion through a partnership, and

8 “(2) the denial of all or a portion of the deduc-
9 tion under this section with respect to dividends re-
10 ceived from foreign corporations in situations in
11 which—

12 “(A) any portion of the dividend is out of
13 earnings and profits arising from dispositions to
14 related parties which—

15 “(i) are not made in the ordinary
16 course of a trade or business, and

17 “(ii) are made on or after January 1,
18 2018, and during a taxable year to which
19 section 951A did not apply, or

20 “(B) a transfer or issuance of stock on or
21 after January 1, 2018, results in a reduction in
22 the United States shareholder’s pro rata share
23 of a controlled foreign corporation’s subpart F
24 income or tested income (as defined in section
25 951A).”.

1 (5) Section 246(b)(1) is amended to read as fol-
2 lows:

3 “(1) GENERAL RULE.—Except as provided in
4 paragraph (2), the aggregate amount of the deduc-
5 tions allowed by section 243(a)(1) and subsection (a)
6 and (b) of section 245 shall not exceed the percent-
7 age determined under paragraph (3) of the taxable
8 income computed without regard to the deductions
9 allowed by section 172, section 243(a)(1), sub-
10 sections (a) and (b) of section 245, and section 250,
11 without regard to any adjustment under section
12 1059, and without regard to any capital loss
13 carryback to the taxable year under section
14 1212(a)(1).”.

15 (6) Section 246(c)(1) is amended by striking
16 “section 243” and all that follows through “245A”
17 and inserting “section 243, 245, or 245A”.

18 (7) For purposes of section 78 of the Internal
19 Revenue Code of 1986, as in effect on the day before
20 the enactment of Public Law 115-97, with respect to
21 taxable years of foreign corporations beginning be-
22 fore January 1, 2018, and ending after December
23 31, 2017, any reference to section 245 of such Code
24 shall be treated as including a reference to section
25 245A of such Code (as added by such Public Law).

1 (d) EFFECTIVE DATES.—

2 (1) IN GENERAL.—The amendment made by
3 subsection (a) shall apply to distributions made after
4 the date of the enactment of this Act.

5 (2) MODIFICATIONS RELATED TO DETERMINA-
6 TION OF STATUS AS A CONTROLLED FOREIGN COR-
7 PORATION.—The amendments made by subsection
8 (b) shall apply to—

9 (A) the last taxable year of foreign cor-
10 porations beginning before January 1, 2018,
11 and each subsequent taxable year of such for-
12 eign corporations, and

13 (B) taxable years of United States persons
14 in which or with which such taxable years of
15 foreign corporations end.

16 (3) CERTAIN OTHER MODIFICATIONS.—The
17 amendments made by subsection (c) shall apply to
18 distributions made after December 31, 2017.

19 **SEC. 138129. LIMITATION ON FOREIGN BASE COMPANY**
20 **SALES AND SERVICES INCOME.**

21 (a) FOREIGN BASE COMPANY SALES INCOME.—Sec-
22 tion 954(d)(2) is amended to read as follows:

23 “(2) LIMITATION.—

24 “(A) IN GENERAL.—For purposes of this
25 subsection, the term ‘related person’ shall not

1 include any person unless such person is a tax-
2 able unit (within the meaning of section 904(e))
3 which is a tax resident of the United States.

4 “(B) REGULATIONS.—The Secretary shall
5 issue such regulations or other guidance as may
6 be necessary or appropriate to carry out the
7 purposes of this paragraph, including regula-
8 tions or other guidance providing for the proper
9 application of subparagraph (A) in the case of
10 a series of transactions in which a person de-
11 scribed in subparagraph (A) is a party.”.

12 (b) FOREIGN BASE COMPANY SERVICES INCOME.—
13 Section 954(e)(1)(A) is amended by striking “subsection
14 (d)(3)” and inserting “subsection (d)”.

15 (c) CERTAIN OTHER MODIFICATIONS.—

16 (1)(A) Section 951(a)(1) is amended—

17 (i) by striking “the last day” in the matter
18 preceding subparagraph (A) and inserting “any
19 day”,

20 (ii) by striking “his” each place it appears
21 and inserting “such shareholder’s”, and

22 (iii) by inserting “if such shareholder owns
23 (within the meaning of section 958(a)) stock of
24 such foreign corporation as of the close of the
25 last relevant day of such foreign corporation’s

1 taxable year,” before “the amount” in subpara-
2 graph (B).

3 (B) Section 951(a) is amended by striking
4 paragraph (2) and inserting the following new para-
5 graphs:

6 “(2) PRO RATA SHARE OF SUBPART F IN-
7 COME.—In the case of any United States share-
8 holder with respect to a foreign corporation, the pro
9 rata share referred to in paragraph (1)(A) is the
10 sum of—

11 “(A) if such shareholder owns (within the
12 meaning of section 958(a)) stock of such for-
13 eign corporation as of the close of the last rel-
14 evant day of such foreign corporation’s taxable
15 year, such shareholder’s general pro rata share
16 determined under paragraph (3), plus

17 “(B) if such shareholder owns (within the
18 meaning of section 958(a)) stock of such for-
19 eign corporation during such taxable year but
20 does not own (within the meaning of section
21 958(a)) such stock as of the close of such last
22 relevant day, such shareholder’s nontaxed cur-
23 rent dividend share determined under para-
24 graph (4).

25 “(3) GENERAL PRO RATA SHARE.—

1 “(A) IN GENERAL.—In the case of any
2 United States shareholder with respect to a for-
3 eign corporation, the general pro rata share de-
4 termined under this paragraph is the excess (if
5 any) of—

6 “(i) the pro rata current earnings per-
7 centage of the amount which bears the
8 same ratio to such corporation’s subpart F
9 income for the taxable year (reduced by
10 the aggregate nontaxed current dividend
11 shares determined under paragraph (4)
12 with respect to such shareholder or any
13 other United States shareholder) as the
14 part of such year during which such cor-
15 poration is a controlled foreign corporation
16 bears to the entire year, over

17 “(ii) the lesser of—

18 “(I) the amount of any pre-hold-
19 ing period dividends with respect to
20 stock of such foreign corporation
21 which such shareholder owns (within
22 the meaning of section 958(a)) as of
23 the close of the last relevant day of
24 such foreign corporation’s taxable
25 year, or

1 “(II) the amount which bears the
2 same ratio to the subpart F income of
3 such corporation for the taxable year
4 (reduced by the aggregate nontaxed
5 current dividend shares determined
6 under paragraph (4) with respect to
7 such shareholder or any other United
8 States shareholder) as the part of
9 such year during which such share-
10 holder did not own (within the mean-
11 ing of section 958(a)) such stock
12 bears to the entire year.

13 “(B) PRO RATA CURRENT EARNINGS PER-
14 CENTAGE.—For purposes of subparagraph
15 (A)(i), the term ‘pro rata current earnings per-
16 centage’ means, in the case of any United
17 States shareholder with respect to a foreign cor-
18 poration for any taxable year of such foreign
19 corporation, the ratio (expressed as a percent-
20 age) of—

21 “(i) the amount which would have
22 been distributed with respect to the stock
23 which such shareholder owns (within the
24 meaning of section 958(a)) in such cor-
25 poration if on the last relevant day of such

1 taxable year it had distributed its earnings
2 and profits for such taxable year (com-
3 puted as of the close of such taxable year
4 without diminution by reason of any dis-
5 tributions made during such taxable year),
6 divided by

7 “(ii) such corporation’s earnings and
8 profits for such taxable year (as so com-
9 puted).

10 “(C) PRE-HOLDING PERIOD DIVIDENDS.—

11 For purposes of subparagraph (A)(ii)(I), the
12 term ‘pre-holding period dividends’ means, in
13 the case of any United States shareholder with
14 respect to a foreign corporation for any taxable
15 year of such foreign corporation, dividends
16 which are—

17 “(i) made out of such corporation’s
18 earnings and profits for the taxable year
19 (other than nontaxed current dividends as
20 defined in paragraph (4)(C)), and

21 “(ii) received—

22 “(I) by any other United States
23 person with respect to stock of such
24 foreign corporation which such share-
25 holder owns (within the meaning of

1 section 958(a)) as of the close of the
2 last relevant day of such foreign cor-
3 poration's taxable year, and

4 “(II) while such foreign corpora-
5 tion was a controlled foreign corpora-
6 tion and before such shareholder
7 owned (within the meaning of section
8 958(a)) such stock.

9 “(4) NONTAXED CURRENT DIVIDEND SHARE.—

10 “(A) IN GENERAL.—In the case of any
11 United States shareholder with respect to a for-
12 eign corporation, the nontaxed current dividend
13 share determined under this paragraph is the
14 nontaxed current dividend percentage of the
15 subpart F income of such foreign corporation
16 for the taxable year.

17 “(B) NONTAXED CURRENT DIVIDEND PER-
18 CENTAGE.—For purposes of this paragraph, the
19 term ‘nontaxed current dividend percentage’
20 means, in the case of any United States share-
21 holder with respect to a foreign corporation for
22 any taxable year of such foreign corporation,
23 the ratio (expressed as a percentage) of—

24 “(i) the amount of nontaxed current
25 dividends with respect to such taxable year

1 received with respect to the stock of such
2 foreign corporation which such shareholder
3 owns (within the meaning of section
4 958(a)) at the time of the dividend on a
5 day in which such corporation is a con-
6 trolled foreign corporation, divided by

7 “(ii) such foreign corporation’s earn-
8 ings and profits for such taxable year
9 (computed as of the close of such taxable
10 year without diminution by reason of any
11 distributions made during such taxable
12 year).

13 “(C) NONTAXED CURRENT DIVIDENDS.—
14 For purposes of this paragraph, the term
15 ‘nontaxed current dividends’ means the portion
16 of any amount received with respect to stock to
17 the extent such amount (without regard to
18 amounts included in the gross income of a
19 United States shareholder for the taxable year
20 by reason of this subpart)—

21 “(i) would result in a dividend out of
22 the corporation’s earnings and profits for
23 the taxable year (including a dividend
24 under section 1248 attributable to earn-
25 ings and profits for the taxable year), and

1 “(ii) either—

2 “(I) would give rise to a deduc-
3 tion under section 245A(a), or

4 “(II) in the case of a dividend
5 paid directly or indirectly to a con-
6 trolled foreign corporation with re-
7 spect to stock owned by the share-
8 holder within the meaning of section
9 958(a)(2), would not result in subpart
10 F income with respect to such con-
11 trolled foreign corporation by reason
12 of subsection (b)(4), (c)(3), or (c)(6)
13 of section 954.

14 Any amount treated as the foreign-source
15 portion of a dividend under section
16 245A(g) shall be treated as nontaxed cur-
17 rent dividends for purposes of this para-
18 graph.

19 “(5) LAST RELEVANT DAY OF TAXABLE YEAR
20 OF A CONTROLLED FOREIGN CORPORATION.—For
21 purposes of this subsection, the term ‘last relevant
22 day’ means, with respect to any taxable year of a
23 foreign corporation, the last day of such taxable year
24 on which such corporation is a controlled foreign
25 corporation.

1 “(6) REGULATIONS.—The Secretary may pre-
2 scribe such regulations or other guidance as may be
3 necessary or appropriate to carry out the purposes
4 of this subsection, including regulations or other
5 guidance—

6 “(A) to treat a partnership as an aggre-
7 gate of its partners,

8 “(B) to provide rules allowing a foreign
9 corporation to close its taxable year upon a
10 change in ownership, and

11 “(C) to treat a distribution followed by an
12 issuance of stock to a shareholder not subject
13 to tax under this chapter in the same manner
14 as an acquisition of stock.”.

15 (C) Section 951A(e)(1) is amended by striking
16 “determined under the rules of section 951(a)(2) in
17 the same manner as such section applies to subpart
18 F income” and inserting “determined under rules
19 similar to the rules of section 951(a)(2)”.

20 (D) Section 951A(e)(2) is amended to read as
21 follows:

22 “(2) TREATMENT AS UNITED STATES SHARE-
23 HOLDER.—A person shall be treated as a United
24 States shareholder of a controlled foreign corpora-

1 tion for any taxable year of such person if such per-
2 son—

3 “(A) is a United States shareholder of
4 such foreign corporation on any day in such
5 taxable year, and

6 “(B) owns (within the meaning of section
7 958(a)) stock in such foreign corporation on
8 any day in such taxable year which is part of
9 a taxable year of such foreign corporation with
10 respect to which such foreign corporation is a
11 controlled foreign corporation.”.

12 (E) Section 953(c)(5)(A)(i) is amended—

13 (i) in subclause (I), by adding “and” at
14 the end,

15 (ii) in subclause (II)—

16 (I) by striking “on the last day of the
17 taxable year” and inserting “during the
18 taxable year”, and

19 (II) by striking “and” at the end and
20 inserting “or”, and

21 (iii) by striking subclause (III).

22 (2) Section 78 is amended by striking “, (b),”.

23 (d) CERTAIN RELATED PROSPECTIVE MODIFICA-
24 TIONS.—Section 961(c) is amended—

1 (1) by striking “BASIS ADJUSTMENTS IN” in
2 the heading of such subsection and inserting “AP-
3 PPLICATION OF RULES TO”, and

4 (2) by striking “then adjustments similar to”
5 and all that follows in such subsection and inserting
6 “then rules similar to the rules of subsections (a)
7 and (b) shall apply to—

8 “(1) such stock,

9 “(2) stock in any other controlled foreign cor-
10 poration by reason of which the United States share-
11 holder is considered under section 958(a)(2) as own-
12 ing the stock described in paragraph (1), and

13 “(3) property by reason of which the United
14 States shareholder is considered as owning stock de-
15 scribed in paragraph (1) or (2).

16 The preceding sentence shall not apply with respect to any
17 stock or property to which subsection (a) or (b) applies.”.

18 (e) EFFECTIVE DATES.—

19 (1) IN GENERAL.—Except as otherwise pro-
20 vided in this subsection, the amendments made by
21 this section shall apply to taxable years of foreign
22 corporations beginning after December 31, 2021,
23 and to taxable years of United States shareholders
24 in which or with which such taxable years of foreign
25 corporations end.

1 (2) CERTAIN OTHER MODIFICATIONS.—

2 (A) The amendments made by subsection
3 (c)(1) shall apply to distributions made after
4 December 31, 2017.

5 (B) The amendment made by subsection
6 (c)(2) apply to taxable years of foreign corpora-
7 tions beginning after December 31, 2017, and
8 to taxable years of United States shareholders
9 in which or with which such taxable years of
10 foreign corporations end.

11 **Subpart D—Inbound International Provisions**

12 **SEC. 138131. MODIFICATIONS TO BASE EROSION AND ANTI-**

13 **ABUSE TAX.**

14 (a) MODIFICATIONS TO BASE EROSION MINIMUM
15 TAX AMOUNT.—

16 (1) MODIFICATION OF RATES.—Section
17 59A(b)(1)(A) is amended by striking “10 percent (5
18 percent in the case of taxable years beginning in cal-
19 endar year 2018)” and inserting “the applicable per-
20 centage”.

21 (2) BASE EROSION MINIMUM TAX AMOUNT DE-
22 TERMINED WITHOUT REGARD TO CREDITS.—Section
23 59A(b)(1)(B) is amended to read as follows:

1 “(B) an amount equal to the regular tax li-
2 ability (as defined in section 26(b)) of the tax-
3 payer for the taxable year.”.

4 (3) APPLICABLE PERCENTAGE.—Section
5 59A(b)(2) is amended to read as follows:

6 “(2) APPLICABLE PERCENTAGE.—For purposes
7 of this subsection, the term applicable percentage
8 means—

9 “(A) in the case of any taxable year begin-
10 ning after December 31, 2021, and before Jan-
11 uary 1, 2024, 10 percent,

12 “(B) in the case of any taxable year begin-
13 ning after December 31, 2023, and before Jan-
14 uary 1, 2026, 12.5 percent, and

15 “(C) in the case of any taxable year begin-
16 ning after December 31, 2025, 15 percent.”.

17 (4) TAXPAYERS SUBJECT TO RULES FOR BANKS
18 AND SECURITIES DEALERS.—Section 59A(b)(3)(B)
19 is amended to read as follows:

20 “(B) TAXPAYER DESCRIBED.—A taxpayer
21 is described in this subparagraph if such tax-
22 payer is—

23 “(i) a bank (as defined in section
24 585(a)(2)),

1 “(ii) a securities dealer registered
2 under section 15(a) of the Securities Ex-
3 change Act of 1934, or

4 “(iii) a member of an affiliated group
5 (as defined in section 1504(a)(1), deter-
6 mined without regard to section
7 1504(b)(3)) which includes any person de-
8 scribed in clause (i) or (ii).”.

9 (5) GENERAL BUSINESS CREDIT ALLOWED
10 AGAINST BASE EROSION AND ANTI-ABUSE TAX.—
11 Section 38(c)(1) is amended by striking “the tax im-
12 posed by section 55” and inserting “the taxes im-
13 posed by sections 55 and 59A”.

14 (6) CONFORMING AMENDMENTS.—

15 (A) Section 59A(b)(3)(A) is amended by
16 striking “paragraphs (1)(A) and (2)(A) shall
17 each” and inserting “paragraph (2) shall”.

18 (B) Section 59A(b) is amended by striking
19 paragraph (4).

20 (b) MODIFICATION OF RULES FOR DETERMINING
21 MODIFIED TAXABLE INCOME.—

22 (1) IN GENERAL.—Section 59A(c) is amended
23 to read as follows:

24 “(c) MODIFIED TAXABLE INCOME.—For purposes of
25 this section—

1 “(1) IN GENERAL.—The term ‘modified taxable
2 income’ means the taxable income of the taxpayer
3 computed under this chapter for the taxable year
4 with the following adjustments:

5 “(A) BASE EROSION TAX BENEFITS.—Any
6 base erosion tax benefit shall be determined
7 without regard to any base erosion payment de-
8 scribed in paragraphs (1) through (4) of sub-
9 section (d), including for purposes of deter-
10 mining the adjusted basis of property described
11 in subsection (d)(2).

12 “(B) BASE EROSION BASIS ADJUSTMENTS
13 WITH RESPECT TO COST OF GOODS SOLD.—
14 Cost of goods sold shall be determined without
15 regard to any base erosion payment described
16 in subparagraph (A) or (B) of subsection
17 (d)(5).

18 “(C) NET OPERATING LOSSES.—The net
19 operating loss deduction for the taxable year
20 under section 172 shall be applied—

21 “(i) by substituting ‘modified taxable
22 income’ for ‘taxable income’ in subsection
23 (a)(2)(B)(ii)(I) thereof,

24 “(ii) by determining any net operating
25 loss arising in any taxable year beginning

1 after December 31, 2021, without regard
2 to any deduction which is a base erosion
3 tax benefit (determined with respect to
4 each such taxable year), and

5 “(iii) by making appropriate adjust-
6 ments in the application of subsection
7 (b)(2) thereof to take into account clause
8 (i) of this subparagraph as though such
9 clause applied with respect to taxable years
10 beginning after December 31, 2021 (but
11 by applying section 172(e) for purposes of
12 determining the amount of modified tax-
13 able income).

14 “(D) APPLICATION OF CERTAIN OTHER
15 ADJUSTMENTS.—Except as otherwise provided
16 by the Secretary, rules similar to the rules of
17 subsections (g) and (h) of section 59 shall
18 apply.

19 “(2) BASE EROSION TAX BENEFIT.—The term
20 ‘base erosion tax benefit’ means—

21 “(A) any deduction allowed under this
22 chapter for the taxable year with respect to any
23 base erosion payment described in subsection
24 (d)(1),

1 “(B) in the case of a base erosion payment
2 described in subsection (d)(2), any deduction al-
3 lowed under this chapter for the taxable year
4 for depreciation (or amortization in lieu of de-
5 preciation) with respect to the property ac-
6 quired with such payment,

7 “(C) in the case of a base erosion payment
8 described in subsection (d)(3)—

9 “(i) any reduction under section
10 803(a)(1)(B) in the gross amount of pre-
11 miums and other consideration on insur-
12 ance and annuity contracts for premiums
13 and other consideration arising out of in-
14 demnity insurance, and

15 “(ii) any deduction under section
16 832(b)(4)(A) from the amount of gross
17 premiums written on insurance contracts
18 during the taxable year for premiums paid
19 for reinsurance, and

20 “(D) in the case of a base erosion payment
21 described in subsection (d)(4), any reduction in
22 gross receipts with respect to such payment in
23 computing gross income of the taxpayer for the
24 taxable year for purposes of this chapter.”.

1 (2) CERTAIN PAYMENTS WITH RESPECT TO IN-
2 VENTORY TREATED AS BASE EROSION PAYMENTS.—
3 Section 59A(d) is amended by redesignating para-
4 graph (5) as paragraph (6) and by inserting after
5 paragraph (4) the following new paragraph:

6 “(5) CERTAIN PAYMENTS WITH RESPECT TO IN-
7 VENTORY.—

8 “(A) INDIRECT COSTS INCLUDED IN IN-
9 VENTORY UNDER SECTION 263A.—Such term
10 shall also include any amount paid or accrued
11 by the taxpayer to a foreign person which is a
12 related party of the taxpayer if such amount is
13 described in paragraph (2)(B) of section
14 263A(a) and required to be included in inven-
15 tory costs of the taxpayer under paragraph
16 (1)(A) of such section.

17 “(B) CERTAIN INDIRECT COSTS OF FOR-
18 EIGN RELATED PARTIES.—Such term shall also
19 include so much of any amount paid or accrued
20 by the taxpayer to a foreign person which is a
21 related party of the taxpayer in connection with
22 the acquisition by the taxpayer from such for-
23 eign person of property which is inventory in
24 the hands of the taxpayer as exceeds the sum
25 of—

1 “(i) the direct costs of such property
2 in the hands of such foreign person, plus

3 “(ii) so much of the costs described in
4 section 263A(a)(2)(B) with respect to such
5 property in the hands of such foreign per-
6 son as the taxpayer demonstrates to the
7 satisfaction of the Secretary are attrib-
8 utable to amounts—

9 “(I) paid or accrued by such for-
10 eign person to a United States person
11 or a person which is not a related
12 party of the taxpayer, or

13 “(II) otherwise subject to the tax
14 imposed by this subtitle.

15 “(C) APPLICATION TO TIERED RELATED-
16 PARTY TRANSACTIONS.—In the case of direct
17 costs otherwise described in clause (i) of sub-
18 paragraph (B) which are paid or incurred by
19 the foreign person referred to in such clause to
20 another foreign person which is a related party
21 of the taxpayer, such costs shall be taken into
22 account under such clause only to the extent
23 that the taxpayer demonstrates to the satisfac-
24 tion of the Secretary that such costs are attrib-
25 utable to amounts paid or accrued (directly or

1 indirectly) to a United States person or a per-
2 son which is not a related party of the tax-
3 payer.

4 “(D) SAFE HARBOR WITH RESPECT INDI-
5 RECT COSTS OF FOREIGN RELATED PARTIES.—
6 In the case of a taxpayer which elects the appli-
7 cation of this subparagraph (at such time, in
8 such manner, and with respect to such inven-
9 tory property, as the Secretary may provide),
10 the amount described in subparagraph (B)(ii)
11 with respect to such property shall be treated
12 for purposes of this section as being equal to 20
13 percent of the amount paid or incurred by the
14 taxpayer to the related party of the taxpayer in
15 connection with the acquisition of such prop-
16 erty.”.

17 (3) EXPANSION AND CONSOLIDATION OF RULES
18 TO EXEMPT CERTAIN PAYMENTS FROM TREATMENT
19 AS BASE EROSION PAYMENTS.—

20 (A) IN GENERAL.—Section 59A is amend-
21 ed by redesignating subsection (i) as subsection
22 (j) and by inserting after subsection (h) the fol-
23 lowing new subsection:

24 “(i) CERTAIN PAYMENT NOT TREATED AS BASE
25 EROSION PAYMENTS.—

1 “(1) EXCEPTION FOR PAYMENTS ON WHICH
2 TAX IS IMPOSED.—An amount shall not be treated
3 as a base erosion payment if tax is imposed by this
4 subtitle with respect to such amount. The amount
5 not treated as a base erosion payment by reason of
6 the preceding sentence shall be determined under
7 rules similar to the rules of section 163(j)(5) (as in
8 effect before the date of the enactment of Public
9 Law 115-97).

10 “(2) EXCEPTION FOR CERTAIN PAYMENTS SUB-
11 JECT TO SUFFICIENT FOREIGN TAX.—

12 “(A) IN GENERAL.—An amount shall not
13 be treated as a base erosion payment if the tax-
14 payer establishes to the satisfaction of the Sec-
15 retary that such amount was subject to an ef-
16 fective rate of foreign income tax (as defined in
17 section 904(d)(2)(F)) which is not less than the
18 applicable percentage in effect under subsection
19 (b)(2) for the taxable year in which such
20 amount is paid or accrued. Except as otherwise
21 provided by the Secretary under subparagraph
22 (B), the effective rate of foreign income tax
23 with respect to any amount may be established
24 on the basis of applicable financial statements
25 (as defined in section 451(b)(3)).

1 “(B) REGULATIONS.—The Secretary shall
2 issue such regulations or other guidance as may
3 be necessary or appropriate to carry out the
4 purposes of this paragraph, including regula-
5 tions or other guidance providing procedures for
6 determining the effective rate of foreign income
7 tax to which any amount is subject. Such proce-
8 dures may require that any transaction or se-
9 ries of transactions among multiple parties be
10 recharacterized as one or more transactions di-
11 rectly among any 2 or more of such parties
12 where the Secretary determines that such re-
13 characterization is appropriate to carry out, or
14 prevent avoidance of, the purposes of this sec-
15 tion.

16 “(3) EXCEPTION FOR CERTAIN AMOUNTS WITH
17 RESPECT TO SERVICES.—Subsections (d)(1) and
18 (d)(5)(A) shall not apply to so much of any amount
19 paid or accrued by a taxpayer for services as does
20 not exceed the total services cost of such services.
21 The preceding sentence shall not apply unless such
22 services meet the requirements for eligibility for use
23 of the services cost method under section 482 (deter-
24 mined without regard to the requirement that the

1 services not contribute significantly to fundamental
2 risks of business success or failure).”.

3 (B) CONFORMING AMENDMENT.—Section
4 59A(d), as amended by paragraph (2), is
5 amended by striking paragraph (6).

6 (c) REPEAL OF EXEMPTION FROM BASE EROSION
7 AND ANTI-ABUSE TAX FOR TAXPAYERS WITH LOW BASE
8 EROSION PERCENTAGE.—Section 59A(e)(1)(C) is amend-
9 ed by inserting “in the case of any taxable year beginning
10 before January 1, 2024,” before “the base erosion per-
11 centage”.

12 (d) OTHER MODIFICATIONS.—

13 (1) Section 59A(h)(2)(B) is amended by strik-
14 ing “section 6038B(b)(2)” and inserting “section
15 6038A(b)(2)”.

16 (2) Section 59A(j)(2), as redesignated by sub-
17 section (b), is amended by striking “subsection
18 (g)(3)” and inserting “subsection (h)(3)”.

19 (e) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to taxable years beginning after
21 December 31, 2021.

1 **Subpart E—Other Business Tax Provisions**

2 **SEC. 138141. CREDIT FOR CLINICAL TESTING OF ORPHAN**
3 **DRUGS LIMITED TO FIRST USE OR INDICA-**
4 **TION.**

5 (a) IN GENERAL.—Section 45C(b)(2)(B) is amended
6 to read as follows:

7 “(B) TESTING MUST BE RELATED TO
8 FIRST USE OR INDICATION FOR RARE DISEASE
9 OR CONDITION.—Human clinical testing may be
10 taken into account under subparagraph (A)
11 only to the extent such testing is related to the
12 first use or indication with respect to which a
13 drug for a rare disease or condition is des-
14 ignated under section 526 of the Federal Food,
15 Drug, and Cosmetic Act.”.

16 (b) ELIGIBLE TESTING MUST BE CONDUCTED BE-
17 FORE APPROVAL FOR ANY USE OR INDICATION.—Section
18 45C(b)(2)(A)(ii)(II) is amended to read as follows:

19 “(II) before the first date on
20 which an application (with respect to
21 any use or indication with respect to
22 any disease or condition) with respect
23 to such drug is approved under sec-
24 tion 505(c) of such Act or, if the drug
25 is a biological product, before the first
26 date on which a license (with respect

1 to any use or indication with respect
2 to any disease or condition) for such
3 drug is issued under section 351(a) of
4 the Public Health Service Act, and”.

5 (c) ELIGIBILITY OF BIOLOGICAL PRODUCTS.—

6 (1) IN GENERAL.—Section 45C(b)(2)(A)(i) is
7 amended by inserting “or, if the drug is a biological
8 product, section 351(a)(3) of the Public Health
9 Service Act” before the comma at the end.

10 (2) CONFORMING AMENDMENT.—Section
11 45C(b)(2)(A)(ii)(I) is amended by striking “such
12 Act” and inserting “the Federal Food, Drug, and
13 Cosmetic Act”.

14 (d) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to taxable years beginning after
16 December 31, 2021.

17 **SEC. 138142. MODIFICATIONS TO TREATMENT OF CERTAIN**
18 **LOSSES.**

19 (a) LOSSES FROM CERTAIN CAPITAL ASSETS WHICH
20 BECOME WORTHLESS.—

21 (1) WHEN TREATED AS LOSS.—Section
22 165(g)(1) is amended by striking “on the last day
23 of the taxable year” and inserting “at the time of
24 the identifiable event establishing worthlessness”.

1 (2) TREATMENT OF PARTNERSHIP INDEBTED-
2 NESS.—Section 165(g)(2)(C) is amended by insert-
3 ing “, by a partnership,” after “by a corporation”.

4 (3) TREATMENT OF PARTNERSHIP INTEREST.—
5 Section 165 is amended by redesignating subsection
6 (m) as subsection (n) and by inserting after sub-
7 section (l) the following new subsection:

8 “(m) WORTHLESS PARTNERSHIP INTEREST.—If any
9 interest in a partnership becomes worthless during the
10 taxable year, the loss resulting therefrom shall, for pur-
11 poses of this subtitle, be treated as a loss from the sale
12 or exchange of the interest in the partnership, as provided
13 in section 741, at the time of the identifiable event estab-
14 lishing worthlessness.”.

15 (b) DEFERRAL OF LOSSES IN CERTAIN CONTROLLED
16 GROUP CORPORATE LIQUIDATIONS.—Section 267 is
17 amended by adding at the end the following new sub-
18 section:

19 “(h) DEFERRAL OF LOSSES IN CERTAIN CON-
20 TROLLED GROUP LIQUIDATIONS.—

21 “(1) IN GENERAL.—In the case of two corpora-
22 tions described in subsection (b)(3), no loss shall be
23 recognized on the stock or securities of the liqui-
24 dating corporation in a complete liquidation to which
25 section 331 applies until the other corporation re-

1 ceiving property distributed in such liquidation with
2 respect to such stock or in exchange for such securi-
3 ties has disposed of substantially all property such
4 other corporation received in such liquidation to one
5 or more persons who are not related to such other
6 corporation (within the meaning of subsection (b)(3)
7 or section 707(b)(1)).

8 “(2) REGULATIONS.—The Secretary shall issue
9 such regulations or other guidance as the Secretary
10 determines is necessary or appropriate to carry out
11 the purposes of this subsection, including to apply
12 the principles of this subsection to liquidating cor-
13 poration stock or securities owned by a corporation
14 indirectly through 1 or more partnerships.”.

15 (c) CROSS REFERENCE.—Section 331(c) is amend-
16 ed—

17 (1) by striking “CROSS REFERENCE” and all
18 that follows through “For general rule” and insert-
19 ing the following: “CROSS REFERENCE.—

20 “(1) For general rule”, and

21 (2) by adding at the end the following new
22 paragraph:

23 “(2) For losses in controlled group liquidations,
24 see section 267(h).”.

25 (d) EFFECTIVE DATE.—

1 (1) SUBSECTION (a).—The amendments made
2 by this section shall apply to losses arising in taxable
3 years beginning after December 31, 2021.

4 (2) SUBSECTION (b).—The amendment made
5 by subsection (b) shall apply to liquidations on or
6 after the date of the enactment of this Act.

7 **SEC. 138143. ADJUSTED BASIS LIMITATION FOR DIVISIVE**
8 **REORGANIZATION.**

9 (a) IN GENERAL.—Section 361 is amended by adding
10 at the end the following new subsections:

11 “(d) ADJUSTED BASIS LIMITATION FOR DIVISIVE
12 REORGANIZATIONS.—

13 “(1) IN GENERAL.—Except as provided para-
14 graph (2), in the case of a reorganization described
15 in section 368(a)(1)(D) with respect to which stock
16 or securities of the controlled corporation (within the
17 meaning of section 355) are distributed by the dis-
18 tributing corporation (within the meaning of such
19 section) in a transaction which qualifies under such
20 section, subsection (b)(3) and subsection (c)(3) shall
21 not apply to so much of the money and other prop-
22 erty transferred to creditors as equals an amount
23 equal to the excess (if any) of—

24 “(A) the sum of—

1 “(i) the total amount of the liabilities
2 assumed (within the meaning of section
3 357(e)) by the controlled corporation,

4 “(ii) in the case of subsection (b)(3),
5 the total amount of money and the fair
6 market value of other property (including
7 stock described in section 354(a)(2)(C))
8 transferred to the creditors, and

9 “(iii) in the case of subsection (c)(3),
10 the total principal amount of securities of
11 the controlled corporation which is quali-
12 fied property (as defined in subsection
13 (c)(2)(B)) transferred to the creditors,
14 over

15 “(B) the total adjusted bases of the assets
16 transferred by the distributing corporation to
17 the controlled corporation.

18 “(2) EXCEPTION REGARDING CERTAIN STOCK
19 OR RIGHTS TO ACQUIRE STOCK.—Paragraph (1)
20 shall not apply to any stock (or right to acquire
21 stock) described in subsection (c)(2)(B).

22 “(3) REGULATIONS.—The Secretary shall issue
23 such regulations as may be necessary or appropriate
24 to prevent avoidance of tax through abuse of sub-
25 section (b)(3), subsection (c)(3), or this subsection,

1 including to determine whether a disposition of prop-
2 erty or any other transaction is in connection with
3 the reorganization or pursuant to the plan of reorga-
4 nization.

5 “(e) CROSS-REFERENCES.—For provisions providing
6 for the inclusion of income or recognition of gain in certain
7 distributions, see subsections (d), (e), (f), (g), and (h) of
8 section 355.”.

9 (b) CONFORMING AMENDMENTS.—

10 (1) Section 361(b)(3) is amended—

11 (A) in the first sentence, by inserting “,
12 and except as provided in subsection (d)” after
13 “paragraph (1)”, and

14 (B) by striking the second and third sen-
15 tences.

16 (2) Section 361(c) is amended—

17 (A) in paragraph (3), by inserting “, and
18 except as provided in subsection (d)” after “this
19 subsection”, and

20 (B) by striking paragraph (5).

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to reorganizations occurring on or
23 after the date of the enactment of this Act.

1 **SEC. 138144. RENTS FROM PRISON FACILITIES NOT TREAT-**
2 **ED AS QUALIFIED INCOME FOR PURPOSES OF**
3 **REIT INCOME TESTS.**

4 (a) IN GENERAL.—Section 856(d)(2) is amended by
5 striking “and” at the end of subparagraph (B), by striking
6 the period at the end of subparagraph (C) and inserting
7 “, and”, and by adding at the end the following new sub-
8 paragraph:

9 “(D) any amount received or accrued, di-
10 rectly or indirectly, with respect to any real or
11 personal property which is primarily used in
12 connection with any correctional, detention, or
13 penal facility.”.

14 (b) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to taxable years beginning after
16 December 31, 2021.

17 **SEC. 138145. MODIFICATIONS TO EXEMPTION FOR PORT-**
18 **FOLIO INTEREST.**

19 (a) IN GENERAL.—Section 871(h)(3)(B)(i) is amend-
20 ed to read as follows:

21 “(i) in the case of an obligation issued
22 by a corporation—

23 “(I) any person who owns 10
24 percent or more of the total combined
25 voting power of all classes of stock of
26 such corporation entitled to vote, or

1 “(II) any person who owns 10
2 percent or more of the total value of
3 the stock of such corporation, and”.

4 (b) EFFECTIVE DATE.—The amendment made by
5 this section shall apply to obligations issued after the date
6 of the enactment of this Act.

7 **SEC. 138146. CERTAIN PARTNERSHIP INTEREST DERIVA-**
8 **TIVES.**

9 (a) IN GENERAL.—Section 871(m) is amended by
10 adding at the end the following new paragraphs:

11 “(8) SPECIFIED PARTNERSHIP INTEREST IN-

12 COME EQUIVALENT PAYMENTS.—

13 “(A) IN GENERAL.—For purposes of this
14 subsection, any payment made pursuant to a
15 sale-repurchase transaction, or a specified no-
16 tional principal contract, that is determined by
17 reference to any income or gain in respect of an
18 interest in a specified partnership (or any other
19 payment the Secretary determines to be sub-
20 stantially similar) shall be treated as a dividend
21 equivalent.

22 “(B) SPECIFIED PARTNERSHIP.—For pur-
23 poses of this paragraph, the term ‘specified
24 partnership’ means—

1 “(i) any publicly-traded partnership
2 (as defined in subsection (b) of section
3 7704) which is not treated as a corpora-
4 tion under such section, or

5 “(ii) any other partnership as the Sec-
6 retary may by regulation prescribe.

7 “(C) EXCEPTIONS.—

8 “(i) EXCEPTED CONTRACTS.—Sub-
9 paragraph (A) shall not apply to any con-
10 tract or transaction the Secretary deter-
11 mines does not have the potential for tax
12 avoidance.

13 “(ii) CERTAIN INCOME.—Under such
14 regulations as the Secretary shall pre-
15 scribe, there shall not be taken into ac-
16 count under subparagraph (A) any pay-
17 ment the income or gain from which would
18 (but for this paragraph) be—

19 “(I) exempt from taxes under
20 this subtitle, or

21 “(II) treated as income from
22 sources without the United States if
23 paid to a nonresident alien individual.

24 “(D) TREATMENT OF DEFINITIONS AND
25 SPECIAL RULES WITH RESPECT TO PARTNER-

1 SHIPS.—For purposes of this paragraph, rules
2 similar to the rules and definitions in para-
3 graphs (3), (4), (5), (6) and (7) shall apply to
4 an interest in a specified partnership in a man-
5 ner similar to an underlying security, and to in-
6 come or gain in respect of an interest in a spec-
7 ified partnership in a manner similar to a divi-
8 dend.

9 “(9) OTHER RULES RELATING TO TREATMENT
10 OF DIVIDEND EQUIVALENTS.—

11 “(A) IN GENERAL.—A dividend equivalent
12 amount under this subsection shall be treated
13 as a dividend paid by a domestic corporation.

14 “(B) RATE OF TAX FOR PUBLICLY TRADED
15 PARTNERSHIP INCOME PAYMENTS.—In the case
16 of a payment treated as a dividend equivalent
17 pursuant to paragraph (8), the rate of tax im-
18 posed on any nonresident alien individual or
19 foreign corporation with respect to such pay-
20 ment shall not be less than the rate that would
21 be imposed had such individual or foreign cor-
22 poration, as the case may be, received a divi-
23 dend from a domestic corporation in which such
24 individual or foreign corporation owned less
25 than 1 percent (by vote or value) of the stock.”.

1 (b) WITHHOLDING OF TAX ON NONRESIDENT
2 ALIENS.—Section 1441 is amended by redesignating sub-
3 section (g) as subsection (h) and by inserting after sub-
4 section (f) the following new subsection:

5 “(g) DEEMED DIVIDEND EQUIVALENT PAYMENTS IN
6 CASE OF CERTAIN PUBLICLY TRADED PARTNERSHIPS.—
7 The Secretary may prescribe regulations, under rules simi-
8 lar to the rules of section 1446(f), to determine the man-
9 ner in which the amount of income and gain is determined
10 for purposes of this section in the case of amounts treated
11 as a dividend equivalent under section 871(m)(8).”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to payments made on or after the
14 date that is 180 days after the date of the enactment of
15 this Act.

16 **SEC. 138147. ADJUSTMENTS TO EARNINGS AND PROFITS OF**
17 **CONTROLLED FOREIGN CORPORATIONS.**

18 (a) IN GENERAL.—Section 312(n) is amended by
19 adding at the end the following new paragraph:

20 “(9) SPECIAL RULES FOR CONTROLLED FOR-
21 EIGN CORPORATIONS.—Earnings and profits of any
22 controlled foreign corporation shall be determined
23 without regard to paragraphs (4), (5), and (6).”.

24 (b) CONFORMING AMENDMENT.—Section 952(c) is
25 amended by striking paragraph (3).

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years of foreign corpora-
3 tions beginning after December 31, 2021, and to taxable
4 years of United States shareholders in which or with which
5 such taxable years of foreign corporations end.

6 **SEC. 138148. CERTAIN DIVIDENDS FROM CONTROLLED FOR-**
7 **EIGN CORPORATIONS TO UNITED STATES**
8 **SHAREHOLDERS TREATED AS EXTRAOR-**
9 **DINARY DIVIDENDS.**

10 (a) IN GENERAL.—Section 1059 is amended by re-
11 designating subsection (g) as subsection (h) and by insert-
12 ing after subsection (f) the following new subsection:

13 “(g) TREATMENT OF CERTAIN DIVIDENDS FROM
14 CONTROLLED FOREIGN CORPORATIONS TO UNITED
15 STATES SHAREHOLDERS.—

16 “(1) IN GENERAL.—Except as otherwise pro-
17 vided by the Secretary, any disqualified CFC divi-
18 dend shall be treated as an extraordinary dividend to
19 which paragraph (1) and (2) of subsection (a) ap-
20 plies without regard to the period the taxpayer held
21 the stock with respect to which such dividend is
22 paid.

23 “(2) DISQUALIFIED CFC DIVIDEND.— For pur-
24 poses of this subsection, the term ‘disqualified CFC
25 dividend’ means any dividend paid by a controlled

1 foreign corporation to a taxpayer which is a United
2 States shareholder of such foreign corporation if—

3 “(A) such dividend is attributable to earn-
4 ings and profits which—

5 “(i) were earned by such controlled
6 foreign corporation during a disqualified
7 period, or

8 “(ii) are attributable to gain on prop-
9 erty which accrued during a disqualified
10 period.

11 “(3) DISQUALIFIED PERIOD.—For purposes of
12 this subsection, the term ‘disqualified period’ means,
13 with respect to any dividend paid with respect to any
14 stock of a controlled foreign corporation, any period
15 during which—

16 “(A) such foreign corporation was not a
17 controlled foreign corporation, or

18 “(B) such stock was not owned by a
19 United States shareholder.”.

20 (b) REGULATIONS.—Section 1059(h), as redesign-
21 nated by subsection (a), is amended—

22 (1) by striking “regulations” both places it ap-
23 pears and inserting “regulations or other guidance”,
24 and

1 (2) by striking “and” at the end of paragraph
2 (1), by striking the period at the end of paragraph
3 (2) and inserting “, and”, and by adding at the end
4 the following new paragraph:

5 “(3) providing for the coordination of sub-
6 section (g) with the other provisions of this chapter,
7 including section 1248.”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to distributions made after the
10 date of the enactment of this Act.

11 **SEC. 138149. MODIFICATION OF RULES FOR PARTNERSHIP**
12 **INTERESTS HELD IN CONNECTION WITH THE**
13 **PERFORMANCE OF SERVICES.**

14 (a) IN GENERAL.—Section 1061 is amended by strik-
15 ing subsections (a) and (b) and inserting the following new
16 subsections:

17 “(a) IN GENERAL.—If one or more applicable part-
18 nership interests are held by a taxpayer at any time during
19 the taxable year, the taxpayer’s net applicable partnership
20 gain for such taxable year shall be treated as short-term
21 capital gain.

22 “(b) NET APPLICABLE PARTNERSHIP GAIN.—For
23 purposes of this section—

24 “(1) IN GENERAL.—The term ‘net applicable
25 partnership gain’ means—

1 “(A) the taxpayer’s net long-term capital
2 gain determined by only taking into account
3 gains and losses with respect to one or more ap-
4 plicable partnership interests described in sub-
5 section (a), and

6 “(B) any other amounts which are—

7 “(i) includible in the gross income of
8 the taxpayer with respect to one or more
9 such applicable partnership interests, and

10 “(ii) treated as capital gain or subject
11 to tax at the rate applicable to capital
12 gain.

13 “(2) HOLDING PERIOD EXCEPTION.—

14 “(A) IN GENERAL.—Net applicable part-
15 nership gain shall be determined without regard
16 to any amount which is realized after the date
17 that is 5 years after the latest of:

18 “(i) The date on which the taxpayer
19 acquired substantially all of the applicable
20 partnership interest with respect to which
21 the amount is realized.

22 “(ii) The date on which the partner-
23 ship in which such applicable partnership
24 interest is held acquired substantially all of
25 the assets held by such partnership.

1 “(iii) If the partnership described in
2 clause (i) owns, directly or indirectly, inter-
3 ests in one or more other partnerships, the
4 dates determined by applying rules similar
5 to the rules in clauses (i) and (ii) in the
6 case of each such other partnership.

7 “(B) SHORTER HOLDING PERIOD IN CER-
8 TAIN CIRCUMSTANCES.—Subparagraph (A)
9 shall be applied by substituting ‘3 years’ for ‘5
10 years’ in the case of—

11 “(i) a taxpayer (other than a trust or
12 estate) with an adjusted gross income (de-
13 termined without regard to sections 911,
14 931 and 933) of less than \$400,000, and

15 “(ii) any income with respect to any
16 applicable partnership interest that is at-
17 tributable to a real property trade or busi-
18 ness within the meaning of section
19 469(c)(7)(C).

20 “(iii) The Secretary is directed to pro-
21 vide guidance regarding determination of
22 the amount described in subsection (a) as
23 applied in paragraph (1) hereof, and any
24 necessary and appropriate reporting by any

1 partnership to carry out the purposes of
2 this section. —

3 “(3) SECTION 83 TO NOT APPLY.—This section
4 shall be applied without regard to section 83 and
5 any election in effect under section 83(b).

6 “(4) SPECIAL RULE.—To the extent provided
7 by the Secretary, subsection (a) shall not apply to
8 income or gain attributable to any asset not held for
9 portfolio investment on behalf of third party inves-
10 tors.”.

11 (b) MODIFICATIONS RELATED TO DEFINITION OF
12 APPLICABLE PARTNERSHIP INTEREST.—Section 1061(c)
13 is amended—

14 (1) in paragraph (1), by striking “to such other
15 entity” and inserting “with respect to a trade or
16 business that is not an applicable trade or business”,

17 (2) in paragraph (3), by striking “an interest in
18 a partnership to the extent of the partnership’s pro-
19 portionate interest in any of the foregoing” and in-
20 serting “except as otherwise provided by the Sec-
21 retary, an interest in a partnership if such partner-
22 ship has a direct or indirect interest in any of the
23 foregoing”, and

24 (3) in paragraph (4)—

1 (A) by striking “The term” and inserting
2 “Except as otherwise provided by the Secretary,
3 the term”, and

4 (B) in subparagraph (A), by striking “cor-
5 poration” and inserting “C corporation”.

6 (c) RECOGNITION OF GAIN ON TRANSFERS OF AP-
7 PPLICABLE PARTNERSHIP INTERESTS TO UNRELATED
8 PARTIES.—Section 1061(d) is amended to read as follows:
9 “(d) TRANSFER OF APPLICABLE PARTNERSHIP IN-
10 TEREST.—If a taxpayer transfers any applicable partner-
11 ship interest, gain shall be recognized notwithstanding any
12 other provision of this subtitle.”.

13 (d) REGULATIONS.—Section 1061(e) is amended by
14 striking the period at the end and inserting the following:
15 “, including regulations or other guidance to—

16 “(1) to prevent the avoidance of the purposes of
17 this section, including through the distribution of
18 property by a partnership and through carry waiv-
19 ers, and

20 “(2) to provide for the application of this sec-
21 tion to financial instruments, contracts or interests
22 in entities other than partnerships to the extent nec-
23 essary or appropriate to carry out the purposes of
24 this section.”.

1 (e) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2021.

4 **SEC. 138150. LIMITATION ON CERTAIN SPECIAL RULES FOR**
5 **SECTION 1202 GAINS.**

6 (a) IN GENERAL.—Section 1202(a) is amended by
7 adding at the end the following new paragraph:

8 “(5) LIMITATION ON CERTAIN SPECIAL
9 RULES.—In the case of the sale or exchange of
10 qualified small business stock after September 13,
11 2021, paragraphs (3) and (4) shall not apply to any
12 taxpayer if—

13 “(A) the adjusted gross income of such
14 taxpayer (determined without regard to this
15 section and sections 911, 931, and 933) equals
16 or exceeds \$400,000, or

17 “(B) such taxpayer is a trust or estate.”.

18 (b) EFFECTIVE DATE.—Except as provided in sub-
19 section (c), the amendment made by this section shall
20 apply to sales and exchanges on or after September 13,
21 2021.

22 (c) BINDING CONTRACT EXCEPTION.—The amend-
23 ment made by this section shall not apply to any sale or
24 exchange which is made pursuant to written binding con-

1 tract which was in effect on September 12, 2021, and is
2 not modified in any material respect thereafter.

3 **SEC. 138151. CONSTRUCTIVE SALES.**

4 (a) APPLICATION TO APPRECIATED DIGITAL AS-
5 SETS.—

6 (1) IN GENERAL.—Section 1259(b)(1) is
7 amended by inserting “digital asset,” after “debt in-
8 strument,”.

9 (2) DIGITAL ASSET.—Section 1259(d) is
10 amended by adding at the end the following new
11 paragraph:

12 “(3) DIGITAL ASSET.—Except as otherwise pro-
13 vided by the Secretary, the term ‘digital asset’
14 means any digital representation of value which is
15 recorded on a cryptographically secured distributed
16 ledger or any similar technology as specified by the
17 Secretary.”.

18 (b) TREATMENT OF CERTAIN CONTRACTS.—Section
19 1259(c)(1)(D) is amended by inserting “or enters into a
20 contract to acquire” after “acquires”.

21 (c) EFFECTIVE DATE.—

22 (1) IN GENERAL.—The amendments made by
23 subsection (a) shall apply to constructive sales (de-
24 termined after the application of the amendment

1 made by subsection (b)) after the date of the enact-
2 ment of this Act.

3 (2) TREATMENT OF CERTAIN CONTRACTS.—

4 The amendment made by subsection (b) shall apply
5 to contracts entered into after the date of the enact-
6 ment of this Act.

7 **SEC. 138152. RULES RELATING TO COMMON CONTROL.**

8 (a) CLARIFICATION OF TRADE OR BUSINESS.—Sec-
9 tion 52(b) is amended by adding at the end the following
10 new sentence: “For purposes of this subsection, the term
11 ‘trade or business’ includes any activity treated as a trade
12 or business under paragraph (5) or (6) of section 469(c).”

13 (b) EFFECTIVE DATE.—The amendment made by
14 this section shall apply to taxable years beginning after
15 December 31, 2021.

16 **SEC. 138153. WASH SALES BY RELATED PARTIES; WASH**
17 **SALES OF SPECIFIED ASSETS.**

18 (a) APPLICATION OF WASH SALE RULES TO RE-
19 LATED PARTIES.—Section 1091(a) is amended by striking
20 “the taxpayer has acquired” and inserting “the taxpayer
21 (or a related party) has acquired”.

22 (b) MODIFICATION OF BASIS ADJUSTMENT RULE TO
23 PREVENT TRANSFER OF LOSSES TO RELATED PAR-
24 TIES.—Section 1091(d) is amended to read as follows:

1 “(d) ADJUSTMENT TO BASIS IN CASE OF WASH
2 SALE.—If the taxpayer (or the taxpayer’s spouse) ac-
3 quires substantially identical specified assets during the
4 period which—

5 “(1) begins 30 days before the disposition with
6 respect to which a deduction was disallowed under
7 subsection (a), and

8 “(2) ends with the close of the taxpayer’s first
9 taxable year which begins after such disposition,
10 the basis of such specified assets shall be increased by the
11 amount of the deduction so disallowed (reduced by any
12 amount of such deduction taken into account under this
13 subsection to increase the basis of specified assets pre-
14 viously acquired).”

15 (c) RELATED PARTY.—Section 1091 is amended by
16 adding at the end the following new subsection:

17 “(g) RELATED PARTY.—For purposes of this sec-
18 tion—

19 “(1) IN GENERAL.—The term ‘related party’
20 means—

21 “(A) the taxpayer’s spouse,

22 “(B) any dependent of the taxpayer and
23 any other taxpayer with respect to whom the
24 taxpayer is a dependent,

1 “(C) any individual, corporation, partner-
2 ship, trust, or estate which controls, or is con-
3 trolled by, (within the meaning of section
4 954(d)(3)) the taxpayer or any individual de-
5 scribed in subparagraph (A) or (B) with respect
6 to the taxpayer (or any combination thereof),

7 “(D) any individual retirement plan, Ar-
8 cher MSA (as defined in section 220(d)), or
9 health savings account (as defined in section
10 223(d)), of the taxpayer or of any individual de-
11 scribed in subparagraph (A) or (B) with respect
12 to the taxpayer,

13 “(E) any account under a qualified tuition
14 program described in section 529 or a Coverdell
15 education savings account (as defined in section
16 530(b)) if the taxpayer, or any individual de-
17 scribed in subparagraph (A) or (B) with respect
18 to the taxpayer, is the designated beneficiary of
19 such account or has the right to make any deci-
20 sion with respect to the investment of any
21 amount in such account, and

22 “(F) any account under—

23 “(i) a plan described in section
24 401(a),

1 “(ii) an annuity plan described in sec-
2 tion 403(a),

3 “(iii) an annuity contract described in
4 section 403(b), or

5 “(iv) an eligible deferred compensa-
6 tion plan described in section 457(b) and
7 maintained by an employer described in
8 section 457(e)(1)(A),

9 if the taxpayer or any individual described in
10 subparagraph (A) or (B) with respect to the
11 taxpayer has the right to make any decision
12 with respect to the investment of any amount in
13 such account.

14 “(2) RULES FOR DETERMINING STATUS.—

15 “(A) RELATIONSHIPS DETERMINED AT
16 TIME OF ACQUISITION.—Determinations under
17 paragraph (1) shall be made as of the time of
18 the purchase or exchange referred to in sub-
19 section (a) except that determinations under
20 subparagraphs (A) and (B) of paragraph (1)
21 shall be made for the taxable year which in-
22 cludes such purchase or exchange.

23 “(B) DETERMINATION OF MARITAL STA-
24 TUS.—

1 “(i) IN GENERAL.—Except as pro-
2 vided in clause (ii), marital status shall be
3 determined under section 7703.

4 “(ii) SPECIAL RULE FOR MARRIED IN-
5 DIVIDUALS FILING SEPARATELY AND LIV-
6 ING APART.—A husband and wife who—

7 “(I) file separate returns for any
8 taxable year, and

9 “(II) live apart at all times dur-
10 ing such taxable year,

11 shall not be treated as married individuals.

12 “(3) REGULATIONS.—The Secretary shall issue
13 such regulations or other guidance as may be nec-
14 essary to prevent the avoidance of the purposes of
15 this subsection, including regulations which treat
16 persons as related parties if such persons are formed
17 or availed of to avoid the purposes of this sub-
18 section.”.

19 (d) WASH SALE RULES TO APPLY WITH RESPECT
20 TO SPECIFIED ASSETS.—

21 (1) SPECIFIED ASSETS.—Section 1091, as
22 amended by the preceding provisions of this section,
23 is amended by adding at the end the following new
24 subsection:

1 “(h) SPECIFIED ASSET.—For purposes of this sec-
2 tion, the term ‘specified asset’ means any of the following:

3 “(1) Any security described in subparagraph
4 (A), (B), (C), (D), or (E) of section 475(c)(2).

5 “(2) Any foreign currency.

6 “(3) Any commodity described in subparagraph
7 (A), (B), or (C) of section 475(e)(2).

8 “(4) Any digital representation of value which
9 is recorded on a cryptographically secured distrib-
10 uted ledger or any similar technology as specified by
11 the Secretary.

12 Such term shall, except as provided in regulations, include
13 contracts or options to acquire or sell any specified as-
14 sets.”.

15 (2) CONFORMING AMENDMENTS.—Section 1091
16 is amended—

17 (A) by striking the last sentence of sub-
18 section (a),

19 (B) by striking “stock or securities” each
20 place it appears and inserting “specified as-
21 sets”, and

22 (C) by striking “shares of” each place it
23 appears in subsections (a), (b), and (c).

24 (e) EXCEPTION FOR BUSINESS NEEDS AND HEDG-
25 ING TRANSACTIONS.—Section 1091, as amended by the

1 preceding provisions of this section, is amended by adding
2 at the end the following new subsection:

3 “(i) EXCEPTION FOR BUSINESS NEEDS AND HEDG-
4 ING TRANSACTIONS.—Except as provided in regulations
5 prescribed by the Secretary, subsection (a) shall not apply
6 in the case of any sale or other disposition—

7 “(1) of a foreign currency or commodity de-
8 scribed in subsection (h), and

9 “(2) which—

10 “(A) is directly related to the business
11 needs of a trade or business of the taxpayer
12 (other than the trade or business of trading for-
13 eign currencies or commodities described in
14 subsection (h)), or

15 “(B) is part of a hedging transaction (as
16 defined in section 1221(b)(2)).”.

17 (f) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to sales and other dispositions
19 after December 31, 2021.

20 **PART 2—TAX INCREASES FOR HIGH-INCOME**

21 **INDIVIDUALS**

22 **SEC. 138201. INCREASE IN TOP MARGINAL INDIVIDUAL IN-** 23 **COME TAX RATE.**

24 (a) RE-ESTABLISHMENT OF 39.6 PERCENT RATE
25 BRACKET.—

1 (1) MARRIED INDIVIDUALS FILING JOINT RE-
 2 TURNS AND SURVIVING SPOUSES.—The table con-
 3 tained in section 1(j)(2)(A) is amended by striking
 4 the last two rows and inserting the following: “

“Over \$400,000 but not over \$450,000.	\$91,379, plus 35% of the excess over \$400,000
Over \$450,000	\$108,879, plus 39.6% of the excess over \$450,000.”.

5 (2) HEADS OF HOUSEHOLDS.—The table con-
 6 tained in section 1(j)(2)(B) is amended by striking
 7 the last two rows and inserting the following: “

“Over \$200,000 but not over \$425,000.	\$44,298, plus 35% of the excess over \$200,000
Over \$425,000	\$123,048, plus 39.6% of the excess over \$425,000.”.

8 (3) UNMARRIED INDIVIDUALS OTHER THAN
 9 SURVIVING SPOUSES AND HEADS OF HOUSE-
 10 HOLDS.—The table contained in section 1(j)(2)(C) is
 11 amended by striking the last two rows and inserting
 12 the following: “

“Over \$200,000 but not over \$400,000.	\$45,689.50, plus 35% of the excess over \$200,000
Over \$400,000	\$115,689.50, plus 39.6% of the ex- cess over \$400,000.”.

13 (4) MARRIED INDIVIDUALS FILING SEPARATE
 14 RETURNS.—The table contained in section
 15 1(j)(2)(D) is amended by striking the last two rows
 16 and inserting the following: “

“Over \$200,000 but not over \$225,000.	\$45,689.50, plus 35% of the excess over \$200,000
Over \$225,000	\$54,439.50, plus 39.6% of the excess over \$225,000.”.

1 (5) ESTATES AND TRUSTS.—The table con-
 2 tained in section 1(j)(2)(E) is amended by striking
 3 the last row and inserting the following: “

“Over \$12,500	\$3,011.50, plus 39.6% of the excess over \$12,500.”.
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4 (b) APPLICATION OF ADJUSTMENTS.—Section
 5 1(j)(3) is amended to read as follows:

6 “(3) ADJUSTMENTS.—For taxable years begin-
 7 ning after December 31, 2021, the Secretary shall
 8 prescribe tables which shall apply in lieu of the ta-
 9 bles contained in paragraph (2) in the same manner
 10 as under paragraphs (1) and (2) of subsection (f)
 11 (applied without regard to clauses (i) and (ii) of sub-
 12 section (f)(2)(A), except that in prescribing such ta-
 13 bles—

14 “(A) except as provided in subparagraph
 15 (B), subsection (f)(3) shall be applied by sub-
 16 stituting ‘calendar year 2017’ for ‘calendar year
 17 2016’ in subparagraph (A)(ii) thereof,

18 “(B) in the case of adjustments to the dol-
 19 lar amounts at which the 39.6 percent rate
 20 bracket begins (other than such dollar amount
 21 in paragraph (2)(E))—

22 “(i) no adjustment shall be made for
 23 taxable years beginning after December
 24 31, 2021, and before January 1, 2023, and

1 “(ii) in the case of any taxable year
2 beginning after December 31, 2022, sub-
3 section (f)(3) shall be applied by sub-
4 stituting ‘calendar year 2021’ for ‘calendar
5 year 2016’,

6 “(C) subsection (f)(7)(B) shall apply to
7 any unmarried individual other than a surviving
8 spouse, and

9 “(D) subsection (f)(8) shall not apply.”.

10 (c) MODIFICATION TO 39.6 PERCENT RATE BRACK-
11 ET FOR HIGH-INCOME TAXPAYERS AFTER 2025.—Section
12 1(i)(3) is amended to read as follows:

13 “(3) MODIFICATIONS TO 39.6 PERCENT RATE
14 BRACKET.—In the case of taxable years beginning
15 after December 31, 2025—

16 “(A) IN GENERAL.—The rate of tax under
17 subsections (a), (b), (c), and (d) on a taxpayer’s
18 taxable income in excess of the 39.6 percent
19 rate bracket threshold shall be taxed at a rate
20 of 39.6 percent.

21 “(B) 39.6 PERCENT RATE BRACKET
22 THRESHOLD.—For purposes of this paragraph,
23 the term ‘39.6 percent rate bracket threshold’
24 means—

1 “(i) in the case any taxpayer de-
2 scribed in subsection (a), \$450,000,

3 “(ii) in the case of any taxpayer de-
4 scribed in subsection (b), \$425,000,

5 “(iii) in the case of any taxpayer de-
6 scribed in subsection (c), \$400,000, and

7 “(iv) in the case of any taxpayer de-
8 scribed in subsection (d), \$225,000.

9 “(C) INFLATION ADJUSTMENT.—For pur-
10 poses of this paragraph, with respect to taxable
11 years beginning in calendar years after 2025,
12 each of the dollar amounts in subparagraph (B)
13 shall be adjusted in the same manner as under
14 paragraph (1)(C)(i), except that subsection
15 (f)(3)(A)(ii) shall be applied by substituting
16 ‘2021’ for ‘2016’.”

17 (d) CONFORMING AMENDMENTS.—

18 (1) Section 1(j)(1) is amended by striking “De-
19 cember 31, 2017” and inserting “December 31,
20 2021”.

21 (2) The heading of section 1(j) is amended by
22 striking “2018” and inserting “2022”.

23 (3) The heading of section 1(i) is amended by
24 striking “RATE REDUCTIONS” and inserting “MODI-
25 FICATIONS”

1 “(B) MAXIMUM ZERO RATE AMOUNT DE-
2 FINED.—For purposes of applying section 1(h)
3 with the modifications described in subpara-
4 graph (A), the maximum zero rate amount shall
5 be—

6 “(i) in the case of a joint return or
7 surviving spouse, \$77,200,

8 “(ii) in the case of an individual who
9 is a head of household (as defined in sec-
10 tion 2(b)), \$51,700,

11 “(iii) in the case of any other indi-
12 vidual (other than an estate or trust), an
13 amount equal to $\frac{1}{2}$ of the amount in effect
14 for the taxable year under subclause (I),
15 and

16 “(iv) in the case of an estate or trust,
17 \$2,600.”, and

18 (2) by striking “each of the dollar amounts in
19 clauses (i) and (ii)” in subparagraph (C) and insert-
20 ing “each dollar amount in clause (i), (ii), or (iv)”.

21 (c) CONFORMING AMENDMENTS.—

22 (1) Section 55(b)(3) is amended by striking
23 subparagraph (D) and redesignating subparagraph
24 (E) as subparagraph (D).

1 (2) The following provisions are each amended
2 by striking “20 percent” and inserting “25 per-
3 cent”:

4 (A) Section 531.

5 (B) Section 541.

6 (C) Section 1445(e)(1).

7 (D) Section 1445(e)(6).

8 (E) The second sentence of section
9 7518(g)(6)(A).

10 (3) Section 53511(f)(2) of title 46, United
11 States Code, is amended to read as follows:

12 “(2) MAXIMUM TAX RATE.—For that portion of
13 a nonqualified withdrawal made from the capital
14 gain account during a taxable year to which section
15 1(h) of such Code (26 U.S.C. 1(h)) applies, the tax
16 rate used under paragraph (1)(B) may not exceed
17 25 percent.”.

18 (d) SECTION 15 NOT TO APPLY.—The amendments
19 made by this section shall not be treated as a change in
20 a rate of tax for purposes of section 15 of the Internal
21 Revenue Code of 1986.

22 (e) EFFECTIVE DATES.—

23 (1) IN GENERAL.—Except as otherwise pro-
24 vided in this subsection, the amendments made by

1 this section shall apply to taxable years ending after
2 September 13, 2021.

3 (2) RE-ALIGNMENT OF 25 PERCENT CAPITAL
4 GAINS RATE THRESHOLD WITH 39.6 PERCENT IN-
5 COME TAX RATE THRESHOLD.—The amendments
6 made by subsection (b) shall apply to taxable years
7 beginning after December 31, 2021.

8 (3) WITHHOLDING UNDER SECTIONS 1445 AND
9 1446.—The amendments made by subparagraphs
10 (C) and (D) of subsection (e)(2) shall apply to dis-
11 positions after the date of the enactment of this Act.

12 (f) TRANSITIONAL RULES FOR TAXABLE YEARS
13 WHICH INCLUDE SEPTEMBER 13, 2021.—

14 (1) IN GENERAL.—For purposes of applying
15 section 1(h) of the Internal Revenue Code of 1986
16 with respect to any taxable year which includes Sep-
17 tember 13, 2021, the amount determined under sub-
18 paragraph (D) of section 1(h)(1) of such Code shall
19 be the sum of—

20 (A) 20 percent of the lesser of—

21 (i) the amount on which a tax is de-
22 termined under such subparagraph (D)
23 (without regard to this subsection), or

24 (ii) the amount (if any) of net capital
25 gain determined by taking into account

1 only dividends, gains, and losses for the
2 portion of the taxable year on or before
3 September 13, 2021 (determined without
4 regard to collectibles gain or loss, gain de-
5 scribed in section 1(h)(6)(A)(i) of such
6 Code, and section 1202 gain), plus—

7 (B) 25 percent of the excess (if any) of the
8 amount described in subparagraph (A)(i) over
9 the amount described in subparagraph (A)(ii).

10 (2) SPECIAL RULE FOR BINDING CONTRACTS
11 ENTERED INTO PRIOR TO SEPTEMBER 13, 2021.—For
12 purposes of paragraph (1), a gain recognized in the
13 taxable year that includes September 13, 2021, shall
14 be treated as being with respect to the portion of
15 such taxable year on or before such date if such gain
16 arises from a transaction which occurs pursuant to
17 a written binding contract entered into on or before
18 such date (and which is not modified thereafter in
19 any material respect).

20 (3) ALTERNATIVE MINIMUM TAX.—Rules simi-
21 lar to the rules of paragraph (1) shall apply for pur-
22 poses of applying section 55(b)(3) of such Code.

23 (4) APPLICATION TO PASS-THRU ENTITIES.—In
24 applying this subsection with respect to any pass-
25 thru entity, the determination of when dividends,

1 gains, and losses are properly taken into account
2 shall be made at the entity level.

3 (5) DEFINITIONS OF CERTAIN TERMS.—Terms
4 used in this subsection which are also used in sec-
5 tion 1(h) of such Code shall have the respective
6 meanings that such terms have in such section.

7 **SEC. 138203. APPLICATION OF NET INVESTMENT INCOME**
8 **TAX TO TRADE OR BUSINESS INCOME OF**
9 **CERTAIN HIGH INCOME INDIVIDUALS.**

10 (a) IN GENERAL.—Section 1411 is amended by add-
11 ing at the end the following new subsection:

12 “(f) APPLICATION TO CERTAIN HIGH INCOME INDI-
13 VIDUALS.—

14 “(1) IN GENERAL.—In the case of any indi-
15 vidual whose modified adjusted gross income for the
16 taxable year exceeds the high income threshold
17 amount, subsection (a)(1) shall be applied by sub-
18 stituting ‘the greater of specified net income or net
19 investment income’ for ‘net investment income’ in
20 subparagraph (A) thereof.

21 “(2) PHASE-IN OF INCREASE.—The increase in
22 the tax imposed under subsection (a)(1) by reason of
23 the application of paragraph (1) of this subsection
24 shall not exceed the amount which bears the same

1 ratio to the amount of such increase (determined
2 without regard to this paragraph) as—

3 “(A) the excess described in paragraph (1),
4 bears to

5 “(B) \$100,000 ($\frac{1}{2}$ such amount in the
6 case of a married taxpayer (as defined in sec-
7 tion 7703) filing a separate return).

8 “(3) HIGH INCOME THRESHOLD AMOUNT.—For
9 purposes of this subsection, the term ‘high income
10 threshold amount’ means—

11 “(A) except as provided in subparagraph
12 (B) or (C), \$400,000,

13 “(B) in the case of a taxpayer making a
14 joint return under section 6013 or a surviving
15 spouse (as defined in section 2(a)), \$500,000,
16 and

17 “(C) in the case of a married taxpayer (as
18 defined in section 7703) filing a separate re-
19 turn, $\frac{1}{2}$ of the dollar amount determined under
20 subparagraph (B).

21 “(4) SPECIFIED NET INCOME.—For purposes of
22 this section, the term ‘specified net income’ means
23 net investment income determined—

24 “(A) without regard to the phrase ‘other
25 than such income which is derived in the ordi-

1 nary course of a trade or business not described
2 in paragraph (2),’ in subsection (c)(1)(A)(i),

3 “(B) without regard to the phrase ‘de-
4 scribed in paragraph (2)’ in subsection
5 (c)(1)(A)(ii),

6 “(C) without regard to the phrase ‘other
7 than property held in a trade or business not
8 described in paragraph (2)’ in subsection
9 (c)(1)(A)(iii),

10 “(D) without regard to paragraphs (2),
11 (3), and (4) of subsection (c), and

12 “(E) by treating paragraphs (5) and (6) of
13 section 469(c) as applying for purposes of sub-
14 section (c) of this section.”.

15 (b) APPLICATION TO TRUSTS AND ESTATES.—Sec-
16 tion 1411(a)(2)(A) is amended by striking “undistributed
17 net investment income” and inserting “the greater of un-
18 distributed specified net income or undistributed net in-
19 vestment income”.

20 (c) CLARIFICATIONS WITH RESPECT TO DETER-
21 MINATION OF NET INVESTMENT INCOME.—

22 (1) WAGES SUBJECT TO FICA NOT TAKEN INTO
23 ACCOUNT.—Section 1411(c)(6) is amended by in-
24 serting “or wages received with respect to employ-

1 ment on which a tax is imposed under section
2 3101(b)” before the period at the end.

3 (2) NET OPERATING LOSSES NOT TAKEN INTO
4 ACCOUNT.—Section 1411(c)(1)(B) is amended by in-
5 serting “(other than section 172)” after “this sub-
6 title”.

7 (3) INCLUSION OF CERTAIN FOREIGN IN-
8 COME.—

9 (A) IN GENERAL.—Section 1411(c)(1)(A)
10 is amended by striking “and” at the end of
11 clause (ii), by striking “over” at the end of
12 clause (iii) and inserting “and”, and by adding
13 at the end the following new clause:

14 “(iv) any amount includible in gross
15 income under section 951, 951A, 1293, or
16 1296, over”.

17 (B) PROPER TREATMENT OF CERTAIN
18 PREVIOUSLY TAXED INCOME.—Section 1411(c)
19 is amended by adding at the end the following
20 new paragraph:

21 “(7) CERTAIN PREVIOUSLY TAXED INCOME.—
22 The Secretary shall issue regulations or other guid-
23 ance providing for the treatment of distributions of
24 amounts previously included in gross income for pur-

1 poses of chapter 1 but not previously subject to tax
2 under this section.”.

3 (d) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 December 31, 2021.

6 (e) TRANSITION RULE.—The regulations or other
7 guidance issued by the Secretary under section 1411(e)(7)
8 of the Internal Revenue Code of 1986 (as added by this
9 section) shall include provisions which provide for the
10 proper coordination and application of clauses (i) and (iv)
11 of section 1411(e)(1)(A) with respect to—

12 (1) taxable years beginning on or before De-
13 cember 31, 2021, and

14 (2) taxable years beginning after such date.

15 **SEC. 138204. LIMITATION ON DEDUCTION OF QUALIFIED**
16 **BUSINESS INCOME FOR CERTAIN HIGH IN-**
17 **COME INDIVIDUALS.**

18 (a) IN GENERAL.—Section 199A(a) is amended by
19 striking “or” at the end of paragraph (1), by striking the
20 period at the end of paragraph (2) and inserting “, or”,
21 and by adding at the end the following new paragraph:

22 “(3) the following amount:

23 “(A) \$500,000 in the case of a joint return
24 or surviving spouse (as defined in section 2(a)),

1 “(B) \$400,000 in the case of any taxpayer
2 not described in subparagraph (A), (C), or (D),
3 “(C) \$250,000 in the case of a married in-
4 dividual filing a separate return, or
5 “(D) \$10,000 in the case of an estate or
6 trust.”.

7 (b) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to taxable years beginning after
9 December 31, 2021.

10 **SEC. 138205. LIMITATIONS ON EXCESS BUSINESS LOSSES**
11 **OF NONCORPORATE TAXPAYERS.**

12 (a) LIMITATION MADE PERMANENT.—

13 (1) IN GENERAL.—Section 461(l)(1) is amend-
14 ed to read as follows:

15 “(1) LIMITATION.—In the case of any taxpayer
16 other than a corporation, any excess business loss of
17 the taxpayer for the taxable year shall not be al-
18 lowed.”.

19 (2) CONFORMING AMENDMENT.—Section 461 is
20 amended by striking subsection (j).

21 (b) MODIFICATION OF CARRYOVER OF DISALLOWED
22 LOSSES.—Section 461(l)(2) is amended to read as follows:

23 “(2) DISALLOWED LOSS CARRYOVER.—Any loss
24 which is disallowed under paragraph (1) for any tax-
25 able year shall be treated (solely for purposes of this

1 chapter) as a deduction described in paragraph
2 (3)(A)(i) for the next taxable year.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 December 31, 2020.

6 **SEC. 138206. SURCHARGE ON HIGH INCOME INDIVIDUALS,**
7 **ESTATES, AND TRUSTS.**

8 (a) IN GENERAL.—Part I of subchapter A of chapter
9 1 is amended by inserting after section 1 the following
10 new section:

11 **“SEC. 1A. SURCHARGE ON HIGH INCOME INDIVIDUALS, ES-**
12 **TATES, AND TRUSTS.**

13 “(a) GENERAL RULE.—In the case of a taxpayer
14 other than a corporation, there is hereby imposed (in addi-
15 tion to any other tax imposed by this subtitle) a tax equal
16 to 3 percent of so much of the modified adjusted gross
17 income of the taxpayer as exceeds—

18 “(1) \$5,000,000, in the case of any taxpayer
19 not described in paragraph (2) or (3),

20 “(2) \$2,500,000, in the case of a married indi-
21 vidual filing a separate return, and

22 “(3) \$100,000, in the case of an estate or trust.

23 “(b) MODIFIED ADJUSTED GROSS INCOME.—For
24 purposes of this section, the term ‘modified adjusted gross
25 income’ means adjusted gross income reduced by any de-

1 duction (not taken into account in determining adjusted
2 gross income) allowed for investment interest (as defined
3 in section 163(d)). In the case of an estate or trust, ad-
4 justed gross income shall be determined as provided in sec-
5 tion 67(e).

6 “(c) SPECIAL RULES.—

7 “(1) NONRESIDENT ALIEN.—In the case of a
8 nonresident alien individual, only amounts taken
9 into account in connection with the tax imposed
10 under section 871(b) shall be taken into account
11 under this section.

12 “(2) CITIZENS AND RESIDENTS LIVING
13 ABROAD.—The dollar amount applicable to any tax-
14 payer under paragraph (1), (2), or (3) of subsection
15 (a) (as the case may be) shall be decreased (but not
16 below zero) by the excess (if any) of—

17 “(A) the amounts excluded from the tax-
18 payer’s gross income under section 911, over

19 “(B) the amounts of any deductions or ex-
20 clusions disallowed under section 911(d)(6)
21 with respect to the amounts described in sub-
22 paragraph (A).

23 “(3) CHARITABLE TRUSTS.—Subsection (a)
24 shall not apply to a trust all the unexpired interests

1 in which are devoted to one or more of the purposes
2 described in section 170(c)(2)(B).

3 “(4) NOT TREATED AS TAX IMPOSED BY THIS
4 CHAPTER FOR CERTAIN PURPOSES.—The tax im-
5 posed under this section shall not be treated as tax
6 imposed by this chapter for purposes of determining
7 the amount of any credit under this chapter or for
8 purposes of section 55.”.

9 (b) CLERICAL AMENDMENT.—The table of sections
10 for part I of subchapter A of chapter 1 is amended by
11 inserting after the item relating to section 1 the following
12 new item:

“Sec. 1A. Surcharge on high income individuals.”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to taxable years beginning after
15 December 31, 2021.

16 **SEC. 138207. TERMINATION OF TEMPORARY INCREASE IN**
17 **UNIFIED CREDIT.**

18 (a) IN GENERAL.—Section 2010(c)(3) of the Internal
19 Revenue Code of 1986 is amended by striking subpara-
20 graph (C).

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to estates of decedents dying and
23 gifts made after December 31, 2021.

1 **SEC. 138208. INCREASE IN LIMITATION ON ESTATE TAX**
2 **VALUATION REDUCTION FOR CERTAIN REAL**
3 **PROPERTY USED IN FARMING OR OTHER**
4 **TRADES OR BUSINESSES.**

5 (a) IN GENERAL.—Section 2032A(a)(2) of the Inter-
6 nal Revenue Code of 1986 is amended by striking
7 “\$750,000” and inserting “\$11,700,000”.

8 (b) INFLATION ADJUSTMENT.—Section 2032A(a)(3)
9 of such Code is amended—

10 (1) by striking “\$750,000” both places it ap-
11 pears and inserting “\$11,700,000”,

12 (2) by striking “1998” in the matter preceding
13 subparagraph (A) and inserting “2021”, and

14 (3) by striking “1997” in subparagraph (B)
15 and inserting “2020”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to the estates of decedents dying
18 after December 31, 2021.

19 **SEC. 138209. CERTAIN TAX RULES APPLICABLE TO GRANT-**
20 **OR TRUSTS.**

21 (a) APPLICATION OF TRANSFER TAXES.—

22 (1) IN GENERAL.—Subtitle B of the Internal
23 Revenue Code of 1986 is amended by adding at the
24 end the following new chapter:

1 **“CHAPTER 16—SPECIAL RULES FOR**
2 **GRANTOR TRUSTS**

“Sec. 2901. Application of transfer taxes.

3 **“SEC. 2901. APPLICATION OF TRANSFER TAXES.**

4 “(a) IN GENERAL.—In the case of any portion of a
5 trust with respect to which the grantor is the deemed
6 owner—

7 “(1) the value of the gross estate of the de-
8 ceased deemed owner of such portion shall include
9 all assets attributable to that portion at the time of
10 the death of such owner,

11 “(2) any distribution (other than to the deemed
12 owner or the deemed owner’s spouse) from such por-
13 tion to one or more beneficiaries during the life of
14 the deemed owner of such portion (other than in dis-
15 charge of an obligation of the deemed owner) shall
16 be treated as a transfer by gift for purposes of chap-
17 ter 12,

18 “(3) if at any time during the life of the
19 deemed owner of such portion, such owner ceases to
20 be treated as the owner of such portion under sub-
21 part E of part 1 of subchapter J of chapter 1, all
22 assets attributable to such portion at such time shall
23 be treated for purposes of chapter 12 as a transfer
24 by gift made by the deemed owner, and

1 “(4) proper adjustment shall be made with re-
2 spect to amounts so included in the gross estate, or
3 treated as transferred by gift, pursuant to para-
4 graph (1), (2), or (3), as the case may be, to ac-
5 count for amounts treated previously as taxable gifts
6 under chapter 12 with respect to previous transfers
7 to the trust by the deemed owner.

8 “(b) EXCEPTIONS.—This section shall not apply to
9 any trust that is includible in the gross estate of the
10 deemed owner (without regard to subsection (a)(1)).

11 “(c) DEEMED OWNER DEFINED.—For purposes of
12 this chapter, the term ‘deemed owner’ means any person
13 who is treated as the owner of a portion of a trust under
14 subpart E of part 1 of subchapter J of chapter 1.”.

15 (2) CROSS-REFERENCE.—Section 2511 of such
16 Code is amended by adding at the end the following
17 new subsection:

18 “(c) CROSS-REFERENCE.—For treatment of transfers
19 to grantor trusts, see section 2901.”.

20 (3) CLERICAL AMENDMENT.—The table of
21 chapters for subtitle B of such Code is amended by
22 adding at the end the following new item:

 “CHAPTER 16. SPECIAL RULES FOR GRANTOR TRUSTS”.

23 (b) CERTAIN SALES TO GRANTOR TRUST.—

24 (1) IN GENERAL.—Part IV of subchapter O of
25 chapter 1 of such Code is amended by redesignating

1 section 1062 as section 1063 and inserting after sec-
2 tion 1061 the following new section:

3 **“SEC. 1062. CERTAIN SALES BETWEEN GRANTOR TRUST**
4 **AND DEEMED OWNER.**

5 “(a) IN GENERAL.—In the case of any transfer of
6 property between a trust and the a person who is the
7 deemed owner of the trust (or portion thereof), such treat-
8 ment of the person as the owner of the trust shall be dis-
9 regarded in determining whether the transfer is a sale or
10 exchange for purposes of this chapter.

11 “(b) EXCEPTION.—Subsection (a) shall not apply to
12 any trust that is fully revocable by the deemed owner.

13 “(c) DEEMED OWNER.—For purposes of this section,
14 the term ‘deemed owner’ means any person who is treated
15 as the owner of a portion of a trust under subpart E of
16 part 1 of subchapter J.”.

17 (2) RELATED TAXPAYERS.—Section 267(b) is
18 amended by striking “or” at the end of paragraph
19 (12), by striking the period at the end of paragraph
20 (13) and inserting “; or”, and by adding at the end
21 the following new paragraph:

22 “(14) A grantor trust and the person treated as
23 the owner of the trust (or portion thereof) under
24 subpart E of part 1 of subchapter J of this chap-
25 ter.”.

1 (3) CLERICAL AMENDMENT.—The table of sec-
2 tions for part IV of subchapter O of chapter 1 of
3 such Code is amended by striking the item relating
4 to section 1062 and inserting the following new
5 items:

“Sec. 1062. Certain sales to grantor trusts.
“Sec. 1063. Cross references.”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply—

8 (1) to trusts created on or after the date of the
9 enactment of this Act, and

10 (2) to any portion of a trust established before
11 the date of the enactment of this Act which is attrib-
12 utable to a contribution made on or after such date.

13 **SEC. 138210. VALUATION RULES FOR CERTAIN TRANSFERS**
14 **OF NONBUSINESS ASSETS.**

15 (a) IN GENERAL.—Section 2031 of the Internal Rev-
16 enue Code of 1986 is amended by redesignating subsection
17 (d) as subsection (f) and by inserting after subsection (c)
18 the following new subsections:

19 “(d) VALUATION RULES FOR CERTAIN TRANSFERS
20 OF NONBUSINESS ASSETS.—For purposes of this chapter
21 and chapter 12—

22 “(1) IN GENERAL.—In the case of the transfer
23 of any interest in an entity other than an interest

1 which is actively traded (within the meaning of sec-
2 tion 1092)—

3 “(A) the value of any nonbusiness assets
4 held by the entity with respect to such interest
5 shall be determined as if the transferor had
6 transferred such assets directly to the trans-
7 feree (and no valuation discount shall be al-
8 lowed with respect to such nonbusiness assets),
9 and

10 “(B) such nonbusiness assets shall not be
11 taken into account in determining the value of
12 the interest in the entity.

13 “(2) NONBUSINESS ASSETS.—For purposes of
14 this subsection—

15 “(A) IN GENERAL.—The term ‘nonbusi-
16 ness asset’ means any passive asset which—

17 “(i) is held for the production or col-
18 lection of income, and

19 “(ii) is not used in the active conduct
20 of a trade or business.

21 “(B) PASSIVE ASSETS USED IN ACTIVE
22 CONDUCT OF TRADE OR BUSINESS.—Except as
23 provided in subparagraph (C), a passive asset
24 shall not be treated for purposes of subpara-

1 graph (A) as used in the active conduct of a
2 trade or business unless—

3 “(i) the asset is property described in
4 paragraph (1) or (4) of section 1221(a) or
5 is a hedge with respect to such property,
6 or

7 “(ii) the asset is real property used in
8 the active conduct of 1 or more real prop-
9 erty trades or businesses (within the mean-
10 ing of section 469(c)(7)(C)) in which the
11 transferor materially participates and with
12 respect to which the transferor meets the
13 requirements of section 469(c)(7)(B)(ii).

14 For purposes of clause (ii), material participa-
15 tion shall be determined under the rules of sec-
16 tion 469(h), except that section 469(h)(3) shall
17 be applied without regard to the limitation to
18 farming activity.

19 “(C) EXCEPTION FOR WORKING CAP-
20 ITAL.—Any passive asset which is held as a
21 part of the reasonably required working capital
22 needs of a trade or business shall be treated as
23 used in the active conduct of a trade or busi-
24 ness.

1 “(3) PASSIVE ASSET.—For purposes of this
2 subsection, the term ‘passive asset’ means any—

3 “(A) cash or cash equivalents,

4 “(B) except to the extent provided by the
5 Secretary, stock in a corporation or any other
6 equity, profits, or capital interest in a partner-
7 ship,

8 “(C) evidence of indebtedness, option, for-
9 ward or futures contract, notional principal con-
10 tract, or derivative,

11 “(D) asset described in clause (iii), (iv), or
12 (v) of section 351(e)(1)(B),

13 “(E) annuity,

14 “(F) real property,

15 “(G) asset (other than a patent, trade-
16 mark, or copyright) which produces royalty in-
17 come,

18 “(H) commodity,

19 “(I) collectible (within the meaning of sec-
20 tion 408(m)),

21 “(J) personal property (as defined in sec-
22 tion 1092(d)(1)) or position in personal prop-
23 erty (within the meaning of section
24 1092(d)(2)), or

1 “(K) other asset specified in regulations
2 prescribed by the Secretary.

3 “(4) LOOK-THRU RULES.—

4 “(A) IN GENERAL.—If a passive asset of
5 an entity consists of a 10-percent interest in
6 any other entity, this subsection shall be ap-
7 plied by disregarding the 10-percent interest
8 and by treating the entity as holding directly its
9 ratable share of the assets of the other entity.
10 This subparagraph shall be applied successively
11 to any 10-percent interest of such other entity
12 in any other entity.

13 “(B) 10-PERCENT INTEREST.—The term
14 ‘10-percent interest’ means—

15 “(i) in the case of an interest in a cor-
16 poration, ownership of at least 10 percent
17 (by vote or value) of the stock in such cor-
18 poration,

19 “(ii) in the case of an interest in a
20 partnership, ownership of at least 10 per-
21 cent of the capital or profits interest in the
22 partnership, and

23 “(iii) in any other case, ownership of
24 at least 10 percent of the beneficial inter-
25 ests in the entity.

1 For purposes of the preceding sentence, the
2 rules prescribed by section 318(a) shall apply.

3 “(5) COORDINATION WITH SUBSECTION (b).—
4 Subsection (b) shall apply after the application of
5 this subsection.

6 “(6) REGULATIONS.—The Secretary shall issue
7 such regulations or other guidance as the Secretary
8 determines is necessary or appropriate to carry out
9 this subsection, including regulations or other guid-
10 ance to—

11 “(A) determine whether a passive asset is
12 used in the active conduct of a trade or busi-
13 ness, in addition to the instances described in
14 paragraph (2)(B), and

15 “(B) determine whether a passive asset is
16 held as a part of the reasonably required work-
17 ing capital needs of a trade or business under
18 paragraph (2)(C).”.

19 (b) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to transfers after the date of the
21 enactment of this Act.

1 **PART 3—MODIFICATIONS OF RULES RELATING**
2 **TO RETIREMENT PLANS**

3 **Subpart A—Limitations on High-income Taxpayers**
4 **With Large Retirement Account Balances**

5 **SEC. 138301. CONTRIBUTION LIMIT FOR INDIVIDUAL RE-**
6 **TIREMENT PLANS OF HIGH-INCOME TAX-**
7 **PAYERS WITH LARGE ACCOUNT BALANCES.**

8 (a) CONTRIBUTION LIMIT.—

9 (1) IN GENERAL.—Subpart A of part I of sub-
10 chapter D of chapter 1 is amended by adding at the
11 end the following:

12 **“SEC. 409B. CONTRIBUTION LIMIT ON INDIVIDUAL RETIRE-**
13 **MENT PLANS OF HIGH-INCOME TAXPAYERS**
14 **WITH LARGE ACCOUNT BALANCES.**

15 “(a) GENERAL RULE.—Notwithstanding any other
16 provision of this title, in the case of an individual who is
17 an applicable taxpayer for a taxable year, no annual addi-
18 tions which are allocable to such taxable year shall be
19 made by, or on behalf of, such individual to any individual
20 retirement plan to the extent such annual additions exceed
21 the excess (if any) of—

22 “(1) the applicable dollar amount for such tax-
23 able year, over

24 “(2) the aggregate vested balances to the credit
25 of the individual (whether as a participant, owner, or
26 beneficiary) in all applicable retirement plans (deter-

1 mined as of the close of the calendar year preceding
2 the calendar year in which such taxable year begins).

3 “(b) DEFINITIONS AND SPECIAL RULES.—For pur-
4 poses of this section—

5 “(1) ANNUAL ADDITION.—

6 “(A) IN GENERAL.—Except as provided in
7 this paragraph, the term ‘annual addition’
8 means any contribution to an individual retire-
9 ment plan.

10 “(B) CONTRIBUTIONS TO SEP AND SIMPLE
11 PLANS.—In the case of any employer or em-
12 ployee contributions by, or on behalf of, an indi-
13 vidual to a simplified employee pension under
14 section 408(k) or a simple retirement account
15 under section 408(p)—

16 “(i) such contributions shall not be
17 treated as annual additions for purposes of
18 applying the limitation under subsection
19 (a), but

20 “(ii) the excess described in sub-
21 section (a) shall be reduced by the amount
22 of such contributions in applying such limi-
23 tation to other annual additions with re-
24 spect to such individual.

1 “(C) ROLLOVER CONTRIBUTIONS DIS-
2 REGARDED.—A rollover contribution under sec-
3 tion 402(c), 402A(c)(3)(A), 403(a)(4),
4 403(b)(8), 408(d)(3)(A), 408A(e)(1), or
5 457(e)(16) shall not be treated as an annual
6 addition.

7 “(D) ACCOUNTS ACQUIRED BY DEATH OR
8 DIVORCE OR SEPARATION.—The acquisition of
9 an individual retirement plan (or the transfer to
10 or contribution of amounts to an individual re-
11 tirement plan) by reason of—

12 “(i) the death of another individual,
13 or

14 “(ii) divorce or separation (pursuant
15 to section 408(d)(6)),

16 shall not be treated as an annual addition.

17 “(2) APPLICABLE DOLLAR AMOUNT.—The term
18 ‘applicable dollar amount’ means \$10,000,000.

19 “(3) APPLICABLE RETIREMENT PLAN.—The
20 term ‘applicable retirement plan’ means—

21 “(A) a defined contribution plan to which
22 section 401(a) or 403(a) applies,

23 “(B) an annuity contract under section
24 403(b),

1 “(C) an eligible deferred compensation
2 plan described in section 457(b) which is main-
3 tained by an eligible employer described in sec-
4 tion 457(e)(1)(A), or

5 “(D) an individual retirement plan.

6 “(4) APPLICABLE TAXPAYER.—

7 “(A) IN GENERAL.—The term ‘applicable
8 taxpayer’ means, with respect to any taxable
9 year, a taxpayer whose adjusted taxable income
10 for such taxable year exceeds the amount deter-
11 mined under subparagraph (B).

12 “(B) DOLLAR LIMIT.—The amount deter-
13 mined under this subparagraph for any taxable
14 year is—

15 “(i) \$400,000 for an individual who is
16 a taxpayer not described in clause (ii) or
17 (iii),

18 “(ii) \$425,000 in the case of an indi-
19 vidual who is a head of household (as de-
20 fined in section 2(b)), and

21 “(iii) \$450,000 in the case of an indi-
22 vidual who is a married individual filing a
23 joint return or a surviving spouse (as de-
24 fined in section 2(a)).

1 “(C) ADJUSTED TAXABLE INCOME.—The
2 term ‘adjusted taxable income’ means taxable
3 income determined without regard to—

4 “(i) any deduction for annual addi-
5 tions to individual retirement plans to
6 which subsection (a) applies, and

7 “(ii) any increase in minimum re-
8 quired distributions by reason of section
9 4974(e).

10 “(5) ADJUSTMENTS FOR INFLATION.—

11 “(A) IN GENERAL.—In the case of any
12 taxable year beginning after 2022, each of the
13 dollar amounts under paragraph (2) and para-
14 graph (4)(B) shall be increased by an amount
15 equal to the product of—

16 “(i) such dollar amount, and

17 “(ii) the cost-of-living adjustment
18 under section 1(f)(3) for the calendar year
19 in which such taxable year begins, deter-
20 mined by substituting ‘calendar year 2021’
21 for ‘calendar year 1992’ in subparagraph
22 (B) thereof.

23 “(B) ROUNDING.—If any amount as ad-
24 justed under subparagraph (A) is not—

1 “(i) in the case of the dollar amount
2 under paragraph (2), a multiple of
3 \$250,000, such amount shall be rounded
4 to the next lowest multiple of \$250,000,
5 and

6 “(ii) in the case of a dollar amount
7 under paragraph (4), a multiple of \$1,000,
8 such amount shall be rounded to the next
9 lowest multiple of \$1,000.

10 “(c) REGULATIONS.—The Secretary shall prescribe
11 such regulations and guidance as are necessary or appro-
12 priate to carry out the purposes of this section, including
13 regulations or guidance that provide for the application
14 of this section and section 4974(e) in the case of plans
15 with a valuation date other than the last day of a calendar
16 year.”.

17 (2) CONFORMING AMENDMENTS.—

18 (A) The table of contents for subpart A of
19 part I of subchapter D of chapter 1 is amended
20 by adding after the item relating to section
21 409A the following new item:

 “Sec. 409B. Contribution limit on individual retirement plans of high-income
 taxpayers with large account balances.”.

22 (B) Section 408(r) is amended by adding
23 at the end the following new paragraph:

1 “(3) For additional limitation on contributions
2 to individual retirement plans with large account
3 balances, see sections 402A(c)(3)(A) and 409B.”.

4 (b) EXCISE TAX ON EXCESS ANNUAL ADDITIONS.—

5 (1) IN GENERAL.—Section 4973 is amended by
6 adding at the end the following new subsection:

7 “(i) SPECIAL RULE FOR INDIVIDUAL RETIREMENT
8 PLANS WITH EXCESS ANNUAL ADDITIONS.—For pur-
9 poses of this section, in the case of individual retirement
10 plans, the term ‘excess contributions’ with respect to any
11 taxable year means the sum of—

12 “(1) the excess of the annual additions (within
13 the meaning of section 409B(b)(1)) to such plans
14 over the limitation under section 409B(a) for such
15 taxable year, reduced by the amount of any excess
16 contributions determined under subsections (b) and
17 (f), and

18 “(2) the lesser of—

19 “(A) the amount determined under this
20 subsection for the preceding taxable year with
21 respect to such plans, reduced by the aggregate
22 distributions from such plans for the taxable
23 year (including distributions required under sec-
24 tion 4974(e)) to the extent not contributed in
25 a rollover contribution to another eligible retire-

1 ment plan in accordance with section 402(c),
2 402A(c)(3)(A), 403(a)(4), 403(b)(8),
3 457(e)(16), 408(d)(3), or 408A(d)(3), or

4 “(B) the amount (if any) by which the
5 amount determined under section 409B(a)(2)
6 for the taxable year exceeds the applicable dol-
7 lar amount under section 409B(b)(2) for the
8 taxable year.”.

9 (2) CONFORMING AMENDMENTS.—Subsections
10 (b) and (f) of section 4973 are each amended by in-
11 serting “, except as further provided in subsection
12 (i)” after “For purposes of this section”.

13 (c) REPORTING REQUIREMENTS.—Section 6057(a) is
14 amended by adding at the end the following:

15 “(3) ADDITIONAL INFORMATION REGARDING
16 HIGH ACCOUNT BALANCES.—

17 “(A) IN GENERAL.—If, as of the close of
18 any plan year, 1 or more participants in an ap-
19 plicable retirement plan (as defined in section
20 409B(b)(3) without regard to subparagraph
21 (D) thereof) have a vested account balance of at
22 least \$2,500,000, the plan administrator shall
23 file a statement with the Secretary which in-
24 cludes—

1 “(i) the name and identifying number
2 of each such participant (without regard to
3 whether such participant has separated
4 from employment), and

5 “(ii) the amount to which each such
6 participant is entitled.

7 “(B) INCLUSION IN REGISTRATION STATE-
8 MENT.—If both subparagraph (A) and para-
9 graph (1) apply to a plan, the plan adminis-
10 trator shall include the information required
11 under subparagraph (A) in the registration
12 statement under paragraph (1) rather than file
13 a statement under subparagraph (A).

14 “(C) ADJUSTMENTS FOR INFLATION.—In
15 the case of any plan year beginning after 2022,
16 the \$2,500,000 amount under subparagraph
17 (A) shall be increased by an amount equal to
18 the product of—

19 “(i) such dollar amount, and

20 “(ii) the cost-of-living adjustment
21 under section 1(f)(3) for the calendar year
22 in which such taxable year begins, deter-
23 mined by substituting ‘calendar year 2021’
24 for ‘calendar year 1992’ in subparagraph
25 (B) thereof.

1 If the amount as adjusted under the preceding
2 sentence is not a multiple of \$250,000, such
3 amount shall be rounded to the next lowest
4 multiple of \$250,000.”.

5 (d) EFFECTIVE DATES.—

6 (1) IN GENERAL.—The amendments made by
7 subsections (a) and (b) shall apply to taxable years
8 beginning after December 31, 2021.

9 (2) PLAN REQUIREMENTS.—The amendments
10 made by subsection (c) shall apply to plan years be-
11 ginning after December 31, 2021.

12 **SEC. 138302. INCREASE IN MINIMUM REQUIRED DISTRIBU-**
13 **TIONS FOR HIGH-INCOME TAXPAYERS WITH**
14 **LARGE RETIREMENT ACCOUNT BALANCES.**

15 (a) IN GENERAL.—Section 4974 is amended by add-
16 ing at the end the following:

17 “(e) INCREASE IN MINIMUM REQUIRED DISTRIBU-
18 TIONS FOR HIGH-INCOME TAXPAYERS WITH LARGE AG-
19 GREGATE ACCOUNT BALANCES.—

20 “(1) IN GENERAL.—If this subsection applies to
21 a payee who is an applicable taxpayer (as defined in
22 section 409B(b)(4)) for a taxable year—

23 “(A) all qualified retirement plans and eli-
24 gible deferred compensation plans of the payee
25 which are applicable retirement plans taken into

1 account in computing the excess described in
2 paragraph (3)(A) shall be treated as 1 plan
3 solely for purposes of applying this section to
4 the increase in minimum required distributions
5 for such taxable year determined under sub-
6 paragraph (B), and

7 “(B) the minimum required distributions
8 under this section for all plans treated as 1
9 plan under subparagraph (A) with respect to
10 such payee for such taxable year shall be in-
11 creased by the excess (if any) of—

12 “(i) the sum of—

13 “(I) if paragraph (2) applies to
14 such taxable year, the applicable Roth
15 excess amount, plus

16 “(II) 50 percent of the excess de-
17 termined under paragraph (3)(A), re-
18 duced by the applicable Roth excess
19 amount, over

20 “(ii) the sum of the minimum re-
21 quired distributions (determined without
22 regard to this subsection) for all such
23 plans.

24 “(2) APPLICABLE ROTH EXCESS AMOUNT.—

1 “(A) APPLICATION.—For purposes of
2 paragraph (1)(B)(i), this paragraph applies to a
3 taxable year of a payee if the aggregate vested
4 balances to the credit of the payee (whether as
5 a participant, owner, or beneficiary) in all appli-
6 cable retirement plans (determined as of the
7 close of the calendar year preceding the cal-
8 endar year in which the taxable year begins) ex-
9 ceed 200 percent of the applicable dollar
10 amount for the calendar year in which the tax-
11 able year begins.

12 “(B) APPLICABLE ROTH EXCESS
13 AMOUNT.—The applicable Roth excess amount
14 for any taxable year to which this paragraph
15 applies is an amount equal to the lesser of—

16 “(i) the excess determined under sub-
17 paragraph (A), or

18 “(ii) the aggregate balances to the
19 credit of the payee (whether as a partici-
20 pant, owner, or beneficiary) in all Roth
21 IRAs and designated Roth accounts (with-
22 in the meaning of section 402A) as of the
23 time described in subparagraph (A).

24 “(3) APPLICATION.—This subsection shall
25 apply to a payee for a taxable year—

1 “(A) if the aggregate vested balances to
2 the credit of the payee (whether as a partici-
3 pant, owner, or beneficiary) in all applicable re-
4 tirement plans (determined as of the close of
5 the calendar year preceding the calendar year
6 in which the taxable year begins) exceed the ap-
7 plicable dollar amount for the calendar year in
8 which the taxable year begins, and

9 “(B) without regard to whether amounts
10 with respect to the payee are otherwise required
11 to be distributed under section 401(a)(9),
12 403(b)(10), 408(a)(6), 408(b)(3), or 457(d)(2).

13 “(4) COORDINATION AND ALLOCATION.—

14 “(A) MINIMUM DISTRIBUTION REQUIRE-
15 MENTS.—If this subsection applies to a payee
16 for any taxable year—

17 “(i) this section shall apply first to
18 minimum required distributions deter-
19 mined without regard to this subsection
20 and then to any increase in minimum re-
21 quired distributions by reason of this sub-
22 section, and

23 “(ii) nothing in this subsection shall
24 be construed to affect the amount of any
25 minimum required distribution determined

1 without regard to this subsection or the
2 plan or plans from which it is required to
3 be distributed from.

4 “(B) ALLOCATION OF INCREASE IN MIN-
5 IMUM REQUIRED DISTRIBUTIONS.—

6 “(i) IN GENERAL.—Except as pro-
7 vided in clauses (ii) and (iii), the taxpayer
8 may, in such form and manner as the Sec-
9 retary may prescribe, allocate any increase
10 in minimum required distributions by rea-
11 son of this subsection to applicable retire-
12 ment plans treated as 1 plan under sub-
13 paragraph (A) in such manner as the tax-
14 payer chooses.

15 “(ii) ALLOCATION TO ROTH IRAS AND
16 ACCOUNTS.—In the case of a taxable year
17 to which paragraph (2) applies, the portion
18 of any increase in minimum required dis-
19 tributions by reason of this subsection
20 equal to the applicable Roth excess amount
21 shall be allocated first to Roth IRAs and
22 then to designated Roth accounts (within
23 the meaning of section 402A) of the payee.

24 “(iii) SPECIAL RULES FOR EMPLOYEE
25 STOCK OWNERSHIP PLANS.—If any payee

1 to which this subsection applies for any
2 taxable year has account balances in 1 or
3 more employee stock ownership plans (as
4 defined in section 4975(e)(7)) any portion
5 of which is invested in employer securities
6 which are not readily tradable on an secu-
7 rities market, the increase in minimum re-
8 quired distributions by reason of this sub-
9 section shall be allocated—

10 “(I) first to all account balances
11 (other than such portions) of the
12 payee in all applicable retirement
13 plans in the manner provided by this
14 subparagraph (without regard to this
15 clause), and

16 “(II) then to such portions in
17 such manner as the taxpayer chooses.

18 The Secretary shall prescribe regulations
19 which provide that if any such increase is
20 allocated to any such portion of an account
21 balance for the first taxable year of the
22 payee beginning in 2022, the payee may
23 elect to have such portion distributed over
24 a period of years not greater than the pe-
25 riod specified by the Secretary in such reg-

1 ulations (and any distributions made in ac-
2 cordance with such election shall be treated
3 for purposes of this section as made in
4 such first taxable year).

5 “(5) DISTRIBUTIONS NOT ELIGIBLE FOR ROLL-
6 OVERS.—For purposes of determining whether a dis-
7 tribution is an eligible rollover distribution, any dis-
8 tribution from an applicable retirement plan which is
9 attributable to any increase in minimum required
10 distributions by reason of this subsection shall be
11 treated as a distribution required under section
12 401(a)(9), 403(b)(10), 408(a)(6), 408(b)(3), or
13 457(d)(2), whichever is applicable.

14 “(6) DEFINITIONS.—For purposes of this sub-
15 section, any term used in this subsection which is
16 also used in section 409B shall have the same mean-
17 ing as when such term is used in such section.”.

18 (b) SPECIAL RULES.—

19 (1) DISTRIBUTION RIGHTS.—

20 (A) QUALIFIED TRUSTS.—Section 401(a)
21 is amended by inserting after paragraph (38)
22 the following new paragraph:

23 “(39) IMMEDIATE DISTRIBUTION RIGHT.—A
24 trust forming part of a defined contribution plan
25 shall not constitute a qualified trust under this sec-

1 tion unless an employee who certifies to the plan
2 that the employee is a taxpayer who is subject to the
3 distribution requirements of section 4974(e) may
4 elect to receive a distribution from the employee’s
5 account balance under the plan in such amount as
6 the employee may elect, including any amounts at-
7 tributable to a qualified cash or deferred arrange-
8 ment (as defined in subsection (k)(2)).”.

9 (B) ANNUITY CONTRACTS.—

10 (i) CUSTODIAL ACCOUNTS.—Section
11 403(b)(7)(A) is amended by adding at the
12 end the following new flush sentence:

13 “Notwithstanding clause (i), the custodial ac-
14 count shall permit an employee who certifies
15 that the employee is a taxpayer who is subject
16 to the distribution requirements of section
17 4974(e) to elect to receive a distribution from
18 the employee’s custodial account in such
19 amount as the employee may elect.”.

20 (ii) ANNUITY CONTRACTS.—Section
21 403(b)(11) is amended by adding at the
22 end the following new sentence: “Notwith-
23 standing subparagraphs (A), (B), (C), and
24 (D), the annuity contract shall permit an
25 employee who certifies that the employee is

1 a taxpayer who is subject to the distribu-
2 tion requirements of section 4974(e) to
3 elect to receive a distribution of contribu-
4 tions made pursuant to a salary reduction
5 agreement (within the meaning of section
6 402(g)(3)) from the employee's annuity
7 contract in such amount as the employee
8 may elect."

9 (C) GOVERNMENTAL PLANS.—Section
10 457(d)(1) is amended by adding at the end the
11 following new flush sentence:

12 "Notwithstanding subparagraph (A), an eligible de-
13 ferred compensation plan of an employer described
14 in subsection (e)(1)(A) shall permit an employee who
15 certifies that the employee is a taxpayer who is sub-
16 ject to the distribution requirements of section
17 4974(e) to elect to receive a distribution from the
18 plan in such amount as the employee may elect."

19 (2) EXCEPTION FROM 10 PERCENT ADDITIONAL
20 TAX ON EARLY DISTRIBUTIONS.—Section 72(t)(2) is
21 amended by adding at the end the following new
22 subparagraph:

23 "(I) DISTRIBUTIONS OF EXCESS BAL-
24 ANCES.—Distributions from an applicable re-
25 tirement plan (within the meaning of section

1 409B)) to the extent such distributions for the
2 taxable year do not exceed the amount required
3 to be distributed from such plan under section
4 4974(e).”.

5 (3) WITHHOLDING.—Section 3405(b) is amend-
6 ed by adding at the end the following new para-
7 graph:

8 “(3) ADDITIONAL WITHHOLDING FOR RE-
9 QUIRED DISTRIBUTIONS FROM HIGH BALANCE RE-
10 TIREMENT ACCOUNTS.—

11 “(A) IN GENERAL.—For purposes of this
12 section, a distribution pursuant to section
13 401(a)(39), the last sentence of section
14 403(b)(7)(A), the last sentence of section
15 403(b)(11), and the last sentence of section
16 457(d)(1) shall be treated as a nonperiodic dis-
17 tribution, except that in applying this sub-
18 section to such distribution—

19 “(i) paragraph (1) shall be applied by
20 substituting ‘35 percent’ for ‘10 percent’,
21 and

22 “(ii) no election may be made under
23 paragraph (2) with respect to such dis-
24 tribution.

1 “(B) EXCEPTION.—Subparagraph (A)
2 shall not apply to any qualified distribution
3 from a designated Roth account (within the
4 meaning of section 402A).”.

5 (c) EFFECTIVE DATES.—

6 (1) IN GENERAL.—The amendments made by
7 subsection (a) shall apply to taxable years beginning
8 after December 31, 2021.

9 (2) PLAN REQUIREMENTS.—The amendments
10 made by subsection (b) shall apply to plan years be-
11 ginning after December 31, 2021.

12 (d) PROVISIONS RELATING TO PLAN AMEND-
13 MENTS.—

14 (1) IN GENERAL.—If this subsection applies to
15 any plan or contract amendment, such plan or con-
16 tract shall be treated as being operated in accord-
17 ance with the terms of the plan during the period
18 described in paragraph (2)(B)(i).

19 (2) AMENDMENTS TO WHICH SUBSECTION AP-
20 PLIES.—

21 (A) IN GENERAL.—This subsection shall
22 apply to any amendment to any plan or annuity
23 contract which is made—

24 (i) pursuant to any amendment made
25 by this section or pursuant to any regula-

1 tion issued by the Secretary of the Treas-
2 ury under this section or such amend-
3 ments, and

4 (ii) on or before the last day of the
5 first plan year beginning after December
6 31, 2022, or such later date as the Sec-
7 retary of the Treasury may prescribe.

8 In the case of a governmental or collectively
9 bargained plan to which subparagraph (B) or
10 (C) of subsection (a)(4) applies, clause (ii) shall
11 be applied by substituting the date which is 2
12 years after the date otherwise applied under
13 such clause.

14 (B) CONDITIONS.—This subsection shall
15 not apply to any amendment unless—

16 (i) during the period—

17 (I) beginning on the date the leg-
18 islative or regulatory amendment de-
19 scribed in paragraph (1)(A) takes ef-
20 fect (or in the case of a plan or con-
21 tract amendment not required by such
22 legislative or regulatory amendment,
23 the effective date specified in such
24 amendment), and

1 (II) ending on the date described
2 in subparagraph (A)(ii) (or, if earlier,
3 the date the plan or contract amend-
4 ment is adopted),
5 the plan or contract is operated as if such
6 plan or contract amendment were in effect;
7 and
8 (ii) such plan or contract amendment
9 applies retroactively for such period.

10 **Subpart B—Other Provisions Relating to Individual**
11 **Retirement Plans**

12 **SEC. 138311. TAX TREATMENT OF ROLLOVERS TO ROTH**
13 **IRAS AND ACCOUNTS.**

14 (a) ROLLOVERS AND CONVERSIONS LIMITED TO
15 TAXABLE AMOUNTS.—

16 (1) ROTH IRAS.—

17 (A) IN GENERAL.—Paragraph (1) of sec-
18 tion 408A(e) is amended by adding at the end
19 the following new sentence: “A qualified rollover
20 contribution shall not include any rollover con-
21 tribution from any eligible retirement plan de-
22 scribed in subparagraph (B) (other than from a
23 designated Roth account (within the meaning of
24 section 402A)) if any portion of the distribution
25 from which such contribution is made would

1 (without regard to such contribution) be treated
2 as not includible in gross income.”

3 (B) CONVERSIONS.—Subparagraph (C) of
4 section 408A(d)(3) is amended by adding at the
5 end the following new sentence: “This subpara-
6 graph shall not apply if any portion of the plan
7 being converted would be treated as not includ-
8 ible in gross income if distributed at the time
9 of the conversion.”

10 (2) DESIGNATED ROTH ACCOUNTS.—Section
11 402A(c)(4)(B) is amended by inserting “, deter-
12 mined after the application of the last sentence of
13 paragraph (1) thereof” after “section 408A(e)”.

14 (3) EFFECTIVE DATE.—The amendments made
15 by this subsection shall apply to distributions, trans-
16 fers, and contributions made after December 31,
17 2021.

18 (b) NO ROLLOVERS OR CONVERSIONS FOR HIGH-IN-
19 COME TAXPAYERS.—

20 (1) ROTH IRAS.—

21 (A) QUALIFIED ROLLOVER CONTRIBU-
22 TION.—Section 408A(e), as amended by sub-
23 section (a), is amended by adding at the end
24 the following:

1 “(3) HIGH-INCOME TAXPAYERS MAY ONLY
2 ROLLOVER FROM ROTH IRAS AND ACCOUNTS.—If—

3 “(A) a taxpayer is an applicable taxpayer
4 (as defined in section 409B(b)(4)) for the tax-
5 able year in which a distribution is made, and

6 “(B) such distribution is contributed to a
7 Roth IRA in a rollover contribution,
8 such contribution shall be treated as a qualified roll-
9 over contribution under paragraph (1) only if it is
10 made from another Roth IRA or from a designated
11 Roth account (within the meaning of section
12 402A).”.

13 (B) ELIMINATION OF CONVERSIONS.—
14 Paragraph (3) of section 408A(d), as amended
15 by subsection (a), is amended by adding at the
16 end the following:

17 “(G) PARAGRAPH NOT TO APPLY TO HIGH-
18 INCOME TAXPAYERS.—If a taxpayer is an appli-
19 cable taxpayer (as defined in section
20 409B(b)(4)) for any taxable year, this para-
21 graph shall not apply to any distribution to
22 which this paragraph otherwise applies (or to
23 any conversion described in subparagraph (C))
24 which is made during such taxable year.”.

1 (2) DESIGNATED ROTH ACCOUNTS.—Paragraph
2 (4) of section 402A(c) is amended by adding at the
3 end the following:

4 “(F) PARAGRAPH NOT TO APPLY TO HIGH-
5 INCOME TAXPAYERS.—If a taxpayer is an appli-
6 cable taxpayer (as defined in section
7 409B(b)(4)) for any taxable year, this para-
8 graph shall not apply to any distribution to
9 which this paragraph otherwise applies and
10 which is made during such taxable year.”.

11 (3) EFFECTIVE DATE.—The amendments made
12 by this subsection shall apply to distributions, trans-
13 fers, and contributions made in taxable years begin-
14 ning after December 31, 2031.

15 **SEC. 138312. PROHIBITION OF IRA INVESTMENTS CONDI-**
16 **TIONED ON ACCOUNT HOLDER’S STATUS.**

17 (a) IN GENERAL.—Subsection (a) of section 408 is
18 amended by adding at the end the following new para-
19 graph:

20 “(7) No part of the trust funds will be invested
21 in any security if the issuer of such security (or any
22 other person specified by the Secretary) requires the
23 individual on whose behalf the trust is maintained to
24 make a representation to the issuer or such other
25 person that such individual—

1 “(A) has a specified minimum amount of
2 income or assets,

3 “(B) has completed a specified minimum
4 level of education, or

5 “(C) holds a specific license or creden-
6 tial.”.

7 (b) LOSS OF EXEMPTION OF ACCOUNT.—Paragraph
8 (2) of section 408(e) is amended—

9 (1) by striking “” each place it appears in sub-
10 paragraph (A) and inserting “maintained”,

11 (2) by redesignating subparagraph (B) as sub-
12 paragraph (C),

13 (3) by inserting after subparagraph (A) the fol-
14 lowing new subparagraph:

15 “(B) PROHIBITED INVESTMENT.—If, dur-
16 ing any taxable year of the individual for whose
17 benefit any individual retirement account is
18 maintained, the investment of any part of the
19 funds of such individual retirement account
20 does not comply with subsection (a)(7), such
21 account ceases to be an individual retirement
22 account as of the first day of such taxable year.
23 Rules similar to the rules of clauses (i) and (ii)
24 of subparagraph (A) shall apply for purposes of
25 this subparagraph.”.

1 (4) by striking “WHERE EMPLOYEE ENGAGES
2 IN PROHIBITED TRANSACTION” in the heading and
3 inserting “IN CASE OF CERTAIN PROHIBITED TRANS-
4 ACTIONS AND INVESTMENTS”,

5 (5) by striking “IN GENERAL” in the heading of
6 subparagraph (A) and inserting “EMPLOYEE EN-
7 GAGING IN PROHIBITED TRANSACTION”, and

8 (6) by striking “(A)” in subparagraph (C), as
9 so redesignated, and inserting “(A) or (B)”.

10 (c) CONFORMING AMENDMENTS.—

11 (1) Paragraph (1) of section 408(c) is amended
12 by striking “(1) through (6)” and inserting “(1)
13 through (7)”.

14 (2) Paragraph (3) of section 4975(c) is amend-
15 ed—

16 (A) striking “” and inserting “main-
17 tained”,

18 (B) by striking “transaction” both places
19 it appears and inserting “transaction or invest-
20 ment”, and

21 (C) by striking “section 408(e)(2)(A)” and
22 inserting “subparagraph (A) or (B) of section
23 408(e)(2)”.

24 (d) EFFECTIVE DATES.—

1 with respect to such plan shall not expire before
2 the date which is 6 years after the return con-
3 taining such error was filed (whether or not
4 such return was filed on or after the date pre-
5 scribed).

6 “(B) PROHIBITED TRANSACTIONS.—The
7 time for assessment of any tax imposed by sec-
8 tion 4975 shall not expire before the date which
9 is 6 years after the return was filed (whether
10 or not such return was filed on or after the
11 date prescribed).”.

12 (b) EFFECTIVE DATE.—The amendment made by
13 this section shall apply to taxes with respect to which the
14 3-year period under section 6501(a) of the Internal Rev-
15 enue Code of 1986 (without regard to the amendment
16 made by this section) ends after December 31, 2021.

17 **SEC. 138314. PROHIBITION OF INVESTMENT OF IRA ASSETS**
18 **IN ENTITIES IN WHICH THE OWNER HAS A**
19 **SUBSTANTIAL INTEREST.**

20 (a) IN GENERAL.—Subsection (a) of section 408, as
21 amended by the preceding provisions of this Act, is amend-
22 ed by adding at the end the following new paragraph:

23 “(8) No part of the trust funds will be invested
24 in a corporation, partnership or other unincor-
25 porated enterprise, or trust or estate if—

1 “(A) in the case of an entity with respect
2 to which interests described in clause (i), (ii), or
3 (iii) are not readily tradable on an securities
4 market, 10 percent or more of—

5 “(i) the combined voting power of all
6 classes of stock entitled to vote or the total
7 value of shares of all classes of stock of
8 such corporation,

9 “(ii) the capital interest or profits in-
10 terest of such partnership or enterprise, or

11 “(iii) the beneficial interest of such
12 trust or estate,

13 is owned (directly or indirectly) or held by the
14 individual on whose behalf the trust is main-
15 tained, or

16 “(B) the individual on whose behalf the
17 trust is maintained is an officer or director (or
18 an individual having powers or responsibilities
19 similar to officers or directors) of such corpora-
20 tion, partnership, or other unincorporated en-
21 terprise.

22 For purposes of subparagraph (A), the constructive
23 ownership rules of paragraphs (4) and (5) of section
24 4975(e) shall apply, and any asset or interest held

1 by the trust shall be treated as held by the indi-
2 vidual described in such subparagraph.”.

3 (b) LOSS OF EXEMPTION OF ACCOUNT.—Subpara-
4 graph (B) of section 408(e)(2), as added by this Act, is
5 amended by striking “(a)(7)” and inserting “(a)(7) or
6 (a)(8)”.

7 (c) CONFORMING AMENDMENT.—Paragraph (1) of
8 section 408(c), as amended by the preceding provisions of
9 this Act, is amended by striking “(1) through (7)” and
10 inserting “(1) through (8)”.

11 (d) EFFECTIVE DATES.—

12 (1) IN GENERAL.—Except as provided in para-
13 graph (2), the amendments made by this section
14 shall apply to investments made in taxable years be-
15 ginning after December 31, 2021.

16 (2) SPECIAL RULE FOR EXISTING INVEST-
17 MENTS.—If, on the date of the enactment of this
18 Act, an individual retirement account holds an in-
19 vestment prohibited under section 408(a)(8) of the
20 Internal Revenue Code of 1986 (as added by sub-
21 section (a)), the amendments made by this section
22 shall apply to such investment for taxable years be-
23 ginning after December 31, 2023.

1 **SEC. 138315. IRA OWNERS TREATED AS DISQUALIFIED PER-**
2 **SONS FOR PURPOSES OF PROHIBITED**
3 **TRANSACTION RULES.**

4 (a) IN GENERAL.—Paragraph (2) of section 4975(e)
5 is amended—

6 (1) by striking “or” at the end of subparagraph
7 (H),

8 (2) by striking the period at the end of sub-
9 paragraph (I) and inserting “; or”,

10 (3) by inserting after subparagraph (I) the fol-
11 lowing new subparagraph:

12 “(J) the individual for whose benefit a
13 plan described in subparagraph (B) or (C) of
14 paragraph (1) is maintained.”,

15 (4) by striking “or (E)” both places it appears
16 in subparagraphs (F) and (G) and inserting “(E), or
17 (J) (in the case of a plan described in subparagraph
18 (B) or (C) of paragraph (1))”,

19 (5) by striking “or (G)” in subparagraph (I)
20 and inserting “(G), or (J) (in the case of a plan de-
21 scribed in subparagraph (B) or (C) of paragraph
22 (1))”, and

23 (6) by adding at the end the following: “For
24 purposes of subparagraphs (G) and (I), any asset or
25 interest held by a plan described in subparagraph
26 (B) or (C) of paragraph (1) shall be treated as

1 owned by the individual described in subparagraph
2 (J) with respect to such plan.”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) Subparagraph (A) of section 408(e)(2), as
5 amended by the preceding provisions of this Act, is
6 amended to read as follows:

7 “(A) EMPLOYEE ENGAGING IN PROHIB-
8 ITED TRANSACTION.—If, during any taxable
9 year of the individual for whose benefit any in-
10 dividual retirement account is maintained, that
11 individual engages in any transaction prohibited
12 by section 4975 with respect to such account,
13 such account ceases to be an individual retire-
14 ment account as of the first day of such taxable
15 year. For purposes of this paragraph, the sepa-
16 rate account for the benefit of any individual
17 within an individual retirement account main-
18 tained by an employer or association of employ-
19 ees is treated as a separate individual retire-
20 ment account.”.

21 (2) Subparagraph (B) of section 408(e)(2), as
22 added by this Act, is amended by striking the last
23 sentence.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to transactions occurring after De-
3 cember 31, 2021.

4 **PART 4—FUNDING THE INTERNAL REVENUE**
5 **SERVICE AND IMPROVING TAXPAYER COM-**
6 **PLIANCE**

7 **SEC. 138401. FUNDING OF THE INTERNAL REVENUE SERV-**
8 **ICE.**

9 In addition to amounts otherwise available, there are
10 appropriated for fiscal year 2022, out of any money in
11 the Treasury not otherwise appropriated:

12 (1) \$78,935,000,000, to remain available until
13 September 30, 2031, for necessary expenses for the
14 Internal Revenue Service (IRS) for strengthening
15 tax enforcement activities and increasing voluntary
16 compliance, expanding audits and other enforcement
17 activities, and modernizing information technology to
18 effectively support enforcement activities, except that
19 no use of these funds is intended to increase taxes
20 on any taxpayer with taxable income below
21 \$400,000;

22 (2) \$410,000,000, to remain available until
23 September 30, 2031, for necessary expenses for the
24 Treasury Inspector General for Tax Administration
25 to provide oversight of the IRS, including ensuring

1 that taxpayer privacy is protected and that no undue
2 burden is imposed on small businesses from IRS en-
3 forcement activities; and

4 (3) \$157,000,000, to remain available until
5 September 30, 2031, for the Tax Court for adjudi-
6 cating tax disputes.

7 **SEC. 138402. APPLICATION OF BACKUP WITHHOLDING**
8 **WITH RESPECT TO THIRD PARTY NETWORK**
9 **TRANSACTIONS.**

10 (a) IN GENERAL.—Section 3406(b) is amended by
11 adding at the end the following new paragraph:

12 “(8) OTHER REPORTABLE PAYMENTS INCLUDE
13 PAYMENTS IN SETTLEMENT OF THIRD PARTY NET-
14 WORK TRANSACTIONS ONLY WHERE AGGREGATE FOR
15 CALENDAR YEAR IS \$600 OR MORE.—Any payment in
16 settlement of a third party network transaction re-
17 quired to be shown on a return required under sec-
18 tion 6050W which is made during any calendar year
19 shall be treated as a reportable payment only if—

20 “(A) the aggregate amount of such pay-
21 ment and all previous such payments made by
22 the third party settlement organization to the
23 participating payee during such calendar year
24 equals or exceeds \$600, or

1 “(7) LIMITATION ON DEDUCTION FOR QUALI-
2 FIED CONSERVATION CONTRIBUTIONS MADE BY
3 PASS-THROUGH ENTITIES.—

4 “(A) IN GENERAL.—A contribution by a
5 partnership (whether directly or as a distribu-
6 tive share of a contribution of another partner-
7 ship) shall not be treated as a qualified con-
8 servation contribution for purposes of this sec-
9 tion if the amount of such contribution exceeds
10 2.5 times the sum of each partner’s relevant
11 basis in such partnership.

12 “(B) RELEVANT BASIS.—For purposes of
13 this paragraph—

14 “(i) IN GENERAL.—The term ‘relevant
15 basis’ means, with respect to any partner,
16 the portion of such partner’s modified
17 basis in the partnership which is allocable
18 (under rules similar to the rules of section
19 755) to the portion of the real property
20 with respect to which the contribution de-
21 scribed in subparagraph (A) is made.

22 “(ii) MODIFIED BASIS.—The term
23 ‘modified basis’ means, with respect to any
24 partner, such partner’s adjusted basis in
25 the partnership as determined—

1 “(I) immediately before the con-
2 tribution described in subparagraph
3 (A),

4 “(II) without regard to section
5 752, and

6 “(III) by the partnership after
7 taking into account the adjustments
8 described in subclauses (I) and (II)
9 and such other adjustments as the
10 Secretary may provide.

11 “(C) EXCEPTION FOR CONTRIBUTIONS
12 OUTSIDE 3-YEAR HOLDING PERIOD.—Subpara-
13 graph (A) shall not apply to any contribution
14 which is made at least 3 years after the latest
15 of—

16 “(i) the last date on which the part-
17 nership that made such contribution ac-
18 quired any portion of the real property
19 with respect to which such contribution is
20 made,

21 “(ii) the last date on which any part-
22 ner in the partnership that made such con-
23 tribution acquired any interest in such
24 partnership, and

1 “(iii) if the interest in the partnership
2 that made such contribution is held
3 through one or more partnerships—

4 “(I) the last date on which any
5 such partnership acquired any interest
6 in any other such partnership, and

7 “(II) the last date on which any
8 partner in any such partnership ac-
9 quired any interest in such partner-
10 ship.

11 “(D) EXCEPTION FOR FAMILY PARTNER-
12 SHIPS.—

13 “(i) IN GENERAL.—Subparagraph (A)
14 shall not apply with respect to any con-
15 tribution made by any partnership if sub-
16 stantially all of the partnership interests in
17 such partnership are held, directly or indi-
18 rectly, by an individual and members of
19 the family of such individual.

20 “(ii) MEMBERS OF THE FAMILY.—For
21 purposes of this subparagraph, the term
22 ‘members of the family’ means, with re-
23 spect to any individual—

24 “(I) the spouse of such indi-
25 vidual, and

1 “(II) any individual who bears a
2 relationship to such individual which
3 is described in subparagraphs (A)
4 through (G) of section 152(d)(2).

5 “(E) APPLICATION TO OTHER PASS-
6 THROUGH ENTITIES.—Except as may be other-
7 wise provided by the Secretary, the rules of this
8 paragraph shall apply to S corporations and
9 other pass-through entities in the same manner
10 as such rules apply to partnerships.

11 “(F) REGULATIONS.—The Secretary shall
12 prescribe such regulations or other guidance as
13 may be necessary or appropriate to carry out
14 the purposes of this paragraph, including regu-
15 lations or other guidance—

16 “(i) to require reporting, including re-
17 porting related to tiered partnerships and
18 the modified basis of partners, and

19 “(ii) to prevent the avoidance of the
20 purposes of this paragraph.

21 “(8) NOTICE OF CERTAIN FAILURES.—

22 “(A) IN GENERAL.—If a donor is found by
23 the Secretary to have failed to meet the require-
24 ment that a qualified conservation contribution
25 shall be granted and protected in perpetuity by

1 reason of defective language in the deed relat-
2 ing to property line adjustments or extinguish-
3 ment clauses, the donor shall have 90 days
4 from the written notice by the Secretary to cor-
5 rect such failure, unless the Secretary can dem-
6 onstrate that the donor’s failure to meet those
7 requirements was intentional.

8 “(B) EXCEPTION.—Subparagraph (A)
9 shall not apply to any reportable transaction or
10 any contribution that is not treated as a quali-
11 fied conservation contribution by reason of
12 paragraph (7).”.

13 (b) APPLICATION OF ACCURACY-RELATED PEN-
14 ALTIES.—

15 (1) IN GENERAL.—Section 6662(b) is amended
16 by inserting after paragraph (9) the following new
17 paragraph:

18 “(10) Any disallowance of a deduction by rea-
19 son of section 170(h)(7).”.

20 (2) TREATMENT AS GROSS VALUATION
21 MISSTATEMENT.—Section 6662(h)(2) is amended by
22 striking “and” at the end of subparagraph (B), by
23 striking the period at the end of subparagraph (C)
24 and inserting “, and”, and by adding at the end the
25 following new subparagraph:

1 “(D) any disallowance of a deduction de-
2 scribed in subsection (b)(10).”.

3 (3) NO REASONABLE CAUSE EXCEPTION.—Sec-
4 tion 6664(c)(2) is amended by inserting “or to any
5 disallowance of a deduction described in section
6 6662(b)(10)” before the period at the end.

7 (4) APPROVAL OF ASSESSMENT NOT RE-
8 QUIRED.—Section 6751(b)(2)(A) is amended by
9 striking “subsection (b)(9)” and inserting “para-
10 graph (9) or (10) of subsection (b)”.

11 (c) APPLICATION OF STATUTE OF LIMITATIONS ON
12 ASSESSMENT AND COLLECTION.—

13 (1) EXTENSION FOR CERTAIN ADJUSTMENTS
14 MADE UNDER PRIOR LAW.—In the case of any dis-
15 allowance of a deduction by reason of section
16 170(h)(7) of the Internal Revenue Code of 1986 (as
17 added by this section) or any penalty imposed under
18 section 6662 of such Code with respect to such dis-
19 allowance, section 6229(d)(2) of such Code (as in ef-
20 fect before its repeal) shall be applied by sub-
21 stituting “2 years” for “1 year”.

22 (2) EXTENSION FOR LISTED TRANSACTIONS.—
23 Any contribution described in section 170(h)(7)(A)
24 of the Internal Revenue Code of 1986 (as added by
25 this section) shall be treated for purposes of sections

1 6501(c)(10) and 6235(c)(6) of such Code as a
2 transaction specifically identified by the Secretary on
3 December 23, 2016, as a tax avoidance transaction
4 for purposes of section 6011 of such Code.

5 (d) APPLICATION TO CERTAIN TRANSACTIONS DIS-
6 ALLOWED UNDER OTHER PROVISIONS OF LAW.—In the
7 case of any disallowance of a deduction under section 170
8 of the Internal Revenue Code of 1986 with respect to a
9 transaction described in Internal Revenue Service Notice
10 2017–10 with respect to a taxable year ending before the
11 date of the enactment of this Act, such disallowance shall
12 be treated for purposes of section 6662(b)(10) of such
13 Code (as added by this section) and subsection (c)(1) as
14 being by reason of section 170(h)(7) of such Code (as
15 added by this section).

16 (e) EFFECTIVE DATE.—

17 (1) IN GENERAL.—Except as provided in para-
18 graphs (2) and (3), the amendments made by this
19 section shall apply to contributions made after De-
20 cember 23, 2016, in taxable years ending after such
21 date.

22 (2) NOTICE OF CERTAIN FAILURES.—So much
23 of the amendment made by subsection (a) as relates
24 to section 170(h)(8) of the Internal Revenue Code of
25 1986, as added by such subsection, shall apply to—

1 (A) returns filed after the date of the en-
2 actment of this Act, and

3 (B) returns filed on or before such date if
4 the period specified in section 6501 for assess-
5 ment of the taxes with respect to which such re-
6 turn relates has not expired as of such date.

7 (3) CERTIFIED HISTORIC STRUCTURES.—In the
8 case of contributions the conservation purpose (as
9 defined in section 170(h)(4) of the Internal Revenue
10 Code of 1986) of which is the preservation of a cer-
11 tified historic structure (as defined in section
12 170(h)(4)(C) of such Code), the amendments made
13 by this section shall apply to contributions made in
14 taxable years beginning after December 31, 2018.

15 (4) NO INFERENCE.—No inference is intended
16 as to the appropriate treatment of contributions
17 made in taxable years ending on or before the date
18 specified in paragraph (1) or (3), whichever is appli-
19 cable, or as to any activity not described in section
20 170(h)(7) of the Internal Revenue Code of 1986, as
21 added by this section.

1 **SEC. 138404. MODIFICATION OF PROCEDURAL REQUIRE-**
2 **MENTS RELATING TO ASSESSMENT OF PEN-**
3 **ALTIES.**

4 (a) REPEAL OF APPROVAL REQUIREMENT.—Section
5 6751, as amended by the preceding provision of this Act,
6 is amended by striking subsection (b).

7 (b) QUARTERLY CERTIFICATIONS OF COMPLIANCE
8 WITH PROCEDURAL REQUIREMENTS.—Section 6751, as
9 amended by subsection (a) of this section, is amended by
10 inserting after subsection (a) the following new subsection:

11 “(b) QUARTERLY CERTIFICATIONS OF COMPLI-
12 ANCE.—Each appropriate supervisor of employees of the
13 Internal Revenue Service shall certify quarterly by letter
14 to the Commissioner of Internal Revenue whether or not
15 the requirements of subsection (a) have been met with re-
16 spect to notices of penalty issued by such employees.”.

17 (c) EFFECTIVE DATES.—

18 (1) REPEAL OF APPROVAL REQUIREMENT.—
19 The amendment made by subsection (a) shall take
20 effect as if included in section 3306 of the Internal
21 Revenue Service Restructuring and Reform Act of
22 1998.

23 (2) QUARTERLY CERTIFICATIONS OF COMPLI-
24 ANCE WITH PROCEDURAL REQUIREMENTS.—The
25 amendment made by subsection (b) shall apply to

1 notices of penalty issued after the date of the enact-
2 ment of this Act.

3 **PART 5—OTHER PROVISIONS**

4 **SEC. 138501. MODIFICATIONS TO LIMITATION ON DEDUC-**
5 **TION OF EXCESSIVE EMPLOYEE REMUNERA-**
6 **TION.**

7 (a) IN GENERAL.—Section 162(m) is amended by
8 adding at the end the following new paragraph:

9 “(7) SPECIAL RULES RELATED TO LIMITATION
10 ON DEDUCTION OF EXCESSIVE EMPLOYEE REMU-
11 NERATION.—

12 “(A) AGGREGATION RULE.—A rule similar
13 to the rule of paragraph (6)(C)(ii) shall apply
14 for purposes of paragraph (1).

15 “(B) REGULATIONS.—The Secretary shall
16 prescribe such regulations or other guidance as
17 may be necessary or appropriate to carry out
18 the purposes of paragraph (1), including regula-
19 tions or other guidance to prevent the avoidance
20 of such purposes, including through the per-
21 formance of services other than as an employee
22 or by providing compensation through a pass-
23 through or other entity.”.

24 (b) ACCELERATION OF APPLICATION TO 5 HIGHEST
25 COMPENSATED EMPLOYEES.—Section 162(m)(3)(C) is

1 amended by striking “December 31, 2026” and inserting
2 “December 31, 2021”.

3 (c) APPLICABLE EMPLOYEE REMUNERATION.—Sec-
4 tion 162(m)(4)(A) is amended—

5 (1) by inserting “(including performance-based
6 compensation, commissions, post-termination com-
7 pensation, and beneficiary payments)” after “remu-
8 neration for services”, and

9 (2) by inserting “and whether or not such re-
10 munerated is paid directly by the publicly held cor-
11 poration” after “whether or not during the taxable
12 year”.

13 (d) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to taxable years beginning after
15 December 31, 2021.

16 **SEC. 138502. EXTENSION OF TAX TO FUND BLACK LUNG**
17 **DISABILITY TRUST FUND.**

18 (a) IN GENERAL.—Section 4121(e)(2)(A) is amended
19 by striking “December 31, 2021” and inserting “Decem-
20 ber 31, 2025”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to sales after December 31, 2021.

1 **SEC. 138503. PROHIBITED TRANSACTIONS RELATING TO**
2 **HOLDING DISC OR FSC IN INDIVIDUAL RE-**
3 **TIREMENT ACCOUNT.**

4 (a) IN GENERAL.—Section 4975(c)(1) is amended by
5 striking “or” at the end of subparagraph (E), by striking
6 the period at the end of subparagraph (F) and inserting
7 “; or”, and by adding at the end the following new sub-
8 paragraph:

9 “(G) in the case of a DISC or FSC that
10 receives any commission, or other payment,
11 from an entity any stock or interest in which is
12 owned by the individual for whose benefit an in-
13 dividual retirement account is maintained, hold-
14 ing of an interest in such DISC or FSC by the
15 individual retirement account.”.

16 (b) SPECIAL RULES OF APPLICATION.—Section
17 4975(c) is amended by adding at the end the following
18 new paragraph:

19 “(8) SPECIAL RULES OF APPLICATION FOR
20 DISC AND FSC HOLDINGS.—

21 “(A) INDIRECT HOLDING OF DISC OR
22 FSC.—For purposes of paragraph (1)(G), if an
23 individual retirement account holds an interest
24 in an entity that owns (directly or indirectly) an
25 interest in a DISC or FSC, the account shall

1 be treated as holding an interest in such DISC
2 or FSC.

3 “(B) CONSTRUCTIVE OWNERSHIP.—For
4 purposes of determining ownership of stock (or
5 any other interest) in an entity under para-
6 graph (1)(G) and ownership of an interest in a
7 DISC or FSC under subparagraph (A), the
8 rules prescribed by section 318 for determining
9 ownership shall apply, except that such section
10 shall be applied by substituting ‘10 percent’ for
11 ‘50 percent’ each place it appears.

12 “(C) DISC AND FSC.—For purposes of
13 his subsection, the terms ‘DISC’ and ‘FSC’
14 shall have the respective meanings given such
15 terms by section 992(a)(1)) and section 922(a)
16 (as in effect before its repeal by the FSC Re-
17 peal and Extraterritorial Income Exclusion Act
18 of 2000).”.

19 (c) APPLICATION OF TAX TO TERMINATED INDI-
20 VIDUAL RETIREMENT ACCOUNTS.—Section 4975(c)(3) is
21 amended by adding at the end the following: “The pre-
22 ceding sentence shall not apply in the case of a prohibited
23 transaction described in paragraph (1)(G).”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to stock and other interests ac-
3 quired or held on or after December 31, 2021.

4 **SEC. 138504. INCREASE IN TAX ON CERTAIN TOBACCO**
5 **PRODUCTS AND IMPOSITION OF TAX ON NIC-**
6 **OTINE.**

7 (a) INCREASING TAX ON CIGARETTES.—

8 (1) SMALL CIGARETTES.—Section 5701(b)(1) is
9 amended by striking “\$50.33” and inserting
10 “\$100.66”.

11 (2) LARGE CIGARETTES.—Section 5701(b)(2) is
12 amended by striking “\$105.69” and inserting
13 “\$211.39”.

14 (b) TAX PARITY FOR SMALL CIGARS.—Section
15 5701(a)(1) is amended by striking “\$50.33” and inserting
16 “\$100.66”.

17 (c) TAX PARITY FOR LARGE CIGARS.—Section
18 5701(a)(2) is amended by striking “52.75 percent” and
19 all that follows through the period and inserting “\$49.56
20 per pound and a proportionate tax at the like rate on all
21 fractional parts of a pound but not less than 10.06 cents
22 per cigar.”.

23 (d) TAX PARITY FOR SMOKELESS TOBACCO.—

24 (1) Section 5701(e) is amended—

1 (A) in paragraph (1), by striking “\$1.51”
2 and inserting “\$26.84”,

3 (B) in paragraph (2), by striking “50.33
4 cents” and inserting “\$10.70”, and

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

7 “(3) SMOKELESS TOBACCO SOLD IN DISCRETE
8 SINGLE-USE UNITS.—On discrete single-use units,
9 \$100 per thousand.”.

10 (2) Section 5702(m) is amended—

11 (A) in paragraph (1), by striking “or chew-
12 ing tobacco” and inserting “, chewing tobacco,
13 or discrete single-use unit”,

14 (B) in paragraphs (2) and (3), by inserting
15 “and that is not a discrete single-use unit” be-
16 fore the period at the end of each such para-
17 graph, and

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

20 “(4) DISCRETE SINGLE-USE UNIT.—The term
21 ‘discrete single-use unit’ means any product con-
22 taining tobacco that—

23 “(A) is not intended to be smoked, and

1 “(B) is in the form of a lozenge, tablet,
2 pill, pouch, dissolvable strip, or other discrete
3 single-use or single-dose unit.”.

4 (e) TAX PARITY FOR PIPE TOBACCO.—Section
5 5701(f) is amended by striking “\$2.8311 cents” and in-
6 serting “\$49.56”.

7 (f) TAX PARITY FOR ROLL-YOUR-OWN TOBACCO.—
8 Section 5701(g) is amended by striking “\$24.78” and in-
9 serting “\$49.56”.

10 (g) TAX PARITY FOR ROLL-YOUR-OWN TOBACCO
11 AND CERTAIN PROCESSED TOBACCO.—Section 5702(o) is
12 amended by inserting “, and includes processed tobacco
13 that is removed for delivery or delivered to a person other
14 than a person with a permit provided under section 5713,
15 but does not include removals of processed tobacco for ex-
16 portation” after “wrappers thereof”.

17 (h) IMPOSITION OF TAX ON NICOTINE FOR USE IN
18 VAPING, ETC.—

19 (1) IN GENERAL.—Section 5701 is amended by
20 redesignating subsection (h) as subsection (i) and by
21 inserting after subsection (g) the following new sub-
22 section:

23 “(h) NICOTINE.—On taxable nicotine, manufactured
24 in or imported into the United States, there shall be im-
25 posed a tax equal to the dollar amount specified in section

1 5701(b)(1) per 1,810 milligrams of nicotine (and a pro-
2 portionate tax at the like rate on any fractional part there-
3 of).”.

4 (2) TAXABLE NICOTINE.—Section 5702 is
5 amended by adding at the end the following new
6 subsection:

7 “(q) TAXABLE NICOTINE.—

8 “(1) IN GENERAL.—Except as otherwise pro-
9 vided in this subsection, the term ‘taxable nicotine’
10 means any nicotine which has been extracted, con-
11 centrated, or synthesized.

12 “(2) EXCEPTION FOR PRODUCTS APPROVED BY
13 FOOD AND DRUG ADMINISTRATION.—Such term
14 shall not include any nicotine if the manufacturer or
15 importer thereof demonstrates to the satisfaction of
16 the Secretary of Health and Human Services that
17 such nicotine will be used in—

18 “(A) a drug—

19 “(i) that is approved under section
20 505 of the Federal Food, Drug, and Cos-
21 metic Act or licensed under section 351 of
22 the Public Health Service Act; or

23 “(ii) for which an investigational use
24 exemption has been authorized under sec-
25 tion 505(i) of the Federal Food, Drug, and

1 Cosmetic Act or under section 351(a) of
2 the Public Health Service Act; or

3 “(B) a combination product (as described
4 in section 503(g) of the Federal Food, Drug,
5 and Cosmetic Act), the constituent parts of
6 which were approved or cleared under section
7 505, 510(k), or 515 of such Act.

8 “(3) COORDINATION WITH TAXATION OF OTHER
9 TOBACCO PRODUCTS.—Tobacco products meeting
10 the definition of cigars, cigarettes, smokeless to-
11 bacco, pipe tobacco, and roll-your-own tobacco in
12 this section shall be classified and taxed as such de-
13 spite any concentration of the nicotine inherent in
14 those products or any addition of nicotine to those
15 products during the manufacturing process.

16 “(4) REGULATIONS.—The Secretary shall pre-
17 scribe such regulations or other guidance as is nec-
18 essary or appropriate to carry out the purposes of
19 this subsection, including regulations or other guid-
20 ance for coordinating the taxation of tobacco prod-
21 ucts and taxable nicotine to protect revenue and pre-
22 vent double taxation.”.

23 (3) TAXABLE NICOTINE TREATED AS A TO-
24 BACCO PRODUCT.—Section 5702(c) is amended by

1 striking “and roll-your-own tobacco” and inserting
2 “roll-your-own tobacco, and taxable nicotine”.

3 (4) MANUFACTURER OF TAXABLE NICOTINE.—
4 Section 5702, as amended by paragraph (2), is
5 amended by adding at the end the following new
6 subsection:

7 “(r) MANUFACTURER OF TAXABLE NICOTINE.—

8 “(1) IN GENERAL.—Any person who extracts,
9 concentrates, or synthesizes nicotine shall be treated
10 as a manufacturer of taxable nicotine (and as manu-
11 facturing such taxable nicotine).

12 “(2) APPLICATION OF RULES RELATED TO
13 MANUFACTURERS OF TOBACCO PRODUCTS.—Any
14 reference to a manufacturer of tobacco products, or
15 to manufacturing tobacco products, shall be treated
16 as including a reference to a manufacturer of tax-
17 able nicotine, or to manufacturing taxable nicotine,
18 respectively.”.

19 (j) REPEAL OF SPECIAL RULES FOR DETERMINING
20 PRICE OF CIGARS.—Section 5702 is amended by striking
21 subsection (l).

22 (k) FLOOR STOCKS TAXES.—

23 (1) IMPOSITION OF TAX.—On covered tobacco
24 products, and cigarette papers and tubes, manufac-
25 tured in or imported into the United States which

1 are removed before the tax increase date and held on
2 such date for sale by any person, there is hereby im-
3 posed a tax in an amount equal to the excess of—

4 (A) the tax which would be imposed under
5 section 5701 of the Internal Revenue Code of
6 1986 on the article if the article had been re-
7 moved on such date, over

8 (B) the prior tax (if any) imposed under
9 section 5701 of such Code on such article.

10 (2) COVERED TOBACCO PRODUCTS.—For pur-
11 poses of this subsection, the term “covered tobacco
12 products” means any tobacco product other than—

13 (A) cigars described in section 5701(a)(2)
14 of the Internal Revenue Code of 1986,

15 (B) discrete single-use units (as defined in
16 section 5702(m)(4) of such Code, as amended
17 by this section), and

18 (C) taxable nicotine (as defined in section
19 5702(q) of such Code, as amended by this sec-
20 tion).

21 (3) CREDIT AGAINST TAX.—Each person shall
22 be allowed as a credit against the taxes imposed by
23 paragraph (1) an amount equal to the lesser of
24 \$1,000 or the amount of such taxes. For purposes
25 of the preceding sentence, all persons treated as a

1 single employer under subsection (b), (c), (m), or (o)
2 of section 414 of the Internal Revenue Code of 1986
3 shall be treated as 1 person for purposes of this
4 paragraph.

5 (4) LIABILITY FOR TAX AND METHOD OF PAY-
6 MENT.—

7 (A) LIABILITY FOR TAX.—The person re-
8 ferred to in paragraph (1) shall be liable for the
9 tax imposed by such paragraph.

10 (B) METHOD OF PAYMENT.—The tax im-
11 posed by paragraph (1) shall be paid in such
12 manner as the Secretary may provide.

13 (5) ARTICLES IN FOREIGN TRADE ZONES.—

14 (A) IN GENERAL.—Notwithstanding the
15 Act of June 18, 1934 (commonly known as the
16 Foreign Trade Zone Act, 48 Stat. 998, 19
17 U.S.C. 81a et seq.) or any other provision of
18 law, any covered tobacco products, or cigarette
19 papers and tubes, which are located in a foreign
20 trade zone on the tax increase date, shall be
21 subject to the tax imposed by paragraph (1)
22 if—

23 (i) internal revenue taxes have been
24 determined, or customs duties liquidated,
25 with respect to such article before such

1 date pursuant to a request made under the
2 1st proviso of section 3(a) of such Act, or
3 (ii) such article is held on such date
4 under the supervision of an officer of the
5 United States Customs and Border Protec-
6 tion of the Department of Homeland Secu-
7 rity pursuant to the 2d proviso of such sec-
8 tion 3(a).

9 (6) TAX INCREASE DATE.—For purposes of this
10 subsection, the term “tax increase date” means the
11 first day of the first calendar quarter described in
12 subsection (k)(1).

13 (7) CERTAIN OTHER DEFINITIONS.—Terms
14 used in this subsection which are also used in sec-
15 tion 5702 of the Internal Revenue Code of 1986
16 shall have the same meaning as when used in such
17 section.

18 (1) EFFECTIVE DATE.—

19 (1) IN GENERAL.—Except as otherwise pro-
20 vided in this subsection, the amendments made by
21 this section shall apply to articles removed in cal-
22 endar quarters beginning after the date of the enact-
23 ment of this Act.

24 (2) DELAYED EFFECTIVE DATE FOR CERTAIN
25 PRODUCTS.—The amendments made by subsections

1 (c), (d)(1)(C), (d)(2), and (h) shall apply to articles
2 removed in calendar quarters beginning after the
3 date which is 180 days after the date of the enact-
4 ment of this Act.

5 (m) **TRANSITION RULE FOR PERMIT AND BOND RE-**
6 **QUIREMENTS.**—A person which is lawfully engaged in
7 business as a manufacturer or importer of taxable nicotine
8 (within the meaning of subchapter A of chapter 52 of the
9 Internal Revenue Code of 1986, as amended by this sec-
10 tion) on the date of the enactment of this Act, first be-
11 comes subject to the requirements of subchapter B of
12 chapter 52 of such Code by reason of the amendments
13 made by this section, and submits an application under
14 such subchapter B to engage in such business not later
15 than 90 days after the date of the enactment of this Act,
16 shall not be denied the right to carry on such business
17 by reason of such requirements before final action on such
18 application.

19 **SEC. 138505. CLARIFICATION OF RULES REGARDING TO-**
20 **BACCO DRAWBACK.**

21 (a) **IN GENERAL.**—Section 5706 is amended by add-
22 ing at the end the following: “Exemption from tax under
23 section 5704 is drawback, and no further drawback shall
24 be allowed based on merchandise that has not been subject
25 to tax.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to drawback claims made on or
3 after December 18, 2018.

4 (c) NO INFERENCE.—Nothing contained in this sub-
5 section or the amendments made by this subsection shall
6 be construed to create any inference with respect to any
7 drawback claim made before December 18, 2018.

8 **SEC. 138506. TERMINATION OF EMPLOYER CREDIT FOR**
9 **PAID FAMILY AND MEDICAL LEAVE.**

10 Section 45S(i) is amended by striking “December 31,
11 2025” and inserting “December 31, 2023”.

12 **SEC. 138507. CLARIFICATION OF TREATMENT OF DISC**
13 **GAINS AND DISTRIBUTIONS OF CERTAIN**
14 **FOREIGN SHAREHOLDERS.**

15 (a) IN GENERAL.—Section 996(g) of the Internal
16 Revenue Code of 1986 is amended by striking “of such
17 shareholder” and inserting “deemed to be had by such
18 shareholder”.

19 (b) EFFECTIVE DATE.—The amendments made by
20 subsection (a) shall apply to gains and distributions after
21 December 31, 2021.

22 (c) APPLICATION TO FOREIGN SALES CORPORA-
23 TIONS.—In the case of any distribution after December
24 31, 2021, section 926(b)(1) of the Internal Revenue Code
25 of 1986 (prior to its repeal by the FSC Repeal and

1 Extraterritorial Income Exclusion Act of 2000) shall be
2 applied by substituting “deemed to be had by such share-
3 holder” for “of such shareholder”.

4 **SEC. 138508. ACCESS TO SELF-EMPLOYMENT INCOME IN-**
5 **FORMATION FOR PAID LEAVE ADMINISTRA-**
6 **TION.**

7 Section 6103(l) of the Internal Revenue Code of 1986
8 is amended by adding at the end the following new para-
9 graph:

10 “(23) DISCLOSURE OF CERTAIN RETURN IN-
11 FORMATION TO CARRY OUT PAID FAMILY AND MED-
12 ICAL LEAVE BENEFIT PROGRAM.—

13 “(A) IN GENERAL.—The Secretary shall,
14 upon written request, disclose to officers and
15 employees of the Department of the Treasury
16 return information with respect to a taxpayer
17 whose self-employment income is relevant in de-
18 termining eligibility for, or the correct amount
19 of, a paid family and medical leave benefit
20 under title XXII of the Social Security Act.
21 Such information shall be limited to—

22 “(i) the taxpayer identity information
23 with respect to the taxpayer,

24 “(ii) the self-employment income of
25 the taxpayer, and

1 “(iii) the taxable year to which such
2 self-employment income relates.

3 “(B) RESTRICTION ON DISCLOSURE.—Re-
4 turn information disclosed under subparagraph
5 (A) may be used by officers and employees of
6 the Department of the Treasury solely for the
7 purpose of administering the paid family and
8 medical leave benefit program under title XXII
9 of the Social Security Act.

10 “(C) SELF-EMPLOYMENT INCOME.—For
11 purposes of this paragraph, the term ‘self-em-
12 ployment income’ has the meaning given such
13 term in section 1402(b) for purposes of the
14 taxes imposed by section 1401(b).”.

15 **SEC. 138509. TEMPORARY RULE TO ALLOW CERTAIN S COR-**
16 **PORATIONS TO REORGANIZE AS PARTNER-**
17 **SHIPS WITHOUT TAX.**

18 (a) IN GENERAL.—A qualified liquidation of an eligi-
19 ble S corporation shall be treated for purposes of the In-
20 ternal Revenue Code of 1986 in the same manner as if—

21 (1) such liquidation were a complete liquidation
22 described in section 332(b) of such Code, and

23 (2) the domestic partnership referred to in sub-
24 section (c)(2) were a corporation which is an 80-per-

1 cent distributee (within the meaning of section
2 337(c) of such Code).

3 (b) ELIGIBLE S CORPORATION.—For purposes of
4 this section, the term “eligible S corporation” means any
5 corporation (including any predecessor corporation) that
6 was an S corporation on May 13, 1996, and at all times
7 thereafter through the date on which the qualified liquida-
8 tion is completed.

9 (c) QUALIFIED LIQUIDATION.—For purposes of this
10 section, the term “qualified liquidation” means one or
11 more transactions occurring during the 2-year period be-
12 ginning on December 31, 2021 if—

13 (1) such transactions constitute the complete
14 liquidation of an eligible S corporation, and

15 (2) substantially all of the assets and liabilities
16 of such eligible S corporation are, as a result of such
17 transactions, transferred to a domestic partnership.

18 (d) ELECTION.—This section shall apply to any
19 qualified liquidation only if the eligible S corporation elects
20 the application of this section in such manner as the Sec-
21 retary may require and not later than the due date for
22 filing the return of tax under chapter 1 of such Code for
23 the taxable year in which such liquidation is completed.

24 (e) APPLICATION OF RESTRICTION ON SUBSECTION
25 S CORPORATION ELECTIONS.—In the case of any quali-

1 fied liquidation to which this section applies, the domestic
2 partnership referred to in subsection (c)(2) shall not fail
3 to be treated as a successor corporation of the eligible S
4 corporation for purposes of section 1362(g) of such Code.

5 (f) OTHER DEFINITIONS.—Terms used in this sec-
6 tion which are also used in the Internal Revenue Code of
7 1986 shall have the same meaning as when used in such
8 Code.

9 (g) REGULATIONS.—The Secretary shall prescribe
10 such regulations or other guidance as may be necessary
11 or appropriate to carry out this section.

12 **SEC. 138510. TREATMENT OF CERTAIN QUALIFIED SOUND**
13 **RECORDING PRODUCTIONS.**

14 (a) ELECTION TO TREAT COSTS AS EXPENSES.—
15 Section 181(a)(1) is amended by striking “qualified film
16 or television production, and any qualified live theatrical
17 production,” and inserting “qualified film or television
18 production, any qualified live theatrical production, and
19 any qualified sound recording production”.

20 (b) DOLLAR LIMITATION.—Section 181(a)(2) is
21 amended by adding at the end the following new subpara-
22 graph:

23 “(C) QUALIFIED SOUND RECORDING PRO-
24 Duction.—Paragraph (1) shall not apply to so
25 much of the aggregate cost of any qualified

1 sound recording production, or to so much of
2 the aggregate, cumulative cost of all such quali-
3 fied sound recording productions in the taxable
4 year, as exceeds \$150,000.”.

5 (c) NO OTHER DEDUCTION OR AMORTIZATION DE-
6 DUCTION ALLOWABLE.—Section 181(b) is amended by
7 striking “qualified film or television production or any
8 qualified live theatrical production” and inserting “quali-
9 fied film or television production, any qualified live theat-
10 rical production, or any qualified sound recording produc-
11 tion”.

12 (d) ELECTION.—Section 181(c)(1) is amended by
13 striking “qualified film or television production or any
14 qualified live theatrical production” and inserting “quali-
15 fied film or television production, any qualified live theat-
16 rical production, or any qualified sound recording produc-
17 tion”.

18 (e) QUALIFIED SOUND RECORDING PRODUCTION
19 DEFINED.—Section 181 is amended by redesignating sub-
20 sections (f) and (g) as subsections (g) and (h), respec-
21 tively, and by inserting after subsection (e) the following
22 new subsection:

23 “(f) QUALIFIED SOUND RECORDING PRODUCTION.—
24 For purposes of this section, the term ‘qualified sound re-
25 cording production’ means a sound recording (as defined

1 in section 101 of title 17, United States Code) produced
2 and recorded in the United States.”.

3 (f) TERMINATION.—Section 181(h) (as redesignated
4 by subsection (e)) is amended by striking “qualified film
5 or television production or any qualified live theatrical pro-
6 duction” and inserting “qualified film or television produc-
7 tion, any qualified live theatrical production, or any quali-
8 fied sound recording production”.

9 (g) BONUS DEPRECIATION.—

10 (1) QUALIFIED SOUND RECORDING PRODUC-
11 TION AS QUALIFIED PROPERTY.—Section
12 168(k)(2)(A)(i) is amended—

13 (A) by striking “or” at the end of sub-
14 clause (IV), by adding “or” at the end of sub-
15 clause (V), and by inserting after subclause (V)
16 the following:

17 “(VI) which is a qualified sound
18 recording production (as defined in
19 subsection (f) of section 181) for
20 which a deduction would have been al-
21 lowable under section 181 without re-
22 gard to subsections (a)(2) and (h) of
23 such section or this subsection,” and

24 (B) in subclauses (IV) and (V) (as amend-
25 ed) by striking “without regard to subsections

1 (a)(2) and (g)” both places it appears and in-
2 serting “without regard to subsections (a)(2)
3 and (h)”.

4 (2) PRODUCTION PLACED IN SERVICE.—Section
5 168(k)(2)(H) is amended by striking “and” at the
6 end of clause (i), by striking the period at the end
7 of clause (ii) and inserting “, and”, and by adding
8 after clause (ii) the following:

9 “(iii) a qualified sound recording pro-
10 duction shall be considered to be placed in
11 service at the time of initial release or
12 broadcast.”.

13 (h) CONFORMING AMENDMENTS.—

14 (1) The heading for section 181 is amended to
15 read as follows: “**TREATMENT OF CERTAIN**
16 **QUALIFIED PRODUCTIONS.**”.

17 (2) The table of sections for part VI of sub-
18 chapter B of chapter 1 is amended by striking the
19 item relating to section 181 and inserting the fol-
20 lowing new item:

“Sec. 181. Treatment of certain qualified productions.”.

21 (i) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to productions commencing in tax-
23 able years ending after the date of the enactment of this
24 Act.

1 **SEC. 138511. PAYMENT TO CERTAIN INDIVIDUALS WHO DYE**
2 **FUEL.**

3 (a) IN GENERAL.—Subchapter B of chapter 65 is
4 amended by adding at the end the following new sub-
5 section:

6 **“SEC. 6433. DYED FUEL.**

7 “(a) IN GENERAL.—If a person establishes to the
8 satisfaction of the Secretary that such person meets the
9 requirements of subsection (b) with respect to diesel fuel
10 or kerosene, then the Secretary shall pay to such person
11 an amount (without interest) equal to the tax described
12 in subsection (b)(2)(A) with respect to such diesel fuel or
13 kerosene.

14 “(b) REQUIREMENTS.—

15 “(1) IN GENERAL.—A person meets the re-
16 quirements of this subsection with respect to diesel
17 fuel or kerosene if such person removes from a ter-
18 minal eligible indelibly dyed diesel fuel or kerosene.

19 “(2) ELIGIBLE INDELIBLY DYED DIESEL FUEL
20 OR KEROSENE DEFINED.—The term ‘eligible indeli-
21 bly dyed diesel fuel or kerosene’ means diesel fuel or
22 kerosene—

23 “(A) with respect to which a tax under sec-
24 tion 4081 was previously paid (and not credited
25 or refunded), and

1 “(B) which is exempt from taxation under
2 section 4082(a).

3 “(c) CROSS REFERENCE.—For civil penalty for ex-
4 cessive claims under this section, see section 6675.”.

5 (b) CONFORMING AMENDMENTS.—

6 (1) Section 6206 is amended—

7 (A) by striking “or 6427” each place it ap-
8 pears and inserting “6427, or 6433”, and

9 (B) by striking “6420 and 6421” and in-
10 serting “6420, 6421, and 6433”.

11 (2) Section 6430 is amended—

12 (A) by striking “or” at the end of para-
13 graph (2), by striking the period at the end of
14 paragraph (3) and inserting “or”, and by add-
15 ing at the end the following new paragraph:

16 “(4) which are removed as eligible indelibly
17 dyed diesel fuel or kerosene under section 6433.”.

18 (3) Section 6675 is amended—

19 (A) in subsection (a), by striking “or 6427
20 (relating to fuels not used for taxable pur-
21 poses)” and inserting “6427 (relating to fuels
22 not used for taxable purposes), or 6433 (relat-
23 ing to eligible indelibly dyed fuel)”, and

1 (B) in subsection (b)(1), by striking
2 “6421, or 6427,” and inserting “6421, 6427,
3 or 6433”.

4 (4) The table of sections for subchapter B of
5 chapter 65 is amended by adding at the end the fol-
6 lowing new item:

“Sec. 6433. Dyed fuel.”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to eligible indelibly dyed diesel fuel
9 or kerosene removed on or after the date that is 180 days
10 after the date of the enactment of this section.

11 **SEC. 138512. EXTENSION OF CREDIT FOR PORTION OF EM-**
12 **PLOYER SOCIAL SECURITY TAXES PAID WITH**
13 **RESPECT TO EMPLOYEE TIPS TO BEAUTY**
14 **SERVICE ESTABLISHMENTS.**

15 (a) EXTENSION OF TIP CREDIT TO BEAUTY SERVICE
16 BUSINESS.—

17 (1) IN GENERAL.—Section 45B(b)(2) is amend-
18 ed to read as follows:

19 “(2) APPLICATION ONLY TO CERTAIN LINES OF
20 BUSINESS.—In applying paragraph (1), there shall
21 be taken into account only tips received from cus-
22 tomers or clients in connection with the following
23 services:

24 “(A) The providing, delivering, or serving
25 of food or beverages for consumption, if the tip-

1 ping of employees delivering or serving food or
2 beverages by customers is customary.

3 “(B) The providing of beauty services to a
4 customer or client if the tipping of employees
5 providing such services is customary.”.

6 (2) BEAUTY SERVICE DEFINED.—Section 45B
7 is amended by adding at the end the following new
8 subsection:

9 “(e) BEAUTY SERVICE.—For purposes of this sec-
10 tion, the term ‘beauty service’ means any of the following:

11 “(1) Barbering and hair care.

12 “(2) Nail care.

13 “(3) Esthetics.

14 “(4) Body and spa treatments.”.

15 (b) CREDIT DETERMINED WITH RESPECT TO MIN-
16 IMUM WAGE IN EFFECT.—Section 45B(b)(1)(B) is
17 amended—

18 (1) by striking “as in effect on January 1,
19 2007, and”, and

20 (2) by inserting “, and in the case of food or
21 beverage establishments, as in effect on January 1,
22 2007” after “without regard to section 3(m) of such
23 Act”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2021.

4 **SEC. 138513. ENHANCEMENT OF WORK OPPORTUNITY**
5 **CREDIT DURING COVID-19 RECOVERY PE-**
6 **RIOD.**

7 (a) IN GENERAL.—Section 51 is amended by adding
8 at the end the following new subsection:

9 “(1) ADJUSTMENT TO CREDIT DURING COVID-19
10 RECOVERY PERIOD.—In the case of individuals (other
11 than any individual who is a qualified summer youth em-
12 ployee) hired after the date of the enactment of this sub-
13 section and before January 1, 2023—

14 “(1) INCREASED AMOUNT OF CREDIT.—Sub-
15 section (a) shall be applied by substituting ‘50 per-
16 cent’ for ‘40 percent’.

17 “(2) AVAILABILITY OF CREDIT IN SECOND
18 YEAR OF EMPLOYMENT.—

19 “(A) IN GENERAL.—Subsection (a) shall
20 be applied by inserting ‘or qualified second-year
21 wages’ after ‘wages’.

22 “(B) QUALIFIED SECOND-YEAR WAGES.—
23 For the purposes of this paragraph, the term
24 ‘qualified second-year wages’ means qualified
25 wages which are attributable to service rendered

1 during the 1-year period beginning on the day
2 after the last day of the 1-year period with re-
3 spect to the recipient determined under sub-
4 section (b)(2).

5 “(3) INCREASE IN LIMITATION ON WAGES
6 TAKEN INTO ACCOUNT.—Subsection (b)(3) shall be
7 applied by substituting ‘\$10,000’ for ‘\$6,000’.

8 “(4) ELIGIBILITY OF REHIRES.—

9 “(A) IN GENERAL.—Subsection (i)(2) shall
10 not apply.

11 “(B) REGULATIONS.—The Secretary shall
12 issue such regulations as the Secretary deter-
13 mines appropriate to ensure a reasonable appli-
14 cation of subparagraph (A), including prohib-
15 iting attempts to claim the benefit of this sec-
16 tion through the termination and rehiring of an
17 employee.”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 this section shall apply to taxable years ending after the
20 date of enactment of this Act.

1 **SEC. 138514. ALLOWANCE OF DEDUCTION FOR CERTAIN EX-**
2 **PENSES OF THE TRADE OR BUSINESS OF**
3 **BEING AN EMPLOYEE.**

4 (a) ABOVE-THE-LINE DEDUCTION FOR UNION
5 DUES.—Section 62(a)(2) is amended by adding at the end
6 the following new subparagraph:

7 “(F) UNION DUES.—The deductions allowed by
8 section 162 which are both—

9 “(A) not in excess of \$250, and

10 “(B) attributable to a trade or business
11 consisting of the performance of services by the
12 taxpayer as an employee if such deductions are
13 for dues paid to a labor organization described
14 in section 501(c)(5) and with respect to which
15 such taxpayer remained a member through the
16 end of the taxable year.”.

17 (b) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to taxable years beginning after
19 December 31, 2021.

20 **SEC. 138515. COVER OVER OF CERTAIN DISTILLED SPIRITS**
21 **TAXES.**

22 (a) REPEAL OF LIMITATION ON COVER OVER OF
23 DISTILLED SPIRITS TAXES TO PUERTO RICO AND VIRGIN
24 ISLANDS.—

25 (1) IN GENERAL.—Section 7652 is amended by
26 striking subsection (f) and by redesignating sub-

1 sections (g) and (h) as subsections (f) and (g), re-
2 spectively.

3 (2) EFFECTIVE DATE.—The amendments made
4 by this subsection shall apply to distilled spirits
5 brought into the United States after December 31,
6 2021.

7 (b) REQUIRED TRANSFER TO PUERTO RICO CON-
8 SERVATION TRUST FUND OF PORTION OF PUERTO RICO
9 RUM COVER OVER.—

10 (1) IN GENERAL.—Section 7652(a) is amended
11 by adding at the end the following new paragraph:

12 “(4) REQUIRED TRANSFER TO PUERTO RICO
13 CONSERVATION TRUST FUND OF PORTION OF RUM
14 TAXES COVERED OVER.—

15 “(A) IN GENERAL.—From any taxes col-
16 lected on rum transported to the United States
17 that are covered into the treasury of Puerto
18 Rico under paragraph (3) at a rate equal to or
19 greater than \$10.50 per proof gallon, Puerto
20 Rico shall transfer to the Puerto Rico Con-
21 servation Trust Fund an amount per proof gal-
22 lon equal to or greater than $\frac{1}{6}$ of the difference
23 between \$10.50 and the rate, not to exceed
24 \$13.25, at which such taxes are covered into
25 such treasury. Puerto Rico’s obligations under

1 this paragraph shall not modify or impair pay-
2 ment priorities established under Puerto Rico
3 law and in effect on May 21, 2021.

4 “(B) PUERTO RICO CONSERVATION TRUST
5 FUND.—For purposes of this section, the term
6 ‘Puerto Rico Conservation Trust Fund’ means
7 the fund established pursuant to a Memo-
8 randum of Understanding between the United
9 States Department of the Interior and the
10 Commonwealth of Puerto Rico, dated December
11 24, 1968.”.

12 (2) COVER OVER DETERMINED WITHOUT RE-
13 GARD TO CERTAIN RATE REDUCTIONS.—Section
14 7652(h), as amended by subsections (a) and (c), is
15 amended by inserting “(a)(4),” after “(a)(3),”.

16 (3) EFFECTIVE DATE.—The amendments made
17 by this subsection shall apply to distilled spirits
18 brought into the United States after December 31,
19 2021.

20 (c) COVER OVER DETERMINED WITHOUT REGARD
21 TO CERTAIN RATE REDUCTIONS.—

22 (1) IN GENERAL.—Section 7652, as amended
23 by subsection (a), is amended by inserting after sub-
24 section (g) the following new subsection:

1 “(h) COVER OVER DETERMINED WITHOUT REGARD
2 TO CERTAIN RATE REDUCTIONS.—For purposes of sub-
3 sections (a)(3), (b)(3), and (e)(1), refunds under section
4 5001(c)(4) shall not be taken into account as a refund,
5 and the amount of taxes imposed and collected under sec-
6 tion 5001(a)(1) shall be determined without regard to sec-
7 tion 5001(c).”.

8 (2) EFFECTIVE DATE.—The amendment made
9 by paragraph (1) shall take effect as if included in
10 section 13807 of Public Law 116–260.

11 (3) CONFORMING AMENDMENTS.—

12 (A) 7652(E).—

13 (i) IN GENERAL.—Section 7652(e) is
14 amended by striking paragraph (5).

15 (ii) EFFECTIVE DATE.—The amend-
16 ment made by this subparagraph shall take
17 effect as if included in section 13807 of
18 Public Law 115–97.

19 (B) 7652(I).—

20 (i) IN GENERAL.—Section 7652 is
21 amended by striking subsection (i).

22 (ii) EFFECTIVE DATE.—The amend-
23 ment made by this subparagraph shall take
24 effect as if included in section 107 of Pub-
25 lic Law 116–260.

1 **SEC. 138516. RESEARCH AND EXPERIMENTAL EXPENDI-**
2 **TURES.**

3 (a) IN GENERAL.—Section 13206 of Public Law
4 115–97 is amended—

5 (1) in subsection (b)(3), by striking “2021”
6 and inserting “2025”, and

7 (2) in subsection (e), by striking “2021” and
8 inserting “2025”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 this section shall take effect on the date of the enactment
11 of this Act.

12 **SEC. 138517. PAYROLL CREDIT FOR COMPENSATION OF**
13 **LOCAL NEWS JOURNALISTS.**

14 (a) IN GENERAL.—In the case of an eligible local
15 newspaper publisher, there shall be allowed as a credit
16 against applicable employment taxes for each calendar
17 quarter an amount equal to the applicable percentage of
18 wages paid by such publisher to local news journalists for
19 such calendar quarter.

20 (b) LIMITATIONS AND REFUNDABILITY.—

21 (1) WAGES TAKEN INTO ACCOUNT.—The
22 amount of wages paid with respect to any individual
23 which may be taken into account under subsection
24 (a) during any calendar quarter by the eligible local
25 newspaper publisher shall not exceed \$12,500.

1 (2) CREDIT LIMITED TO EMPLOYMENT
2 TAXES.—The credit allowed by subsection (a) with
3 respect to any calendar quarter shall not exceed the
4 applicable employment taxes (reduced by any credits
5 allowed under sections 3131, 3132, 3134, and 6432
6 of the Internal Revenue Code of 1986) on the wages
7 paid with respect to the employment of all the em-
8 ployees of the eligible local newspaper publisher for
9 such calendar quarter.

10 (3) REFUNDABILITY OF EXCESS CREDIT.—

11 (A) IN GENERAL.—If the amount of the
12 credit under subsection (a) exceeds the limita-
13 tion of paragraph (2) for any calendar quarter,
14 such excess shall be treated as an overpayment
15 that shall be refunded under sections 6402(a)
16 and 6413(b) of the Internal Revenue Code of
17 1986.

18 (B) TREATMENT OF PAYMENTS.—For pur-
19 poses of section 1324 of title 31, United States
20 Code, any amounts due to the employer under
21 this paragraph shall be treated in the same
22 manner as a refund due from a credit provision
23 referred to in subsection (b)(2) of such section.

24 (c) DEFINITIONS.—For purposes of this section—

1 (1) APPLICABLE PERCENTAGE.—The term “ap-
2 plicable percentage” means—

3 (A) in the case of each of the first 4 cal-
4 endar quarters to which this section applies, 50
5 percent, and

6 (B) in the case of each calendar quarter
7 thereafter, 30 percent.

8 (2) APPLICABLE EMPLOYMENT TAXES.—The
9 term “applicable employment taxes” means the taxes
10 imposed under section 3111(b) of the Internal Rev-
11 enue Code of 1986.

12 (3) ELIGIBLE LOCAL NEWSPAPER PUB-
13 LISHER.—The term “eligible local newspaper pub-
14 lisher” means, with respect to any calendar quarter,
15 any employer if substantially all of the gross receipts
16 of such employer for such calendar quarter are de-
17 rived in the trade or business of publishing a local
18 newspaper.

19 (4) LOCAL NEWSPAPER.—The term “local
20 newspaper” means any print or digital publication
21 if—

22 (A) the primary content of such publica-
23 tion is original content derived from primary
24 sources and relating to news and current
25 events,

1 (B) such publication primarily serves the
2 needs of a regional or local community,

3 (C) the publisher of such publication em-
4 ploys at least one local news journalist who re-
5 sides in such regional or local community, and

6 (D) the publisher of such publication em-
7 ploys no more than 750 employees during the
8 calendar quarter with respect to which a credit
9 is allowed under this section.

10 (5) LOCAL NEWS JOURNALIST.—The term
11 “local news journalist” means, with respect to any
12 eligible local newspaper publisher for any calendar
13 quarter, an individual who provides at least 100
14 hours of service during such calendar quarter to
15 such eligible local newspaper publisher, during which
16 time such individual regularly gathers, collects, pho-
17 tographs, records, writes, or reports news or infor-
18 mation that concerns local events or other matters
19 of local public interest.

20 (6) SECRETARY.—The term “Secretary” means
21 the Secretary of the Treasury or the Secretary’s del-
22 egate.

23 (7) WAGES.—The term “wages” means wages
24 (as defined in section 3121(a) of the Internal Rev-
25 enue Code of 1986).

1 (8) OTHER TERMS.—Any term used in this sec-
2 tion which is also used in chapter 21 or chapter 22
3 of the Internal Revenue Code of 1986 shall have the
4 same meaning as when used in such chapter.

5 (d) AGGREGATION RULE.—

6 (1) IN GENERAL.—All persons treated as a sin-
7 gle employer under subsection (a) or (b) of section
8 52 of the Internal Revenue Code of 1986, or sub-
9 section (m) or (o) of section 414 of such Code, shall
10 be treated as one employer for purposes of this sec-
11 tion.

12 (2) EXCEPTION.—Paragraph (1) shall not
13 apply unless such persons are involved in the pro-
14 duction of the same print or digital publication.

15 (e) CERTAIN RULES TO APPLY.—For purposes of
16 this section, rules similar to the rules of sections 51(i)(1)
17 and 280C(a) of the Internal Revenue Code of 1986 shall
18 apply.

19 (f) CERTAIN GOVERNMENTAL EMPLOYERS.—This
20 credit shall not apply to the Government of the United
21 States, the government of any State or political subdivi-
22 sion thereof, or any agency or instrumentality of any of
23 the foregoing.

24 (g) ELECTION TO HAVE SECTION NOT APPLY.—
25 This section shall not apply with respect to any eligible

1 local newspaper publisher for any calendar quarter if such
2 person elects (at such time and in such manner as the
3 Secretary may prescribe) not to have this section apply.

4 (h) SPECIAL RULES.—

5 (1) EMPLOYEE NOT TAKEN INTO ACCOUNT
6 MORE THAN ONCE.—An employee shall not be in-
7 cluded for purposes of this section for any period
8 with respect to any employer if such employer is al-
9 lowed a credit under section 51 of the Internal Rev-
10 enue Code of 1986 with respect to such employee for
11 such period.

12 (2) DENIAL OF DOUBLE BENEFIT.—Any wages
13 taken into account in determining the credit allowed
14 under this section shall not be taken into account for
15 purposes of determining the credits allowed under
16 section 41, 45A, 45P, 45S, 51, 1396, 3131, 3132,
17 3134, and 6432 of such Code.

18 (3) THIRD-PARTY PAYORS.—Any credit allowed
19 under this section shall be treated as a credit de-
20 scribed in section 3511(d)(2) of such Code.

21 (i) TREATMENT OF DEPOSITS.—The Secretary shall
22 waive any penalty under section 6656 of the Internal Rev-
23 enue Code of 1986 for any failure to make a deposit of
24 any applicable employment taxes if the Secretary deter-

1 mines that such failure was due to the reasonable anticipa-
2 tion of the credit allowed under this section.

3 (j) REGULATIONS AND GUIDANCE.—The Secretary
4 shall issue such forms, instructions, regulations, and guid-
5 ance as are necessary to implement the purposes of this
6 section, including with respect to the application of the
7 credit under subsection (a) to third-party payors (includ-
8 ing professional employer organizations, certified profes-
9 sional employer organizations, or agents under section
10 3504 of the Internal Revenue Code of 1986), including
11 regulations or guidance allowing such payors to submit
12 documentation necessary to substantiate the eligible em-
13 ployer status of employers that use such payors.

14 (k) APPLICATION.—This section shall only apply to
15 calendar quarters during the first 5 calendar years begin-
16 ning after the date of the enactment of this Act.

17 **SEC. 138518. TREATMENT OF FINANCIAL GUARANTY INSUR-**
18 **ANCE COMPANIES AS QUALIFYING INSUR-**
19 **ANCE CORPORATIONS UNDER PASSIVE FOR-**
20 **EIGN INVESTMENT COMPANY RULES.**

21 (a) IN GENERAL.—Section 1297(f)(3) is amended by
22 adding at the end the following new subparagraph:

23 “(C) SPECIAL RULES FOR FINANCIAL
24 GUARANTY INSURANCE COMPANIES.—

1 “(i) IN GENERAL.—Notwithstanding
2 subparagraphs (A)(ii) and (B), the applica-
3 ble insurance liabilities of a financial guar-
4 anty insurance company shall include its
5 unearned premium reserves if—

6 “(I) such company is prohibited
7 under generally accepted accounting
8 principles from reporting on its appli-
9 cable financial statements reserves for
10 losses and loss adjustment expenses
11 with respect to a financial guaranty
12 insurance or reinsurance contract ex-
13 cept to the extent that losses and loss
14 adjustment expenses are expected to
15 exceed the unearned premium reserves
16 on the contract,

17 “(II) the applicable financial
18 statement of such company reports fi-
19 nancial guaranty exposure of at least
20 15-to-1 or State or local bond expo-
21 sure of at least 9-to-1 (8-to-1 in the
22 case of a taxable year of such com-
23 pany which ends on or before Decem-
24 ber 31, 2018), and

1 “(III) such company includes in
2 its insurance liabilities only its un-
3 earned premium reserves relating to
4 insurance written or assumed that is
5 within the single risk limits set forth
6 in subsection (D) of section 4 of the
7 Financial Guaranty Insurance Guide-
8 line (modified by using total share-
9 holder’s equity as reported on the ap-
10 plicable financial statement of the
11 company rather than aggregate of the
12 surplus to policyholders and contin-
13 gency reserves).

14 “(ii) APPLICATION OF ALTERNATIVE
15 FACTS AND CIRCUMSTANCES TEST.—A fi-
16 nancial guaranty insurance company shall
17 be treated as satisfying the requirements
18 of paragraph (2)(B).

19 “(iii) FINANCIAL GUARANTY INSUR-
20 ANCE COMPANY.—For purposes of this
21 subparagraph, the term ‘financial guaranty
22 insurance company’ means any insurance
23 company the sole business of which is writ-
24 ing or reinsuring financial guaranty insur-
25 ance (as defined in subsection (A) of sec-

1 tion 1 of the Financial Guaranty Insurance
2 Guideline) which is permitted under sub-
3 section (B) of section 4 of such Guideline.

4 “(iv) FINANCIAL GUARANTY EXPO-
5 SURE.—For purposes of this subpara-
6 graph, the term ‘financial guaranty expo-
7 sure’ means the ratio of—

8 “(I) the net debt service out-
9 standing insured or reinsured by the
10 company that is within the single risk
11 limits set forth in the Financial Guar-
12 anty Insurance Guideline (as reported
13 on such company’s applicable financial
14 statement), to

15 “(II) the company’s total assets
16 (as so reported).

17 “(v) STATE OR LOCAL BOND EXPO-
18 SURE.—For purposes of this subpara-
19 graph, the term ‘State or local bond expo-
20 sure’ means the ratio of—

21 “(I) the net unpaid principal of
22 State or local bonds (as defined in
23 section 103(c)(1)) insured or rein-
24 sured by the company that is within
25 the single risk limits set forth in the

1 Financial Guaranty Insurance Guide-
2 line (as reported on such company’s
3 applicable financial statement), to

4 “(II) the company’s total assets
5 (as so reported).”

6 “(vi) FINANCIAL GUARANTY INSUR-
7 ANCE GUIDELINE.—For purposes of this
8 subparagraph—

9 “(I) IN GENERAL.—The term
10 ‘Financial Guaranty Insurance Guide-
11 line’ means the October 2008 model
12 regulation that was adopted by the
13 National Association of Insurance
14 Commissioners on December 4, 2007.

15 “(II) DETERMINATIONS MADE BY
16 SECRETARY.—The determination of
17 whether any provision of the Financial
18 Guaranty Insurance Guideline has
19 been satisfied shall be made by the
20 Secretary.”

21 (b) REPORTING OF CERTAIN ITEMS.—Section
22 1297(f)(4) is amended by adding at the end the following
23 new subparagraph:

24 “(C) CLARIFICATION THAT CERTAIN ITEMS
25 ON APPLICABLE FINANCIAL STATEMENT BE

1 SEPARATELY REPORTED WITH RESPECT TO
2 CORPORATION.—An amount described in para-
3 graph (1)(B) or clause (i)(II), (i)(III), (iv)(I),
4 (iv)(II), (v)(I), or (v)(II) of paragraph (3)(C)
5 shall be treated as reported on an applicable fi-
6 nancial statement for purposes of this section
7 if—

8 “(i) such amount is separately re-
9 ported on such statement with respect to
10 the corporation referred to in paragraph
11 (1), or

12 “(ii) such amount is separately deter-
13 mined for purposes of calculating an
14 amount which is reported on such state-
15 ment.

16 “(D) AUTHORITY OF SECRETARY TO RE-
17 QUIRE REPORTING.—

18 “(i) IN GENERAL.—Each United
19 States person who owns an interest in a
20 specified non-publicly traded foreign cor-
21 poration and who takes the position that
22 such corporation is not a passive foreign
23 investment company shall report to the
24 Secretary such information with respect to

1 such corporation as the Secretary may re-
2 quire.

3 “(ii) SPECIFIED NON-PUBLICLY TRAD-
4 ED FOREIGN CORPORATION.—For purposes
5 of this subparagraph, the term ‘specified
6 non-publicly traded foreign corporation’
7 means any foreign corporation—

8 “(I) which would be a passive
9 foreign investment company if sub-
10 section (b)(2)(B) did not apply, and

11 “(II) no interest in which is trad-
12 ed on an established securities mar-
13 ket.”.

14 (c) EFFECTIVE DATE.—

15 (1) IN GENERAL.—Except as otherwise pro-
16 vided in this subsection, the amendments made by
17 this section shall take effect as if included in section
18 14501 of Public Law 115–97.

19 (2) REPORTING.—The amendment made by
20 subsection (b) shall apply to reports made after the
21 date of the enactment of this Act.

1 **SEC. 138519. CREDIT FOR QUALIFIED ACCESS TECHNOLOGY**
2 **FOR THE BLIND.**

3 (a) IN GENERAL.—Subpart C of part IV of sub-
4 chapter A of chapter 1 is amended by inserting after sec-
5 tion 36G the following new section:

6 **“SEC. 36H. CREDIT FOR QUALIFIED ACCESS TECHNOLOGY**
7 **FOR THE BLIND.**

8 “(a) ALLOWANCE OF CREDIT.—There shall be al-
9 lowed as a credit against the tax imposed by this subtitle
10 an amount equal to amounts paid or incurred during the
11 taxable year, not compensated for by insurance or other-
12 wise, by the taxpayer for qualified access technology for
13 use by a qualified blind individual who is the taxpayer,
14 the taxpayer’s spouse, or any dependent (as defined in sec-
15 tion 152) of the taxpayer.

16 “(b) LIMITATION.—The aggregate amount of the
17 credit allowed under subsection (a) with respect to any
18 qualified blind individual shall not exceed \$2,000 in any
19 3-consecutive-taxable-year period.

20 “(c) DEFINITIONS.—For purposes of this section—

21 “(1) QUALIFIED BLIND INDIVIDUAL.—The term
22 ‘qualified blind individual’ means an individual who
23 is blind within the meaning of section 63(f)(4).

24 “(2) QUALIFIED ACCESS TECHNOLOGY DE-
25 FINED.—The term ‘qualified access technology’
26 means hardware, software, or other information

1 technology the primary function of which is to con-
2 vert or adapt information which is visually rep-
3 resented into forms or formats useable by blind indi-
4 viduals.

5 “(d) DENIAL OF DOUBLE BENEFIT.—No credit shall
6 be allowed under subsection (a) for any expense for which
7 a deduction or credit is allowed under any other provision
8 of this chapter.

9 “(e) INFLATION ADJUSTMENT.—

10 “(1) IN GENERAL.—In the case of a taxable
11 year beginning after 2022, the \$2,000 amount in
12 subsection (b) shall be increased by an amount equal
13 to—

14 “(A) such dollar amount, multiplied by

15 “(B) the cost-of-living adjustment deter-
16 mined under section 1(f)(3) for the calendar
17 year in which the taxable year begins, deter-
18 mined by substituting ‘calendar year 2021’ for
19 ‘calendar year 2016’ in subparagraph (A)(ii)
20 thereof.

21 “(2) ROUNDING.—If the amount as adjusted
22 under subparagraph (A) is not a multiple of \$100,
23 such amount shall be rounded to the next lowest
24 multiple of \$100.

1 “(f) TERMINATION.—This section shall not apply
2 with respect to amounts paid or incurred in taxable years
3 beginning after December 31, 2026.”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) Section 6211(b)(4)(A), as amended by the
6 preceding provisions of this Act, is amended by in-
7 serting “, 36H” after “36G”.

8 (2) Section 1324(b)(2) of title 31, United
9 States Code, is amended by inserting “, 36H” after
10 “, 36G”.

11 (3) The table of sections for subpart C of part
12 IV of subchapter A is amended by inserting after
13 the item relating to section 36G the following new
14 item:

“Sec. 36H. Credit for qualified access technology for the blind.”

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to taxable years beginning after
17 December 31, 2021.

18 **SEC. 138520. MODIFICATION OF REIT CONSTRUCTIVE OWN-**
19 **ERSHIP RULES.**

20 (a) IN GENERAL.—Section 856(d)(5) is amended by
21 striking “and” at the end of subparagraph (A), by striking
22 the period at the end of subparagraph (B) and inserting
23 “, and”, and by adding at the end the following:

24 “(C) except as otherwise provided by the
25 Secretary, stock, assets, and net profits con-

1 structively owned by a partnership, estate,
2 trust, or corporation by reason of the applica-
3 tion of section 318(a)(3) (after application of
4 subparagraphs (A) and (B)) shall not be con-
5 sidered as owned by it for purposes of again ap-
6 plying such section in order to make another
7 person the constructive owner of such stock, as-
8 sets, or net profits.

9 Subparagraph (C) shall not prevent any person from
10 being the constructive owner of stock, assets, or net
11 profits of any person as the result of any other ap-
12 plication of section 318(a) (as modified by this para-
13 graph).”.

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

17 (c) **NO INFERENCE.**—Nothing in this section or the
18 amendments made by this section shall be construed to
19 create any inference with respect to the proper application
20 of section 318 of the Internal Revenue Code of 1986 to
21 cases other than cases to which such amendments apply.

1 **Subtitle J—Drug Pricing**

2 **PART 1—LOWERING PRICES THROUGH FAIR**

3 **DRUG PRICE NEGOTIATION**

4 **SEC. 139001. PROVIDING FOR LOWER PRICES FOR CERTAIN**

5 **HIGH-PRICED SINGLE SOURCE DRUGS.**

6 (a) PROGRAM TO LOWER PRICES FOR CERTAIN
7 HIGH-PRICED SINGLE SOURCE DRUGS.—Title XI of the
8 Social Security Act (42 U.S.C. 1301 et seq.) is amended
9 by adding at the end the following new part:

10 **“PART E—FAIR PRICE NEGOTIATION PROGRAM**

11 **TO LOWER PRICES FOR CERTAIN HIGH-**

12 **PRICED SINGLE SOURCE DRUGS**

13 **“SEC. 1191. ESTABLISHMENT OF PROGRAM.**

14 “(a) IN GENERAL.—The Secretary shall establish a
15 Fair Price Negotiation Program (in this part referred to
16 as the ‘program’). Under the program, with respect to
17 each price applicability period, the Secretary shall—

18 “(1) publish a list of selected drugs in accord-
19 ance with section 1192;

20 “(2) enter into agreements with manufacturers
21 of selected drugs with respect to such period, in ac-
22 cordance with section 1193;

23 “(3) negotiate and, if applicable, renegotiate
24 maximum fair prices for such selected drugs, in ac-
25 cordance with section 1194; and

1 “(4) carry out the administrative duties de-
2 scribed in section 1196.

3 “(b) DEFINITIONS RELATING TO TIMING.—For pur-
4 poses of this part:

5 “(1) INITIAL PRICE APPLICABILITY YEAR.—The
6 term ‘initial price applicability year’ means a plan
7 year (beginning with plan year 2025) or, if agreed
8 to in an agreement under section 1193 by the Sec-
9 retary and manufacturer involved, a period of more
10 than one plan year (beginning on or after January
11 1, 2025).

12 “(2) PRICE APPLICABILITY PERIOD.—The term
13 ‘price applicability period’ means, with respect to a
14 drug, the period beginning with the initial price ap-
15 plicability year with respect to which such drug is a
16 selected drug and ending with the last plan year
17 during which the drug is a selected drug.

18 “(3) SELECTED DRUG PUBLICATION DATE.—
19 The term ‘selected drug publication date’ means,
20 with respect to each initial price applicability year,
21 April 15 of the plan year that begins 2 years prior
22 to such year.

23 “(4) VOLUNTARY NEGOTIATION PERIOD.—The
24 term ‘voluntary negotiation period’ means, with re-

1 spect to an initial price applicability year with re-
2 spect to a selected drug, the period—

3 “(A) beginning on the sooner of—

4 “(i) the date on which the manufac-
5 turer of the drug and the Secretary enter
6 into an agreement under section 1193 with
7 respect to such drug; or

8 “(ii) June 15 following the selected
9 drug publication date with respect to such
10 selected drug; and

11 “(B) ending on March 31 of the year that
12 begins one year prior to the initial price appli-
13 cability year.

14 “(c) OTHER DEFINITIONS.—For purposes of this
15 part:

16 “(1) FAIR PRICE ELIGIBLE INDIVIDUAL.—The
17 term ‘fair price eligible individual’ means, with re-
18 spect to a selected drug—

19 “(A) in the case such drug is furnished or
20 dispensed to the individual at a pharmacy or by
21 a mail order service—

22 “(i) an individual who is enrolled
23 under a prescription drug plan under part
24 D of title XVIII or an MA–PD plan under
25 part C of such title if coverage is provided

1 under such plan for such selected drug;
2 and

3 “(ii) an individual who is enrolled
4 under a group health plan or health insur-
5 ance coverage offered in the group or indi-
6 vidual market (as such terms are defined
7 in section 2791 of the Public Health Serv-
8 ice Act) with respect to which there is in
9 effect an agreement with the Secretary
10 under section 1197 with respect to such se-
11 lected drug as so furnished or dispensed;
12 and

13 “(B) in the case such drug is furnished or
14 administered to the individual by a hospital,
15 physician, or other provider of services or sup-
16 plier—

17 “(i) an individual who is entitled to
18 benefits under part A of title XVIII or en-
19 rolled under part B of such title if such se-
20 lected drug is covered under the respective
21 part; and

22 “(ii) an individual who is enrolled
23 under a group health plan or health insur-
24 ance coverage offered in the group or indi-
25 vidual market (as such terms are defined

1 in section 2791 of the Public Health Serv-
2 ice Act) with respect to which there is in
3 effect an agreement with the Secretary
4 under section 1197 with respect to such se-
5 lected drug as so furnished or adminis-
6 tered.

7 “(2) MAXIMUM FAIR PRICE.—The term ‘max-
8 imum fair price’ means, with respect to a plan year
9 during a price applicability period and with respect
10 to a selected drug (as defined in section 1192(e))
11 with respect to such period, the price published pur-
12 suant to section 1195 in the Federal Register for
13 such drug and year.

14 “(3) AVERAGE INTERNATIONAL MARKET PRICE
15 DEFINED.—

16 “(A) IN GENERAL.—The terms ‘average
17 international market price’ and ‘AIM price’
18 mean, with respect to a drug, the average price
19 (which shall be the net average price, if prac-
20 ticable, and volume-weighted, if practicable) for
21 a unit (as defined in paragraph (4)) of the drug
22 for sales of such drug (calculated across dif-
23 ferent dosage forms and strengths of the drug
24 and not based on the specific formulation or
25 package size or package type), as computed (as

1 of the date of publication of such drug as a se-
2 lected drug under section 1192(a)) in all coun-
3 tries described in clause (ii) of subparagraph
4 (B) that are applicable countries (as described
5 in clause (i) of such subparagraph) with respect
6 to such drug.

7 “(B) APPLICABLE COUNTRIES.—

8 “(i) IN GENERAL.—For purposes of
9 subparagraph (A), a country described in
10 clause (ii) is an applicable country de-
11 scribed in this clause with respect to a
12 drug if there is available an average price
13 for any unit for the drug for sales of such
14 drug in such country.

15 “(ii) COUNTRIES DESCRIBED.—For
16 purposes of this paragraph, the following
17 are countries described in this clause:

18 “(I) Australia.

19 “(II) Canada.

20 “(III) France.

21 “(IV) Germany.

22 “(V) Japan.

23 “(VI) The United Kingdom.

24 “(4) UNIT.—The term ‘unit’ means, with re-
25 spect to a drug, the lowest identifiable quantity

1 (such as a capsule or tablet, milligram of molecules,
2 or grams) of the drug that is dispensed.

3 **“SEC. 1192. SELECTION OF NEGOTIATION-ELIGIBLE DRUGS**
4 **AS SELECTED DRUGS.**

5 “(a) IN GENERAL.—Not later than the selected drug
6 publication date with respect to an initial price applica-
7 bility year, subject to subsection (h), the Secretary shall
8 select and publish in the Federal Register a list of—

9 “(1)(A) with respect to an initial price applica-
10 bility year during 2025, at least 25 negotiation-eligible
11 ble drugs described in subparagraphs (A) and (B),
12 but not subparagraph (C), of subsection (d)(1) (or,
13 with respect to an initial price applicability year dur-
14 ing such period beginning after 2025, the maximum
15 number (if such number is less than 25) of such ne-
16 gotiation-eligible drugs for the year) with respect to
17 such year; and

18 “(B) with respect to an initial price applica-
19 bility year during 2026 or a subsequent year, at
20 least 50 negotiation-eligible drugs described in sub-
21 paragraphs (A) and (B), but not subparagraph (C),
22 of subsection (d)(1) (or, with respect to an initial
23 price applicability year during such period, the max-
24 imum number (if such number is less than 50) of

1 such negotiation-eligible drugs for the year) with re-
2 spect to such year;

3 “(2) all negotiation-eligible drugs described in
4 subparagraph (C) of such subsection with respect to
5 such year; and

6 “(3) all new-entrant negotiation-eligible drugs
7 (as defined in subsection (g)(1)) with respect to such
8 year.

9 Each drug published on the list pursuant to the previous
10 sentence shall be subject to the negotiation process under
11 section 1194 for the voluntary negotiation period with re-
12 spect to such initial price applicability year (and the re-
13 negotiation process under such section as applicable for
14 any subsequent year during the applicable price applica-
15 bility period). In applying this subsection, any negotiation-
16 eligible drug that is selected under this subsection for an
17 initial price applicability year shall not count toward the
18 required minimum amount of drugs to be selected under
19 paragraph (1) for any subsequent year, including such a
20 drug so selected that is subject to renegotiation under sec-
21 tion 1194.

22 “(b) SELECTION OF DRUGS.—In carrying out sub-
23 section (a)(1) the Secretary shall select for inclusion on
24 the published list described in subsection (a) with respect
25 to a price applicability period, the negotiation-eligible

1 drugs that the Secretary projects will result in the greatest
2 savings to the Federal Government or fair price eligible
3 individuals during the price applicability period. In making
4 this projection of savings for drugs for which there is an
5 AIM price for a price applicability period, the savings shall
6 be projected across different dosage forms and strengths
7 of the drugs and not based on the specific formulation or
8 package size or package type of the drugs, taking into con-
9 sideration both the volume of drugs for which payment
10 is made, to the extent such data is available, and the
11 amount by which the net price for the drugs exceeds the
12 AIM price for the drugs.

13 “(c) SELECTED DRUG.—For purposes of this part,
14 each drug included on the list published under subsection
15 (a) with respect to an initial price applicability year shall
16 be referred to as a ‘selected drug’ with respect to such
17 year and each subsequent plan year beginning before the
18 first plan year beginning after the date on which the Sec-
19 retary determines two or more drug products—

20 “(1) are approved or licensed (as applicable)—

21 “(A) under section 505(j) of the Federal
22 Food, Drug, and Cosmetic Act using such drug
23 as the listed drug; or

1 “(B) under section 351(k) of the Public
2 Health Service Act using such drug as the ref-
3 erence product; and

4 “(2) continue to be marketed.

5 “(d) NEGOTIATION-ELIGIBLE DRUG.—

6 “(1) IN GENERAL.—For purposes of this part,
7 the term ‘negotiation-eligible drug’ means, with re-
8 spect to the selected drug publication date with re-
9 spect to an initial price applicability year, a quali-
10 fying single source drug, as defined in subsection
11 (e), that meets any of the following criteria:

12 “(A) COVERED PART D DRUGS.—The drug
13 is among the 125 covered part D drugs (as de-
14 fined in section 1860D–2(e)) for which there
15 was an estimated greatest net spending under
16 parts C and D of title XVIII, as determined by
17 the Secretary, during the most recent plan year
18 prior to such drug publication date for which
19 data are available.

20 “(B) OTHER DRUGS.—The drug is among
21 the 125 drugs for which there was an estimated
22 greatest net spending in the United States (in-
23 cluding the 50 States, the District of Columbia,
24 and the territories of the United States), as de-
25 termined by the Secretary, during the most re-

1 cent plan year prior to such drug publication
2 date for which data are available.

3 “(C) INSULIN.—The drug is a qualifying
4 single source drug described in subsection
5 (e)(3).

6 “(2) CLARIFICATION.—In determining whether
7 a qualifying single source drug satisfies any of the
8 criteria described in paragraph (1), the Secretary
9 shall, to the extent practicable, use data that is ag-
10 gregated across dosage forms and strengths of the
11 drug and not based on the specific formulation or
12 package size or package type of the drug.

13 “(3) PUBLICATION.—Not later than the se-
14 lected drug publication date with respect to an ini-
15 tial price applicability year, the Secretary shall pub-
16 lish in the Federal Register a list of negotiation-eli-
17 gible drugs with respect to such selected drug publi-
18 cation date.

19 “(e) QUALIFYING SINGLE SOURCE DRUG.—For pur-
20 poses of this part, the term ‘qualifying single source drug’
21 means any of the following:

22 “(1) DRUG PRODUCTS.—A drug that—

23 “(A) is approved under section 505(c) of
24 the Federal Food, Drug, and Cosmetic Act and

1 continues to be marketed pursuant to such ap-
2 proval; and

3 “(B) is not the listed drug for any drug
4 that is approved and continues to be marketed
5 under section 505(j) of such Act.

6 “(2) BIOLOGICAL PRODUCTS.—A biological
7 product that—

8 “(A) is licensed under section 351(a) of
9 the Public Health Service Act, including any
10 product that has been deemed to be licensed
11 under section 351 of such Act pursuant to sec-
12 tion 7002(e)(4) of the Biologics Price Competi-
13 tion and Innovation Act of 2009, and continues
14 to be marketed under section 351 of such Act;
15 and

16 “(B) is not the reference product for any
17 biological product that is licensed and continues
18 to be marketed under section 351(k) of such
19 Act.

20 “(3) INSULIN PRODUCT.—Notwithstanding
21 paragraphs (1) and (2), any insulin product that is
22 approved under subsection (c) or (j) of section 505
23 of the Federal Food, Drug, and Cosmetic Act or li-
24 censed under subsection (a) or (k) of section 351 of
25 the Public Health Service Act and continues to be

1 marketed under such section 505 or 351, including
2 any insulin product that has been deemed to be li-
3 censed under section 351(a) of the Public Health
4 Service Act pursuant to section 7002(e)(4) of the
5 Biologics Price Competition and Innovation Act of
6 2009 and continues to be marketed pursuant to such
7 licensure.

8 For purposes of applying paragraphs (1) and (2), a drug
9 or biological product that is marketed by the same sponsor
10 or manufacturer (or an affiliate thereof or a cross-licensed
11 producer or distributor) as the listed drug or reference
12 product described in such respective paragraph shall not
13 be taken into consideration.

14 “(f) INFORMATION ON INTERNATIONAL DRUG
15 PRICES.—For purposes of determining which negotiation-
16 eligible drugs to select under subsection (a) and, in the
17 case of such drugs that are selected drugs, to determine
18 the maximum fair price for such a drug and whether such
19 maximum fair price should be renegotiated under section
20 1194, the Secretary shall use data relating to the AIM
21 price with respect to such drug as available or provided
22 to the Secretary and shall on an ongoing basis request
23 from manufacturers of selected drugs information on the
24 AIM price of such a drug.

1 “(g) NEW-~~ENTRANT~~ NEGOTIATION-~~ELIGIBLE~~
2 DRUGS.—

3 “(1) IN GENERAL.—For purposes of this part,
4 the term ‘new-entrant negotiation-eligible drug’
5 means, with respect to the selected drug publication
6 date with respect to an initial price applicability
7 year, a qualifying single source drug—

8 “(A) that is first approved or licensed, as
9 described in paragraph (1), (2), or (3) of sub-
10 section (e), as applicable, during the year pre-
11 ceding such selected drug publication date; and

12 “(B) that the Secretary determines under
13 paragraph (2) is likely to be included as a nego-
14 tiation-eligible drug with respect to the subse-
15 quent selected drug publication date.

16 “(2) DETERMINATION.—In the case of a quali-
17 fying single source drug that meets the criteria de-
18 scribed in subparagraph (A) of paragraph (1), with
19 respect to an initial price applicability year, if the
20 wholesale acquisition cost at which such drug is first
21 marketed in the United States is equal to or greater
22 than the median household income (as determined
23 according to the most recent data collected by the
24 United States Census Bureau), the Secretary shall
25 determine before the selected drug publication date

1 with respect to the initial price applicability year, if
2 the drug is likely to be included as a negotiation-eli-
3 gible drug with respect to the subsequent selected
4 drug publication date, based on the projected spend-
5 ing under title XVIII or in the United States on
6 such drug. For purposes of this paragraph the term
7 ‘United States’ includes the 50 States, the District
8 of Columbia, and the territories of the United
9 States.

10 “(h) CONFLICT OF INTEREST.—

11 “(1) IN GENERAL.—In the case the Inspector
12 General of the Department of Health and Human
13 Services determines the Secretary has a conflict,
14 with respect to a matter described in paragraph (2),
15 the individual described in paragraph (3) shall carry
16 out the duties of the Secretary under this part, with
17 respect to a negotiation-eligible drug, that would
18 otherwise be such a conflict.

19 “(2) MATTER DESCRIBED.—A matter described
20 in this paragraph is—

21 “(A) a financial interest (as described in
22 section 2635.402 of title 5, Code of Federal
23 Regulations, as in effect on the date of the en-
24 actment of this section, (except for an interest
25 described in subsection (b)(2)(iv) of such sec-

1 tion)) on the date of the selected drug publica-
2 tion date, with respect the price applicability
3 year (as applicable);

4 “(B) a personal or business relationship
5 (as described in section 2635.502 of such title)
6 on the date of the selected drug publication
7 date, with respect the price applicability year;

8 “(C) employment by a manufacturer of a
9 negotiation-eligible drug during the preceding
10 10-year period beginning on the date of the se-
11 lected drug publication date, with respect to
12 each price applicability year; and

13 “(D) any other matter the General Counsel
14 determines appropriate.

15 “(3) INDIVIDUAL DESCRIBED.—An individual
16 described in this paragraph is—

17 “(A) the highest-ranking officer or em-
18 ployee of the Department of Health and
19 Human Services (as determined by the organi-
20 zational chart of the Department) that does not
21 have a conflict under this subsection; and

22 “(B) is nominated by the President and
23 confirmed by the Senate with respect to the po-
24 sition.

1 **“SEC. 1193. MANUFACTURER AGREEMENTS.**

2 “(a) IN GENERAL.—For purposes of section
3 1191(a)(2), the Secretary shall enter into agreements with
4 manufacturers of selected drugs with respect to a price
5 applicability period, by not later than June 15 following
6 the selected drug publication date with respect to such se-
7 lected drug, under which—

8 “(1) during the voluntary negotiation period for
9 the initial price applicability year for the selected
10 drug, the Secretary and manufacturer, in accordance
11 with section 1194, negotiate to determine (and, by
12 not later than the last date of such period and in ac-
13 cordance with subsection (c), agree to) a maximum
14 fair price for such selected drug of the manufacturer
15 in order to provide access to such price—

16 “(A) to fair price eligible individuals who
17 with respect to such drug are described in sub-
18 paragraph (A) of section 1191(c)(1) and are
19 furnished or dispensed such drug during, sub-
20 ject to subparagraph (2), the price applicability
21 period; and

22 “(B) to hospitals, physicians, and other
23 providers of services and suppliers with respect
24 to fair price eligible individuals who with re-
25 spect to such drug are described in subpara-
26 graph (B) of such section and are furnished or

1 administered such drug during, subject to sub-
2 paragraph (2), the price applicability period;

3 “(2) the Secretary and the manufacturer shall,
4 in accordance with a process and during a period
5 specified by the Secretary pursuant to rulemaking,
6 renegotiate (and, by not later than the last date of
7 such period and in accordance with subsection (c),
8 agree to) the maximum fair price for such drug if
9 the Secretary determines that there is a material
10 change in any of the factors described in section
11 1194(d) relating to the drug, including changes in
12 the AIM price for such drug, in order to provide ac-
13 cess to such maximum fair price (as so renegoti-
14 ated)—

15 “(A) to fair price eligible individuals who
16 with respect to such drug are described in sub-
17 paragraph (A) of section 1191(c)(1) and are
18 furnished or dispensed such drug during any
19 year during the price applicability period (be-
20 ginning after such renegotiation) with respect
21 to such selected drug; and

22 “(B) to hospitals, physicians, and other
23 providers of services and suppliers with respect
24 to fair price eligible individuals who with re-
25 spect to such drug are described in subpara-

1 graph (B) of such section and are furnished or
2 administered such drug during any year de-
3 scribed in subparagraph (A);

4 “(3) the maximum fair price (including as re-
5 negotiated pursuant to paragraph (2)), with respect
6 to such a selected drug, shall be provided to fair
7 price eligible individuals, who with respect to such
8 drug are described in subparagraph (A) of section
9 1191(c)(1), at the pharmacy or by a mail order serv-
10 ice at the point-of-sale of such drug;

11 “(4) the manufacturer, subject to subsection
12 (d), submits to the Secretary, in a form and manner
13 specified by the Secretary—

14 “(A) for the voluntary negotiation period
15 for the price applicability period (and, if appli-
16 cable, before any period of renegotiation speci-
17 fied pursuant to paragraph (2)) with respect to
18 such drug all information that the Secretary re-
19 quires to carry out the negotiation (or renegoti-
20 ation process) under this part, including infor-
21 mation described in section 1192(f) and section
22 1194(d)(1); and

23 “(B) on an ongoing basis, information on
24 changes in prices for such drug that would af-
25 fect the AIM price for such drug or otherwise

1 provide a basis for renegotiation of the max-
2 imum fair price for such drug pursuant to
3 paragraph (2);

4 “(5) the manufacturer agrees that in the case
5 the selected drug of a manufacturer is a drug de-
6 scribed in subsection (c), the manufacturer will, in
7 accordance with such subsection, make any payment
8 required under such subsection with respect to such
9 drug; and

10 “(6) the manufacturer complies with require-
11 ments imposed by the Secretary for purposes of ad-
12 ministering the program, including with respect to
13 the duties described in section 1196.

14 “(b) AGREEMENT IN EFFECT UNTIL DRUG IS NO
15 LONGER A SELECTED DRUG.—An agreement entered into
16 under this section shall be effective, with respect to a drug,
17 until such drug is no longer considered a selected drug
18 under section 1192(c).

19 “(c) SPECIAL RULE FOR CERTAIN SELECTED DRUGS
20 WITHOUT AIM PRICE.—

21 “(1) IN GENERAL.—In the case of a selected
22 drug for which there is no AIM price available with
23 respect to the initial price applicability year for such
24 drug and for which an AIM price becomes available
25 beginning with respect to a subsequent plan year

1 during the price applicability period for such drug,
2 if the Secretary determines that the amount de-
3 scribed in paragraph (2)(A) for a unit of such drug
4 is greater than the amount described in paragraph
5 (2)(B) for a unit of such drug, then by not later
6 than one year after the date of such determination,
7 the manufacturer of such selected drug shall pay to
8 the Treasury an amount equal to the product of—

9 “(A) the difference between such amount
10 described in paragraph (2)(A) for a unit of
11 such drug and such amount described in para-
12 graph (2)(B) for a unit of such drug; and

13 “(B) the number of units of such drug sold
14 in the United States, including the 50 States,
15 the District of Columbia, and the territories of
16 the United States, during the period described
17 in paragraph (2)(B).

18 “(2) AMOUNTS DESCRIBED.—

19 “(A) WEIGHTED AVERAGE PRICE BEFORE
20 AIM PRICE AVAILABLE.—For purposes of para-
21 graph (1), the amount described in this sub-
22 paragraph for a selected drug described in such
23 paragraph, is the amount equal to the weighted
24 average manufacturer price (as defined in sec-
25 tion 1927(k)(1)) for such dosage strength and

1 form for the drug during the period beginning
2 with the first plan year for which the drug is
3 included on the list of negotiation-eligible drugs
4 published under section 1192(d) and ending
5 with the last plan year during the price applica-
6 bility period for such drug with respect to which
7 there is no AIM price available for such drug.

8 “(B) AMOUNT MULTIPLIER AFTER AIM
9 PRICE AVAILABLE.—For purposes of paragraph
10 (1), the amount described in this subparagraph
11 for a selected drug described in such paragraph,
12 is the amount equal to 200 percent of the AIM
13 price for such drug with respect to the first
14 plan year during the price applicability period
15 for such drug with respect to which there is an
16 AIM price available for such drug.

17 “(d) CONFIDENTIALITY OF INFORMATION.—Infor-
18 mation submitted to the Secretary under this part by a
19 manufacturer of a selected drug that is proprietary infor-
20 mation of such manufacturer (as determined by the Sec-
21 retary) may be used only by the Secretary or disclosed
22 to and used by the Comptroller General of the United
23 States or the Medicare Payment Advisory Commission for
24 purposes of carrying out this part.

25 “(e) REGULATIONS.—

1 “(1) IN GENERAL.—The Secretary shall, pursu-
2 ant to rulemaking, specify, in accordance with para-
3 graph (2), the information that must be submitted
4 under subsection (a)(4).

5 “(2) INFORMATION SPECIFIED.—Information
6 described in paragraph (1), with respect to a se-
7 lected drug, shall include information on sales of the
8 drug (by the manufacturer of the drug or by another
9 entity under license or other agreement with the
10 manufacturer, with respect to the sales of such drug,
11 regardless of the name under which the drug is sold)
12 in any foreign country that is part of the AIM price.
13 The Secretary shall verify, to the extent practicable,
14 such sales from appropriate officials of the govern-
15 ment of the foreign country involved.

16 “(f) COMPLIANCE WITH REQUIREMENTS FOR AD-
17 MINISTRATION OF PROGRAM.—Each manufacturer with
18 an agreement in effect under this section shall comply with
19 requirements imposed by the Secretary or a third party
20 with a contract under section 1196(e)(1), as applicable,
21 for purposes of administering the program.

22 **“SEC. 1194. NEGOTIATION AND RENEGOTIATION PROCESS.**

23 “(a) IN GENERAL.—For purposes of this part, under
24 an agreement under section 1193 between the Secretary
25 and a manufacturer of a selected drug, with respect to

1 the period for which such agreement is in effect and in
2 accordance with subsections (b) and (c), the Secretary and
3 the manufacturer—

4 “(1) shall during the voluntary negotiation pe-
5 riod with respect to the initial price applicability
6 year for such drug, in accordance with this section,
7 negotiate a maximum fair price for such drug for
8 the purpose described in section 1193(a)(1); and

9 “(2) as applicable pursuant to section
10 1193(a)(2) and in accordance with the process speci-
11 fied pursuant to such section, renegotiate such max-
12 imum fair price for such drug for the purpose de-
13 scribed in such section.

14 “(b) NEGOTIATING METHODOLOGY AND OBJEC-
15 TIVE.—

16 “(1) IN GENERAL.—The Secretary shall develop
17 and use a consistent methodology for negotiations
18 under subsection (a) that, in accordance with para-
19 graph (2) and subject to paragraph (3), achieves the
20 lowest maximum fair price for each selected drug
21 while appropriately rewarding innovation.

22 “(2) PRIORITIZING FACTORS.—In considering
23 the factors described in subsection (d) in negotiating
24 (and, as applicable, renegotiating) the maximum fair
25 price for a selected drug, the Secretary shall, to the

1 extent practicable, consider all of the available fac-
2 tors listed but shall prioritize the following factors:

3 “(A) RESEARCH AND DEVELOPMENT
4 COSTS.—The factor described in paragraph
5 (1)(A) of subsection (d).

6 “(B) MARKET DATA.—The factor de-
7 scribed in paragraph (1)(B) of such subsection.

8 “(C) UNIT COSTS OF PRODUCTION AND
9 DISTRIBUTION.—The factor described in para-
10 graph (1)(C) of such subsection.

11 “(D) COMPARISON TO EXISTING THERA-
12 PEUTIC ALTERNATIVES.—The factor described
13 in paragraph (2)(A) of such subsection.

14 “(3) REQUIREMENT.—

15 “(A) IN GENERAL.—In negotiating the
16 maximum fair price of a selected drug, with re-
17 spect to an initial price applicability year for
18 the selected drug, and, as applicable, in renego-
19 tiating the maximum fair price for such drug,
20 with respect to a subsequent year during the
21 price applicability period for such drug, in the
22 case that the manufacturer of the selected drug
23 offers under the negotiation or renegotiation, as
24 applicable, a price for such drug that is not
25 more than the target price described in sub-

1 paragraph (B) for such drug for the respective
2 year, the Secretary shall agree under such ne-
3 gotiation or renegotiation, respectively, to such
4 offered price as the maximum fair price.

5 “(B) TARGET PRICE.—

6 “(i) IN GENERAL.—Subject to clause
7 (ii), the target price described in this sub-
8 paragraph for a selected drug with respect
9 to a year, is the average price (which shall
10 be the net average price, if practicable, and
11 volume-weighted, if practicable) for a unit
12 of such drug for sales of such drug, as
13 computed (across different dosage forms
14 and strengths of the drug and not based
15 on the specific formulation or package size
16 or package type of the drug) in the appli-
17 cable country described in section
18 1191(c)(3)(B) with respect to such drug
19 that, with respect to such year, has the
20 lowest average price for such drug as com-
21 pared to the average prices (as so com-
22 puted) of such drug with respect to such
23 year in the other applicable countries de-
24 scribed in such section with respect to such
25 drug.

1 “(ii) SELECTED DRUGS WITHOUT AIM
2 PRICE.—In applying this paragraph in the
3 case of negotiating the maximum fair price
4 of a selected drug for which there is no
5 AIM price available with respect to the ini-
6 tial price applicability year for such drug,
7 or, as applicable, renegotiating the max-
8 imum fair price for such drug with respect
9 to a subsequent year during the price ap-
10 plicability period for such drug before the
11 first plan year for which there is an AIM
12 price available for such drug, the target
13 price described in this subparagraph for
14 such drug and respective year is the
15 amount that is 80 percent of the average
16 manufacturer price (as defined in section
17 1927(k)(1)) for such drug and year.

18 “(c) LIMITATION.—

19 “(1) IN GENERAL.—Subject to paragraph (2),
20 the maximum fair price negotiated (including as re-
21 negotiated) under this section for a selected drug,
22 with respect to each plan year during a price appli-
23 cability period for such drug, shall not exceed 120
24 percent of the AIM price applicable to such drug
25 with respect to such year.

1 “(2) SELECTED DRUGS WITHOUT AIM PRICE.—

2 In the case of a selected drug for which there is no
3 AIM price available with respect to the initial price
4 applicability year for such drug, for each plan year
5 during the price applicability period before the first
6 plan year for which there is an AIM price available
7 for such drug, the maximum fair price negotiated
8 (including as renegotiated) under this section for the
9 selected drug shall not exceed the amount equal to
10 85 percent of the average manufacturer price for the
11 drug with respect to such year.

12 “(d) CONSIDERATIONS.—For purposes of negotiating
13 and, as applicable, renegotiating (including for purposes
14 of determining whether to renegotiate) the maximum fair
15 price of a selected drug under this part with the manufac-
16 turer of the drug, the Secretary, consistent with sub-
17 section (b)(2), shall take into consideration the factors de-
18 scribed in paragraphs (1), (2), (3), and (5), and may take
19 into consideration the factor described in paragraph (4):

20 “(1) MANUFACTURER-SPECIFIC INFORMA-
21 TION.—The following information, including as sub-
22 mitted by the manufacturer:

23 “(A) Research and development costs of
24 the manufacturer for the drug and the extent to

1 which the manufacturer has recouped research
2 and development costs.

3 “(B) Market data for the drug, including
4 the distribution of sales across different pro-
5 grams and purchasers and projected future rev-
6 enues for the drug.

7 “(C) Unit costs of production and distribu-
8 tion of the drug.

9 “(D) Prior Federal financial support for
10 novel therapeutic discovery and development
11 with respect to the drug.

12 “(E) Data on patents and on existing and
13 pending exclusivity for the drug.

14 “(F) National sales data for the drug.

15 “(G) Information on clinical trials for the
16 drug in the United States or in applicable coun-
17 tries described in section 1191(c)(3)(B).

18 “(2) INFORMATION ON ALTERNATIVE PROD-
19 UCTS.—The following information:

20 “(A) The extent to which the drug rep-
21 resents a therapeutic advance as compared to
22 existing therapeutic alternatives and, to the ex-
23 tent such information is available, the costs of
24 such existing therapeutic alternatives.

1 “(B) Information on approval by the Food
2 and Drug Administration of alternative drug
3 products.

4 “(C) Information on comparative effective-
5 ness analysis for such products, taking into
6 consideration the effects of such products on
7 specific populations, such as individuals with
8 disabilities, the elderly, terminally ill, children,
9 and other patient populations.

10 In considering information described in subpara-
11 graph (C), the Secretary shall not use evidence or
12 findings from comparative clinical effectiveness re-
13 search in a manner that treats extending the life of
14 an elderly, disabled, or terminally ill individual as of
15 lower value than extending the life of an individual
16 who is younger, nondisabled, or not terminally ill.
17 Nothing in the previous sentence shall affect the ap-
18 plication or consideration of an AIM price for a se-
19 lected drug.

20 “(3) FOREIGN SALES INFORMATION.—To the
21 extent available on a timely basis, including as pro-
22 vided by a manufacturer of the selected drug or oth-
23 erwise, information on sales of the selected drug in
24 each of the countries described in section
25 1191(e)(3)(B).

1 “(4) VA DRUG PRICING INFORMATION.—Infor-
2 mation disclosed to the Secretary pursuant to sub-
3 section (f).

4 “(5) ADDITIONAL INFORMATION.—Information
5 submitted to the Secretary, in accordance with a
6 process specified by the Secretary, by other parties
7 that are affected by the establishment of a maximum
8 fair price for the selected drug.

9 “(e) REQUEST FOR INFORMATION.—For purposes of
10 negotiating and, as applicable, renegotiating (including for
11 purposes of determining whether to renegotiate) the max-
12 imum fair price of a selected drug under this part with
13 the manufacturer of the drug, with respect to a price ap-
14 plicability period, and other relevant data for purposes of
15 this section—

16 “(1) the Secretary shall, not later than the se-
17 lected drug publication date with respect to the ini-
18 tial price applicability year of such period, request
19 drug pricing information from the manufacturer of
20 such selected drug, including information described
21 in subsection (d)(1); and

22 “(2) by not later than October 1 following the
23 selected drug publication date, the manufacturer of
24 such selected drug shall submit to the Secretary

1 such requested information in such form and man-
2 ner as the Secretary may require.

3 The Secretary shall request, from the manufacturer or
4 others, such additional information as may be needed to
5 carry out the negotiation and renegotiation process under
6 this section.

7 “(f) DISCLOSURE OF INFORMATION.—For purposes
8 of this part, the Secretary of Veterans Affairs may disclose
9 to the Secretary of Health and Human Services the price
10 of any negotiation-eligible drug that is purchased pursuant
11 to section 8126 of title 38, United States Code.

12 **“SEC. 1195. PUBLICATION OF MAXIMUM FAIR PRICES.**

13 “(a) IN GENERAL.—With respect to an initial price
14 applicability year and selected drug with respect to such
15 year, not later than April 1 of the plan year prior to such
16 initial price applicability year, the Secretary shall publish
17 in the Federal Register the maximum fair price for such
18 drug negotiated under this part with the manufacturer of
19 such drug.

20 “(b) UPDATES.—

21 “(1) SUBSEQUENT YEAR MAXIMUM FAIR
22 PRICES.—For a selected drug, for each plan year
23 subsequent to the initial price applicability year for
24 such drug with respect to which an agreement for

1 such drug is in effect under section 1193, the Sec-
2 retary shall publish in the Federal Register—

3 “(A) subject to subparagraph (B), the
4 amount equal to the maximum fair price pub-
5 lished for such drug for the previous year, in-
6 creased by the annual percentage increase in
7 the consumer price index for all urban con-
8 sumers (all items; U.S. city average) as of Sep-
9 tember of such previous year; or

10 “(B) in the case the maximum fair price
11 for such drug was renegotiated, for the first
12 year for which such price as so renegotiated ap-
13 plies, such renegotiated maximum fair price.

14 “(2) PRICES NEGOTIATED AFTER DEADLINE.—
15 In the case of a selected drug with respect to an ini-
16 tial price applicability year for which the maximum
17 fair price is determined under this part after the
18 date of publication under this section, the Secretary
19 shall publish such maximum fair price in the Fed-
20 eral Register by not later than 30 days after the
21 date such maximum price is so determined.

22 **“SEC. 1196. ADMINISTRATIVE DUTIES; COORDINATION PRO-**
23 **VISIONS.**

24 “(a) ADMINISTRATIVE DUTIES.—

1 “(1) IN GENERAL.—For purposes of section
2 1191, the administrative duties described in this sec-
3 tion are the following:

4 “(A) The establishment of procedures (in-
5 cluding through agreements with manufacturers
6 under this part, contracts with prescription
7 drug plans under part D of title XVIII and
8 MA–PD plans under part C of such title, and
9 agreements under section 1197 with group
10 health plans and health insurance issuers of
11 health insurance coverage offered in the indi-
12 vidual or group market) under which the max-
13 imum fair price for a selected drug is provided
14 to fair price eligible individuals, who with re-
15 spect to such drug are described in subpara-
16 graph (A) of section 1191(c)(1), at pharmacies
17 or by mail order service at the point-of-sale of
18 the drug for the applicable price period for such
19 drug and providing that such maximum fair
20 price is used for determining cost-sharing under
21 such plans or coverage for the selected drug.

22 “(B) The establishment of procedures (in-
23 cluding through agreements with manufacturers
24 under this part and contracts with hospitals,
25 physicians, and other providers of services and

1 suppliers and agreements under section 1197
2 with group health plans and health insurance
3 issuers of health insurance coverage offered in
4 the individual or group market) under which, in
5 the case of a selected drug furnished or admin-
6 istered by such a hospital, physician, or other
7 provider of services or supplier to fair price eli-
8 gible individuals (who with respect to such drug
9 are described in subparagraph (B) of section
10 1191(c)(1)), the maximum fair price for the se-
11 lected drug is provided to such hospitals, physi-
12 cians, and other providers of services and sup-
13 pliers (as applicable) with respect to such indi-
14 viduals and providing that such maximum fair
15 price is used for determining cost-sharing under
16 the respective part, plan, or coverage for the se-
17 lected drug.

18 “(C) The establishment of procedures (in-
19 cluding through agreements and contracts de-
20 scribed in subparagraphs (A) and (B)) to en-
21 sure that, not later than 90 days after the dis-
22 pensing of a selected drug to a fair price eligi-
23 ble individual by a pharmacy or mail order serv-
24 ice, the pharmacy or mail order service is reim-

1 bursed for an amount equal to the difference
2 between—

3 “(i) the lesser of—

4 “(I) the wholesale acquisition
5 cost of the drug;

6 “(II) the national average drug
7 acquisition cost of the drug; and

8 “(III) any other similar deter-
9 mination of pharmacy acquisition
10 costs of the drug, as determined by
11 the Secretary; and

12 “(ii) the maximum fair price for the
13 drug.

14 “(D) The establishment of procedures to
15 ensure that the maximum fair price for a se-
16 lected drug is applied before—

17 “(i) any coverage or financial assist-
18 ance under other health benefit plans or
19 programs that provide coverage or finan-
20 cial assistance for the purchase or provi-
21 sion of prescription drug coverage on be-
22 half of fair price eligible individuals as the
23 Secretary may specify; and

24 “(ii) any other discounts.

1 “(E) The establishment of procedures to
2 enter into appropriate agreements and protocols
3 for the ongoing computation of AIM prices for
4 selected drugs, including, to the extent possible,
5 to compute the AIM price for selected drugs
6 and including by providing that the manufac-
7 turer of such a selected drug should provide in-
8 formation for such computation not later than
9 3 months after the first date of the voluntary
10 negotiation period for such selected drug.

11 “(F) The establishment of procedures to
12 compute and apply the maximum fair price
13 across different strengths and dosage forms of
14 a selected drug and not based on the specific
15 formulation or package size or package type of
16 the drug.

17 “(G) The establishment of procedures to
18 negotiate and apply the maximum fair price in
19 a manner that does not include any dispensing
20 or similar fee.

21 “(H) The establishment of procedures to
22 carry out the provisions of this part, as applica-
23 ble, with respect to—

24 “(i) fair price eligible individuals who
25 are enrolled under a prescription drug plan

1 under part D of title XVIII or an MA–PD
2 plan under part C of such title;

3 “(ii) fair price eligible individuals who
4 are enrolled under a group health plan or
5 health insurance coverage offered by a
6 health insurance issuer in the individual or
7 group market with respect to which there
8 is an agreement in effect under section
9 1197; and

10 “(iii) fair price eligible individuals who
11 are entitled to benefits under part A of
12 title XVIII or enrolled under part B of
13 such title.

14 “(I) The establishment of a negotiation
15 process and renegotiation process in accordance
16 with section 1194, including a process for ac-
17 quiring information described in subsection (d)
18 of such section and determining amounts de-
19 scribed in subsection (b) of such section.

20 “(J) The provision of a reasonable dispute
21 resolution mechanism to resolve disagreements
22 between manufacturers, fair price eligible indi-
23 viduals, and the third party with a contract
24 under subsection (c)(1).

25 “(2) MONITORING COMPLIANCE.—

1 “(A) IN GENERAL.—The Secretary shall
2 monitor compliance by a manufacturer with the
3 terms of an agreement under section 1193, in-
4 cluding by establishing a mechanism through
5 which violations of such terms may be reported.

6 “(B) NOTIFICATION.—If a third party
7 with a contract under subsection (c)(1) deter-
8 mines that the manufacturer is not in compli-
9 ance with such agreement, the third party shall
10 notify the Secretary of such noncompliance for
11 appropriate enforcement under section 4192 of
12 the Internal Revenue Code of 1986 or section
13 1198, as applicable.

14 “(b) COLLECTION OF DATA.—

15 “(1) FROM PRESCRIPTION DRUG PLANS AND
16 MA–PD PLANS.—The Secretary may collect appro-
17 priate data from prescription drug plans under part
18 D of title XVIII and MA–PD plans under part C of
19 such title in a timeframe that allows for maximum
20 fair prices to be provided under this part for selected
21 drugs.

22 “(2) FROM HEALTH PLANS.—The Secretary
23 may collect appropriate data from group health
24 plans or health insurance issuers offering group or
25 individual health insurance coverage in a timeframe

1 that allows for maximum fair prices to be provided
2 under this part for selected drugs.

3 “(3) COORDINATION OF DATA COLLECTION.—

4 To the extent feasible, as determined by the Sec-
5 retary, the Secretary shall ensure that data collected
6 pursuant to this subsection is coordinated with, and
7 not duplicative of, other Federal data collection ef-
8 forts.

9 “(c) CONTRACT WITH THIRD PARTIES.—

10 “(1) IN GENERAL.—The Secretary may enter
11 into a contract with 1 or more third parties to ad-
12 minister the requirements established by the Sec-
13 retary in order to carry out this part. At a min-
14 imum, the contract with a third party under the pre-
15 ceding sentence shall require that the third party—

16 “(A) receive and transmit information be-
17 tween the Secretary, manufacturers, and other
18 individuals or entities the Secretary determines
19 appropriate;

20 “(B) receive, distribute, or facilitate the
21 distribution of funds of manufacturers to ap-
22 propriate individuals or entities in order to
23 meet the obligations of manufacturers under
24 agreements under this part;

1 erage (as such terms are defined in section 2791 of
2 the Public Health Service Act), with respect to a
3 price applicability period and a selected drug with
4 respect to such period—

5 “(A) with respect to such selected drug
6 furnished or dispensed at a pharmacy or by
7 mail order service if coverage is provided under
8 such plan or coverage during such period for
9 such selected drug as so furnished or dispensed;
10 and

11 “(B) with respect to such selected drug
12 furnished or administered by a hospital, physi-
13 cian, or other provider of services or supplier if
14 coverage is provided under such plan or cov-
15 erage during such period for such selected drug
16 as so furnished or administered.

17 “(2) OPTING OUT OF AGREEMENT.—The Sec-
18 retary shall not be treated as having in effect an
19 agreement under the program under this part with
20 a group health plan or health insurance issuer offer-
21 ing group or individual health insurance coverage
22 with respect to a price applicability period and a se-
23 lected drug with respect to such period if such a
24 plan or issuer affirmatively elects, through a process

1 specified by the Secretary, not to participate under
2 the program with respect to such period and drug.

3 “(b) PUBLICATION OF ELECTION.—With respect to
4 each price applicability period and each selected drug with
5 respect to such period, the Secretary and the Secretary
6 of Labor and the Secretary of the Treasury, as applicable,
7 shall make public a list of each group health plan and each
8 health insurance issuer offering group or individual health
9 insurance coverage, with respect to which coverage is pro-
10 vided under such plan or coverage for such drug, that has
11 elected under subsection (a) not to participate under the
12 program with respect to such period and drug.

13 **“SEC. 1198. CIVIL MONETARY PENALTY.**

14 “(a) VIOLATIONS RELATING TO OFFERING OF MAX-
15 IMUM FAIR PRICE.—Any manufacturer of a selected drug
16 that has entered into an agreement under section 1193,
17 with respect to a plan year during the price applicability
18 period for such drug, that does not provide access to a
19 price that is not more than the maximum fair price (or
20 a lesser price) for such drug for such year—

21 “(1) to a fair price eligible individual who with
22 respect to such drug is described in subparagraph
23 (A) of section 1191(c)(1) and who is furnished or
24 dispensed such drug during such year; or

1 “(2) to a hospital, physician, or other provider
2 of services or supplier with respect to fair price eligi-
3 ble individuals who with respect to such drug is de-
4 scribed in subparagraph (B) of such section and is
5 furnished or administered such drug by such hos-
6 pital, physician, or provider or supplier during such
7 year;

8 shall be subject to a civil monetary penalty equal to ten
9 times the amount equal to the difference between the price
10 for such drug made available for such year by such manu-
11 facturer with respect to such individual or hospital, physi-
12 cian, provider, or supplier and the maximum fair price for
13 such drug for such year.

14 “(b) VIOLATIONS OF CERTAIN TERMS OF AGREE-
15 MENT.—Any manufacturer of a selected drug that has en-
16 tered into an agreement under section 1193, with respect
17 to a plan year during the price applicability period for
18 such drug, that is in violation of a requirement imposed
19 pursuant to section 1193(a)(6) shall be subject to a civil
20 monetary penalty of not more than \$1,000,000 for each
21 such violation.

22 “(c) APPLICATION.—The provisions of section 1128A
23 (other than subsections (a) and (b)) shall apply to a civil
24 monetary penalty under this section in the same manner

1 as such provisions apply to a penalty or proceeding under
2 section 1128A(a).

3 **“SEC. 1199. MISCELLANEOUS PROVISIONS.**

4 “(a) PAPERWORK REDUCTION ACT.—Chapter 35 of
5 title 44, United States Code, shall not apply to data col-
6 lected under this part.

7 “(b) LIMITATION ON JUDICIAL REVIEW.—The fol-
8 lowing shall not be subject to judicial review:

9 “(1) The selection of drugs for publication
10 under section 1192(a).

11 “(2) The determination of whether a drug is a
12 negotiation-eligible drug under section 1192(d).

13 “(3) The determination of the maximum fair
14 price of a selected drug under section 1194.

15 “(4) The determination of units of a drug for
16 purposes of section 1191(c)(3).

17 “(c) COORDINATION.—In carrying out this part with
18 respect to group health plans or health insurance coverage
19 offered in the group market that are subject to oversight
20 by the Secretary of Labor or the Secretary of the Treas-
21 ury, the Secretary of Health and Human Services shall
22 coordinate with such respective Secretary.

23 “(d) DATA SHARING.—The Secretary shall share
24 with the Secretary of the Treasury such information as

1 is necessary to determine the tax imposed by section 4192
2 of the Internal Revenue Code of 1986.”.

3 (b) APPLICATION OF MAXIMUM FAIR PRICES AND
4 CONFORMING AMENDMENTS.—

5 (1) UNDER MEDICARE.—

6 (A) APPLICATION TO PAYMENTS UNDER
7 PART B.—Section 1847A(b)(1)(B) of the Social
8 Security Act (42 U.S.C. 1395w–3a(b)(1)(B)) is
9 amended by inserting “or in the case of such a
10 drug or biological that is a selected drug (as de-
11 fined in section 1192(c)), with respect to a
12 price applicability period (as defined in section
13 1191(b)(2)), 106 percent of the maximum fair
14 price (as defined in section 1191(c)(2)) applica-
15 ble for such drug and a plan year during such
16 period” after “paragraph (4)”.

17 (B) EXCEPTION TO PART D NON-INTER-
18 FERENCE.—Section 1860D–11(i) of the Social
19 Security Act (42 U.S.C. 1395w–111(i)) is
20 amended by inserting “, except as provided
21 under part E of title XI” after “the Secretary”.

22 (C) APPLICATION AS NEGOTIATED PRICE
23 UNDER PART D.—Section 1860D–2(d)(1) of the
24 Social Security Act (42 U.S.C. 1395w–
25 102(d)(1)) is amended—

1 (i) in subparagraph (B), by inserting
2 “, subject to subparagraph (D),” after
3 “negotiated prices”; and

4 (ii) by adding at the end the following
5 new subparagraph:

6 “(D) APPLICATION OF MAXIMUM FAIR
7 PRICE FOR SELECTED DRUGS.—In applying this
8 section, in the case of a covered part D drug
9 that is a selected drug (as defined in section
10 1192(c)), with respect to a price applicability
11 period (as defined in section 1191(b)(2)), the
12 negotiated prices used for payment (as de-
13 scribed in this subsection) shall be the max-
14 imum fair price (as defined in section
15 1191(c)(2)) for such drug and for each plan
16 year during such period.”.

17 (D) INFORMATION FROM PRESCRIPTION
18 DRUG PLANS AND MA-PD PLANS REQUIRED.—

19 (i) PRESCRIPTION DRUG PLANS.—Sec-
20 tion 1860D-12(b) of the Social Security
21 Act (42 U.S.C. 1395w-112(b)) is amended
22 by adding at the end the following new
23 paragraph:

24 “(8) PROVISION OF INFORMATION RELATED TO
25 MAXIMUM FAIR PRICES.—Each contract entered into

1 with a PDP sponsor under this part with respect to
2 a prescription drug plan offered by such sponsor
3 shall require the sponsor to provide information to
4 the Secretary as requested by the Secretary in ac-
5 cordance with section 1196(b).”.

6 (ii) MA–PD PLANS.—Section
7 1857(f)(3) of the Social Security Act (42
8 U.S.C. 1395w–27(f)(3)) is amended by
9 adding at the end the following new sub-
10 paragraph:

11 “(E) PROVISION OF INFORMATION RE-
12 LATED TO MAXIMUM FAIR PRICES.—Section
13 1860D–12(b)(8).”.

14 (2) UNDER GROUP HEALTH PLANS AND
15 HEALTH INSURANCE COVERAGE.—

16 (A) PHSA.—Part D of title XXVII of the
17 Public Health Service Act (42 U.S.C. 300gg–
18 111 et seq.) is amended by adding at the end
19 the following new section:

20 **“SEC. 2799A–11. FAIR PRICE NEGOTIATION PROGRAM AND**
21 **APPLICATION OF MAXIMUM FAIR PRICES.**

22 “(a) IN GENERAL.—In the case of a group health
23 plan or health insurance issuer offering group or indi-
24 vidual health insurance coverage that is treated under sec-
25 tion 1197 of the Social Security Act as having in effect

1 an agreement with the Secretary under the Fair Price Ne-
2 gotiation Program under part E of title XI of such Act,
3 with respect to a price applicability period (as defined in
4 section 1191(b) of such Act) and a selected drug (as de-
5 fined in section 1192(c) of such Act) with respect to such
6 period with respect to which coverage is provided under
7 such plan or coverage—

8 “(1) the provisions of such part shall apply—

9 “(A) if coverage of such selected drug is
10 provided under such plan or coverage if the
11 drug is furnished or dispensed at a pharmacy
12 or by a mail order service, to the plans or cov-
13 erage offered by such plan or issuer, and to the
14 individuals enrolled under such plans or cov-
15 erage, during such period, with respect to such
16 selected drug, in the same manner as such pro-
17 visions apply to prescription drug plans and
18 MA–PD plans, and to individuals enrolled
19 under such prescription drug plans and MA–
20 PD plans during such period; and

21 “(B) if coverage of such selected drug is
22 provided under such plan or coverage if the
23 drug is furnished or administered by a hospital,
24 physician, or other provider of services or sup-
25 plier, to the plans or coverage offered by such

1 plan or issuers, to the individuals enrolled
2 under such plans or coverage, and to hospitals,
3 physicians, and other providers of services and
4 suppliers during such period, with respect to
5 such drug in the same manner as such provi-
6 sions apply to the Secretary, to individuals enti-
7 tled to benefits under part A of title XVIII or
8 enrolled under part B of such title, and to hos-
9 pitals, physicians, and other providers and sup-
10 pliers participating under title XVIII during
11 such period;

12 “(2) the plan or issuer shall apply any cost-
13 sharing responsibilities under such plan or coverage,
14 with respect to such selected drug, by substituting
15 an amount not more than the maximum fair price
16 negotiated under such part E of title XI for such
17 drug in lieu of the drug price upon which the cost-
18 sharing would have otherwise applied, and such cost-
19 sharing responsibilities with respect to such selected
20 drug may not exceed such maximum fair price; and

21 “(3) the Secretary shall apply the provisions of
22 such part E to such plan, issuer, and coverage, such
23 individuals so enrolled in such plans and coverage,
24 and such hospitals, physicians, and other providers

1 and suppliers participating in such plans and cov-
2 erage.

3 “(b) NOTIFICATION REGARDING NONPARTICIPATION
4 IN FAIR PRICE NEGOTIATION PROGRAM.—A group health
5 plan or a health insurance issuer offering group or indi-
6 vidual health insurance coverage shall publicly disclose in
7 a manner and in accordance with a process specified by
8 the Secretary any election made under section 1197 of the
9 Social Security Act by the plan or issuer to not participate
10 in the Fair Price Negotiation Program under part E of
11 title XI of such Act with respect to a selected drug (as
12 defined in section 1192(c) of such Act) for which coverage
13 is provided under such plan or coverage before the begin-
14 ning of the plan year for which such election was made.”.

15 (B) ERISA.—

16 (i) IN GENERAL.—Subpart B of part
17 7 of subtitle B of title I of the Employee
18 Retirement Income Security Act of 1974
19 (29 U.S.C. 1181 et seq.) is amended by
20 adding at the end the following new sec-
21 tion:

22 **“SEC. 726. FAIR PRICE NEGOTIATION PROGRAM AND APPLI-
23 CATION OF MAXIMUM FAIR PRICES.**

24 “(a) IN GENERAL.—In the case of a group health
25 plan or health insurance issuer offering group health in-

1 surance coverage that is treated under section 1197 of the
2 Social Security Act as having in effect an agreement with
3 the Secretary under the Fair Price Negotiation Program
4 under part E of title XI of such Act, with respect to a
5 price applicability period (as defined in section 1191(b)
6 of such Act) and a selected drug (as defined in section
7 1192(c) of such Act) with respect to such period with re-
8 spect to which coverage is provided under such plan or
9 coverage—

10 “(1) the provisions of such part shall apply, as
11 applicable—

12 “(A) if coverage of such selected drug is
13 provided under such plan or coverage if the
14 drug is furnished or dispensed at a pharmacy
15 or by a mail order service, to the plans or cov-
16 erage offered by such plan or issuer, and to the
17 individuals enrolled under such plans or cov-
18 erage, during such period, with respect to such
19 selected drug, in the same manner as such pro-
20 visions apply to prescription drug plans and
21 MA-PD plans, and to individuals enrolled
22 under such prescription drug plans and MA-
23 PD plans during such period; and

24 “(B) if coverage of such selected drug is
25 provided under such plan or coverage if the

1 drug is furnished or administered by a hospital,
2 physician, or other provider of services or sup-
3 plier, to the plans or coverage offered by such
4 plan or issuers, to the individuals enrolled
5 under such plans or coverage, and to hospitals,
6 physicians, and other providers of services and
7 suppliers during such period, with respect to
8 such drug in the same manner as such provi-
9 sions apply to the Secretary, to individuals enti-
10 tled to benefits under part A of title XVIII or
11 enrolled under part B of such title, and to hos-
12 pitals, physicians, and other providers and sup-
13 pliers participating under title XVIII during
14 such period;

15 “(2) the plan or issuer shall apply any cost-
16 sharing responsibilities under such plan or coverage,
17 with respect to such selected drug, by substituting
18 an amount not more than the maximum fair price
19 negotiated under such part E of title XI for such
20 drug in lieu of the drug price upon which the cost-
21 sharing would have otherwise applied, and such cost-
22 sharing responsibilities with respect to such selected
23 drug may not exceed such maximum fair price; and

1 “(3) the Secretary shall apply the provisions of
2 such part E to such plan, issuer, and coverage, and
3 such individuals so enrolled in such plans.

4 “(b) NOTIFICATION REGARDING NONPARTICIPATION
5 IN FAIR PRICE NEGOTIATION PROGRAM.—A group health
6 plan or a health insurance issuer offering group health in-
7 surance coverage shall publicly disclose in a manner and
8 in accordance with a process specified by the Secretary
9 any election made under section 1197 of the Social Secu-
10 rity Act by the plan or issuer to not participate in the
11 Fair Price Negotiation Program under part E of title XI
12 of such Act with respect to a selected drug (as defined
13 in section 1192(c) of such Act) for which coverage is pro-
14 vided under such plan or coverage before the beginning
15 of the plan year for which such election was made.”.

16 (ii) APPLICATION TO RETIREE AND
17 CERTAIN SMALL GROUP HEALTH PLANS.—
18 Section 732(a) of the Employee Retire-
19 ment Income Security Act of 1974 (29
20 U.S.C. 1191a(a)) is amended by striking
21 “section 711” and inserting “sections 711
22 and 726”.

23 (iii) CLERICAL AMENDMENT.—The
24 table of sections for subpart B of part 7 of
25 subtitle B of title I of the Employee Re-

1 tirement Income Security Act of 1974 is
2 amended by adding at the end the fol-
3 lowing:

“Sec. 726. Fair Price Negotiation Program and application of maximum fair prices.”.

4 (C) IRC.—

5 (i) IN GENERAL.—Subchapter B of
6 chapter 100 of the Internal Revenue Code
7 of 1986 is amended by adding at the end
8 the following new section:

9 **“SEC. 9826. FAIR PRICE NEGOTIATION PROGRAM AND AP-**
10 **PLICATION OF MAXIMUM FAIR PRICES.**

11 “(a) IN GENERAL.—In the case of a group health
12 plan that is treated under section 1197 of the Social Secu-
13 rity Act as having in effect an agreement with the Sec-
14 retary under the Fair Price Negotiation Program under
15 part E of title XI of such Act, with respect to a price
16 applicability period (as defined in section 1191(b) of such
17 Act) and a selected drug (as defined in section 1192(c)
18 of such Act) with respect to such period with respect to
19 which coverage is provided under such plan—

20 “(1) the provisions of such part shall apply, as
21 applicable—

22 “(A) if coverage of such selected drug is
23 provided under such plan if the drug is fur-
24 nished or dispensed at a pharmacy or by a mail

1 order service, to the plan, and to the individuals
2 enrolled under such plan during such period,
3 with respect to such selected drug, in the same
4 manner as such provisions apply to prescription
5 drug plans and MA–PD plans, and to individ-
6 uals enrolled under such prescription drug
7 plans and MA–PD plans during such period;
8 and

9 “(B) if coverage of such selected drug is
10 provided under such plan if the drug is fur-
11 nished or administered by a hospital, physician,
12 or other provider of services or supplier, to the
13 plan, to the individuals enrolled under such
14 plan, and to hospitals, physicians, and other
15 providers of services and suppliers during such
16 period, with respect to such drug in the same
17 manner as such provisions apply to the Sec-
18 retary, to individuals entitled to benefits under
19 part A of title XVIII or enrolled under part B
20 of such title, and to hospitals, physicians, and
21 other providers and suppliers participating
22 under title XVIII during such period;

23 “(2) the plan shall apply any cost-sharing re-
24 sponsibilities under such plan, with respect to such
25 selected drug, by substituting an amount not more

1 than the maximum fair price negotiated under such
2 part E of title XI for such drug in lieu of the drug
3 price upon which the cost-sharing would have other-
4 wise applied, and such cost-sharing responsibilities
5 with respect to such selected drug may not exceed
6 such maximum fair price; and

7 “(3) the Secretary shall apply the provisions of
8 such part E to such plan and such individuals so en-
9 rolled in such plan.

10 “(b) NOTIFICATION REGARDING NONPARTICIPATION
11 IN FAIR PRICE NEGOTIATION PROGRAM.—A group health
12 plan shall publicly disclose in a manner and in accordance
13 with a process specified by the Secretary any election
14 made under section 1197 of the Social Security Act by
15 the plan to not participate in the Fair Price Negotiation
16 Program under part E of title XI of such Act with respect
17 to a selected drug (as defined in section 1192(c) of such
18 Act) for which coverage is provided under such plan before
19 the beginning of the plan year for which such election was
20 made.”.

21 (ii) APPLICATION TO RETIREE AND
22 CERTAIN SMALL GROUP HEALTH PLANS.—
23 Section 9831(a)(2) of the Internal Revenue
24 Code of 1986 is amended by inserting

1 “other than with respect to section 9826,”
2 before “any group health plan”.

3 (iii) CLERICAL AMENDMENT.—The
4 table of sections for subchapter B of chap-
5 ter 100 of such Code is amended by add-
6 ing at the end the following new item:

“Sec. 9826. Fair Price Negotiation Program and application of maximum fair prices.”.

7 (3) FAIR PRICE NEGOTIATION PROGRAM PRICES
8 INCLUDED IN BEST PRICE AND AMP.—Section 1927
9 of the Social Security Act (42 U.S.C. 1396r–8) is
10 amended—

11 (A) in subsection (c)(1)(C)(ii)—

12 (i) in subclause (III), by striking at
13 the end “; and”;

14 (ii) in subclause (IV), by striking at
15 the end the period and inserting “; and”;
16 and

17 (iii) by adding at the end the fol-
18 lowing new subclause:

19 “(V) in the case of a rebate pe-
20 riod and a covered outpatient drug
21 that is a selected drug (as defined in
22 section 1192(c)) during such rebate
23 period, shall be inclusive of the price
24 for such drug made available from the

1 manufacturer during the rebate period
2 by reason of application of part E of
3 title XI to any wholesaler, retailer,
4 provider, health maintenance organi-
5 zation, nonprofit entity, or govern-
6 mental entity within the United
7 States.”; and

8 (B) in subsection (k)(1)(B), by adding at
9 the end the following new clause:

10 “(iii) CLARIFICATION.—Notwith-
11 standing clause (i), in the case of a rebate
12 period and a covered outpatient drug that
13 is a selected drug (as defined in section
14 1192(c)) during such rebate period, any
15 reduction in price paid during the rebate
16 period to the manufacturer for the drug by
17 a wholesaler or retail community pharmacy
18 described in subparagraph (A) by reason of
19 application of part E of title XI shall be
20 included in the average manufacturer price
21 for the covered outpatient drug.”.

22 (4) FEHBP.—Section 8902 of title 5, United
23 States Code, is amended by adding at the end the
24 following:

1 “(p) A contract may not be made or a plan approved
2 under this chapter with any carrier that has affirmatively
3 elected, pursuant to section 1197 of the Social Security
4 Act, not to participate in the Fair Price Negotiation Pro-
5 gram established under section 1191 of such Act for any
6 selected drug (as that term is defined in section 1192(c)
7 of such Act).”.

8 (5) OPTION OF SECRETARY OF VETERANS AF-
9 FAIRS TO PURCHASE COVERED DRUGS AT MAXIMUM
10 FAIR PRICES.—Section 8126 of title 38, United
11 States Code, is amended—

12 (A) in subsection (a)(2), by inserting “,
13 subject to subsection (j),” after “may not ex-
14 ceed”;

15 (B) in subsection (d), in the matter pre-
16 ceeding paragraph (1), by inserting “, subject to
17 subsection (j)” after “for the procurement of
18 the drug”; and

19 (C) by adding at the end the following new
20 subsection:

21 “(j)(1) In the case of a covered drug that is a selected
22 drug, for any year during the price applicability period for
23 such drug, if the Secretary determines that the maximum
24 fair price of such drug for such year is less than the price
25 for such drug otherwise in effect pursuant to this section

1 (including after application of any reduction under sub-
2 section (a)(2) and any discount under subsection (c)), at
3 the option of the Secretary, in lieu of the maximum price
4 (determined after application of the reduction under sub-
5 section (a)(2) and any discount under subsection (c), as
6 applicable) that would be permitted to be charged during
7 such year for such drug pursuant to this section without
8 application of this subsection, the maximum price per-
9 mitted to be charged during such year for such drug pur-
10 suant to this section shall be such maximum fair price for
11 such drug and year.

12 “(2) For purposes of this subsection:

13 “(A) The term ‘maximum fair price’ means,
14 with respect to a selected drug and year during the
15 price applicability period for such drug, the max-
16 imum fair price (as defined in section 1191(c)(2) of
17 the Social Security Act) for such drug and year.

18 “(B) The term ‘negotiation eligible drug’ has
19 the meaning given such term in section 1192(d)(1)
20 of the Social Security Act.

21 “(C) The term ‘price applicability period’ has,
22 with respect to a selected drug, the meaning given
23 such term in section 1191(b)(2) of such Act.

1 “(D) The term ‘selected drug’ means, with re-
2 spect to a year, a drug that is a selected drug under
3 section 1192(c) of such Act for such year.”.

4 **SEC. 139002. SELECTED DRUG MANUFACTURER EXCISE TAX**
5 **IMPOSED DURING NONCOMPLIANCE PERI-**
6 **ODS.**

7 (a) IN GENERAL.—Subchapter E of chapter 32 of the
8 Internal Revenue Code of 1986 is amended by adding at
9 the end the following new section:

10 **“SEC. 4192. SELECTED DRUGS DURING NONCOMPLIANCE**
11 **PERIODS.**

12 “(a) IN GENERAL.—There is hereby imposed on the
13 sale by the manufacturer, producer, or importer of any
14 selected drug during a day described in subsection (b) a
15 tax in an amount such that the applicable percentage is
16 equal to the ratio of—

17 “(1) such tax, divided by

18 “(2) the sum of such tax and the price for
19 which so sold.

20 “(b) NONCOMPLIANCE PERIODS.—A day is described
21 in this subsection with respect to a selected drug if it is
22 a day during one of the following periods:

23 “(1) The period beginning on the June 16th
24 immediately following the selected drug publication
25 date and ending on the first date during which the

1 manufacturer of the drug has in place an agreement
2 described in subsection (a) of section 1193 of the
3 Social Security Act with respect to such drug.

4 “(2) The period beginning on the April 1st im-
5 mediately following the June 16th described in para-
6 graph (1) and ending on the first date during which
7 the manufacturer of the drug has agreed to a max-
8 imum fair price under such agreement.

9 “(3) In the case of a selected drug with respect
10 to which the Secretary of Health and Human Serv-
11 ices has specified a renegotiation period under such
12 agreement, the period beginning on the first date
13 after the last date of such renegotiation period and
14 ending on the first date during which the manufac-
15 turer of the drug has agreed to a renegotiated max-
16 imum fair price under such agreement.

17 “(4) With respect to information that is re-
18 quired to be submitted to the Secretary of Health
19 and Human Services under such agreement, the pe-
20 riod beginning on the date on which such Secretary
21 certifies that such information is overdue and ending
22 on the date that such information is so submitted.

23 “(5) In the case of a selected drug with respect
24 to which a payment is due under subsection (c) of
25 such section 1193, the period beginning on the date

1 on which the Secretary of Health and Human Serv-
2 ices certifies that such payment is overdue and end-
3 ing on the date that such payment is made in full.

4 “(c) APPLICABLE PERCENTAGE.—For purposes of
5 this section, the term ‘applicable percentage’ means—

6 “(1) in the case of sales of a selected drug dur-
7 ing the first 90 days described in subsection (b) with
8 respect to such drug, 65 percent,

9 “(2) in the case of sales of such drug during
10 the 91st day through the 180th day described in
11 subsection (b) with respect to such drug, 75 percent,

12 “(3) in the case of sales of such drug during
13 the 181st day through the 270th day described in
14 subsection (b) with respect to such drug, 85 percent,
15 and

16 “(4) in the case of sales of such drug during
17 any subsequent day, 95 percent.

18 “(d) SELECTED DRUG.—For purposes of this sec-
19 tion—

20 “(1) IN GENERAL.—The term ‘selected drug’
21 means any selected drug (within the meaning of sec-
22 tion 1192 of the Social Security Act) which is manu-
23 factured or produced in the United States or entered
24 into the United States for consumption, use, or
25 warehousing.

1 “(2) UNITED STATES.—The term ‘United
2 States’ has the meaning given such term by section
3 4612(a)(4).

4 “(3) COORDINATION WITH RULES FOR POSSES-
5 SIONS OF THE UNITED STATES.—Rules similar to
6 the rules of paragraphs (2) and (4) of section
7 4132(e) shall apply for purposes of this section.

8 “(e) OTHER DEFINITIONS.—For purposes of this
9 section, the terms ‘selected drug publication date’ and
10 ‘maximum fair price’ have the meaning given such terms
11 in section 1191 of the Social Security Act.

12 “(f) ANTI-ABUSE RULE.—In the case of a sale which
13 was timed for the purpose of avoiding the tax imposed by
14 this section, the Secretary may treat such sale as occur-
15 ring during a day described in subsection (b).”.

16 (b) NO DEDUCTION FOR EXCISE TAX PAYMENTS.—
17 Section 275 of the Internal Revenue Code of 1986 is
18 amended by adding “or by section 4192” before the period
19 at the end of subsection (a)(6).

20 (c) CONFORMING AMENDMENTS.—

21 (1) Section 4221(a) of the Internal Revenue
22 Code of 1986 is amended by inserting “or 4192”
23 after “section 4191”.

24 (2) Section 6416(b)(2) of such Code is amend-
25 ed by inserting “or 4192” after “section 4191”.

1 (d) CLERICAL AMENDMENTS.—

2 (1) The heading of subchapter E of chapter 32
3 of the Internal Revenue Code of 1986 is amended by
4 striking “**Medical Devices**” and inserting
5 “**Other Medical Products**”.

6 (2) The table of subchapters for chapter 32 of
7 such Code is amended by striking the item relating
8 to subchapter E and inserting the following new
9 item:

“SUBCHAPTER E. OTHER MEDICAL PRODUCTS”.

10 (3) The table of sections for subchapter E of
11 chapter 32 of such Code is amended by adding at
12 the end the following new item:

“Sec. 4192. Selected drugs during noncompliance periods.”.

13 (e) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to sales after the date of the enact-
15 ment of this Act.

16 **SEC. 139003. FAIR PRICE NEGOTIATION IMPLEMENTATION**
17 **FUND.**

18 (a) IN GENERAL.—There is hereby established a Fair
19 Price Negotiation Implementation Fund (referred to in
20 this section as the “Fund”). The Secretary of Health and
21 Human Services may obligate and expend amounts in the
22 Fund to carry out this part and parts 2 and 3 (and the
23 amendments made by such parts).

1 (b) FUNDING.—There is authorized to be appro-
2 priated, and there is hereby appropriated, out of any mon-
3 ies in the Treasury not otherwise appropriated, to the
4 Fund \$3,000,000,000, to remain available until expended,
5 of which—

6 (1) \$600,000,000 shall become available on the
7 date of the enactment of this Act;

8 (2) \$600,000,000 shall become available on Oc-
9 tober 1, 2023;

10 (3) \$600,000,000 shall become available on Oc-
11 tober 1, 2024;

12 (4) \$600,000,000 shall become available on Oc-
13 tober 1, 2025; and

14 (5) \$600,000,000 shall become available on Oc-
15 tober 1, 2026.

16 (c) SUPPLEMENT NOT SUPPLANT.—Any amounts
17 appropriated pursuant to this section shall be in addition
18 to any other amounts otherwise appropriated pursuant to
19 any other provision of law.

1 **PART 2—PRESCRIPTION DRUG INFLATION**

2 **REBATES**

3 **SEC. 139101. MEDICARE PART B REBATE BY MANUFACTUR-**
4 **ERS.**

5 (a) IN GENERAL.—Section 1834 of the Social Secu-
6 rity Act (42 U.S.C. 1395m) is amended by adding at the
7 end the following new subsection:

8 “(z) REBATE BY MANUFACTURERS FOR SINGLE
9 SOURCE DRUGS WITH PRICES INCREASING FASTER
10 THAN INFLATION.—

11 “(1) REQUIREMENTS.—

12 “(A) SECRETARIAL PROVISION OF INFOR-
13 MATION.—Not later than 6 months after the
14 end of each calendar quarter beginning on or
15 after July 1, 2023, the Secretary shall, for each
16 part B rebatable drug, report to each manufac-
17 turer of such part B rebatable drug the fol-
18 lowing for such calendar quarter:

19 “(i) Information on the total number
20 of units of the billing and payment code
21 described in subparagraph (A)(i) of para-
22 graph (3) with respect to such drug and
23 calendar quarter.

24 “(ii) Information on the amount (if
25 any) of the excess average sales price in-
26 crease described in subparagraph (A)(ii) of

1 such paragraph for such drug and calendar
2 quarter.

3 “(iii) The rebate amount specified
4 under such paragraph for such part B
5 rebatable drug and calendar quarter.

6 “(B) MANUFACTURER REQUIREMENT.—
7 For each calendar quarter beginning on or after
8 July 1, 2023, the manufacturer of a part B
9 rebatable drug shall, for such drug, not later
10 than 30 days after the date of receipt from the
11 Secretary of the information described in sub-
12 paragraph (A) for such calendar quarter, pro-
13 vide to the Secretary a rebate that is equal to
14 the amount specified in paragraph (3) for such
15 drug for such calendar quarter.

16 “(2) PART B REBATABLE DRUG DEFINED.—

17 “(A) IN GENERAL.—In this subsection, the
18 term ‘part B rebatable drug’ means a single
19 source drug or biological (as defined in sub-
20 paragraph (D) of section 1847A(e)(6)), includ-
21 ing a biosimilar biological product (as defined
22 in subparagraph (H) of such section), payable
23 (if such drug were furnished to an individual
24 enrolled under this part) under this part, except

1 such term shall not include such a drug or bio-
2 logical—

3 “(i) if the average total allowed
4 charges under this part as determined by
5 the Secretary for a year per individual that
6 uses such a drug or biological, as deter-
7 mined by the Secretary, are less than, sub-
8 ject to subparagraph (B), \$100; or

9 “(ii) that is a vaccine described in
10 subparagraph (A) or (B) of section
11 1861(s)(10).

12 “(B) INCREASE.—The dollar amount ap-
13 plied under subparagraph (A)(i)—

14 “(i) for 2024, shall be the dollar
15 amount specified under such subparagraph
16 for 2023, increased by the percentage in-
17 crease in the consumer price index for all
18 urban consumers (United States city aver-
19 age) for the 12-month period ending with
20 June of the previous year; and

21 “(ii) for a subsequent year, shall be
22 the dollar amount specified in this clause
23 (or clause (i)) for the previous year, in-
24 creased by the percentage increase in the
25 consumer price index for all urban con-

1 sumers (United States city average) for
2 the 12-month period ending with June of
3 the previous year.

4 Any dollar amount specified under this sub-
5 paragraph that is not a multiple of \$10 shall be
6 rounded to the nearest multiple of \$10.

7 “(3) REBATE AMOUNT.—

8 “(A) IN GENERAL.—For purposes of para-
9 graph (1), the amount specified in this para-
10 graph for a part B rebatable drug assigned to
11 a billing and payment code for a calendar quar-
12 ter is, subject to subparagraph (B) and para-
13 graph (4), the amount equal to the product
14 of—

15 “(i) the total number of units, as de-
16 scribed in section 1847A(c)(1)(B), with re-
17 spect to such drug during the calendar
18 quarter; and

19 “(ii) the amount (if any) by which—

20 “(I) the payment amount under
21 subparagraph (B) or (C) of section
22 1847A(b)(1), as applicable, for such
23 part B rebatable drug during the cal-
24 endar quarter; exceeds

1 “(II) the inflation-adjusted pay-
2 ment amount determined under sub-
3 paragraph (C) for such part B
4 rebatable drug during the calendar
5 quarter.

6 “(B) EXCLUDED UNITS.—For purposes of
7 subparagraph (A)(i), the Secretary shall exclude
8 from the total number of units with respect to
9 a part B rebatable drug and calendar quarter
10 units of such part B rebatable drug for which
11 payment was made under a State plan under
12 title XIX (or waiver of such plan), as reported
13 by States under section 1927(b)(2)(A) for the
14 most recent rebate period.

15 “(C) DETERMINATION OF INFLATION-AD-
16 JUSTED PAYMENT AMOUNT.—The inflation-ad-
17 justed payment amount determined under this
18 subparagraph for a part B rebatable drug for
19 a calendar quarter is—

20 “(i) the payment amount for the bill-
21 ing and payment code for such drug in the
22 payment amount benchmark quarter (as
23 defined in subparagraph (D)); increased by

24 “(ii) the percentage by which the re-
25 bate period CPI-U (as defined in subpara-

1 graph (F)) for the calendar quarter ex-
2 ceeds the benchmark period CPI-U (as de-
3 fined in subparagraph (E)).

4 “(D) PAYMENT AMOUNT BENCHMARK
5 QUARTER.—The term ‘payment amount bench-
6 mark quarter’ means the calendar quarter be-
7 ginning January 1, 2016.

8 “(E) BENCHMARK PERIOD CPI-U.—The
9 term ‘benchmark period CPI-U’ means the con-
10 sumer price index for all urban consumers
11 (United States city average) for July 2015.

12 “(F) REBATE PERIOD CPI-U.—The term
13 ‘rebate period CPI-U’ means, with respect to a
14 calendar quarter described in subparagraph
15 (C), the greater of the benchmark period CPI-
16 U and the consumer price index for all urban
17 consumers (United States city average) for the
18 first month of the calendar quarter that is two
19 calendar quarters prior to such described cal-
20 endar quarter.

21 “(4) SPECIAL TREATMENT OF CERTAIN DRUGS
22 AND EXEMPTION.—

23 “(A) SUBSEQUENTLY APPROVED DRUGS.—
24 Subject to subparagraph (B), in the case of a
25 part B rebatable drug first approved or licensed

1 by the Food and Drug Administration after
2 July 1, 2015, clause (i) of paragraph (3)(C)
3 shall be applied as if the term ‘payment amount
4 benchmark quarter’ were defined under para-
5 graph (3)(D) as the third full calendar quarter
6 after the day on which the drug was first mar-
7 keted and clause (ii) of paragraph (3)(C) shall
8 be applied as if the term ‘benchmark period
9 CPI-U’ were defined under paragraph (3)(E)
10 as if the reference to ‘July 2015’ under such
11 paragraph were a reference to ‘the first month
12 of the first full calendar quarter after the day
13 on which the drug was first marketed’.

14 “(B) TIMELINE FOR PROVISION OF RE-
15 BATES FOR SUBSEQUENTLY APPROVED
16 DRUGS.—In the case of a part B rebatable drug
17 first approved or licensed by the Food and
18 Drug Administration after July 1, 2015, para-
19 graph (1)(B) shall be applied as if the reference
20 to ‘July 1, 2023’ under such paragraph were a
21 reference to the later of the 6th full calendar
22 quarter after the day on which the drug was
23 first marketed or July 1, 2023.

24 “(C) EXEMPTION FOR SHORTAGES.—The
25 Secretary may reduce or waive the rebate

1 amount under paragraph (1)(B) with respect to
2 a part B rebatable drug that is described as
3 currently in shortage on the shortage list in ef-
4 fect under section 506E of the Federal Food,
5 Drug, and Cosmetic Act or in the case of other
6 exigent circumstances, as determined by the
7 Secretary.

8 “(D) SELECTED DRUGS.—In the case of a
9 part B rebatable drug that is a selected drug
10 (as defined in section 1192(e)) for a price appli-
11 cability period (as defined in section
12 1191(b)(2))—

13 “(i) for calendar quarters during such
14 period for which a maximum fair price (as
15 defined in section 1191(c)(2)) for such
16 drug has been determined and is applied
17 under part E of title XI, the rebate
18 amount under paragraph (1)(B) shall be
19 waived; and

20 “(ii) in the case such drug is deter-
21 mined (pursuant to such section 1192(e))
22 to no longer be a selected drug, for each
23 applicable year beginning after the price
24 applicability period with respect to such
25 drug, clause (i) of paragraph (3)(C) shall

1 be applied as if the term ‘payment amount
2 benchmark quarter’ were defined under
3 paragraph (3)(D) as the calendar quarter
4 beginning January 1 of the last year be-
5 ginning during such price applicability pe-
6 riod with respect to such selected drug and
7 clause (ii) of paragraph (3)(C) shall be ap-
8 plied as if the term ‘benchmark period
9 CPI-U’ were defined under paragraph
10 (3)(E) as if the reference to ‘July 2015’
11 under such paragraph were a reference to
12 the July of the year preceding such last
13 year.

14 “(5) APPLICATION TO BENEFICIARY COINSUR-
15 ANCE.—In the case of a part B rebatable drug, if
16 the payment amount under this part for a quarter
17 exceeds the inflation adjusted payment for such
18 quarter—

19 “(A) in computing the amount of any coin-
20 surance applicable under this part to an indi-
21 vidual to whom such drug is furnished, the
22 computation of such coinsurance shall be based
23 on the inflation-adjusted payment amount de-
24 termined under paragraph (3)(C) for such part
25 B rebatable drug; and

1 “(B) the amount of such coinsurance is
2 equal to 20 percent of such inflation-adjusted
3 payment amount so determined.

4 “(6) REBATE DEPOSITS.—Amounts paid as re-
5 bates under paragraph (1)(B) shall be deposited into
6 the Federal Supplementary Medical Insurance Trust
7 Fund established under section 1841.

8 “(7) CIVIL MONEY PENALTY.—If a manufac-
9 turer of a part B rebatable drug has failed to com-
10 ply with the requirements under paragraph (1)(B)
11 for such drug for a calendar quarter, the manufac-
12 turer shall be subject to, in accordance with a proc-
13 ess established by the Secretary pursuant to regula-
14 tions, a civil money penalty in an amount equal to
15 at least 125 percent of the amount specified in para-
16 graph (3) for such drug for such calendar quarter.
17 The provisions of section 1128A (other than sub-
18 sections (a) (with respect to amounts of penalties or
19 additional assessments) and (b)) shall apply to a
20 civil money penalty under this paragraph in the
21 same manner as such provisions apply to a penalty
22 or proceeding under section 1128A(a).

23 “(8) APPLICATION TO MULTIPLE SOURCE
24 DRUGS.—The Secretary may, pursuant to rule-
25 making, apply the provisions of this subsection to

1 multiple source drugs (as defined in section
2 1847A(c)(6)(C)), including, for purposes of deter-
3 mining the rebate amount under paragraph (3), by
4 calculating manufacturer-specific average sales
5 prices for the benchmark period and the rebate pe-
6 riod.”.

7 (b) AMOUNTS PAYABLE; COST-SHARING.—Section
8 1833 of the Social Security Act (42 U.S.C. 1395l) is
9 amended—

10 (1) in subsection (a)—

11 (A) in paragraph (1)—

12 (i) in subparagraph (G), by inserting
13 “, subject to subsection (i)(9),” after “the
14 amounts paid”;

15 (ii) in subparagraph (S), by striking
16 “with respect to” and inserting “subject to
17 subparagraph (DD), with respect to”;

18 (iii) by striking “and (DD)” and in-
19 serting “(EE)”;

20 (iv) by inserting before the semicolon
21 at the end the following: “, and (EE) with
22 respect to a part B rebatable drug (as de-
23 fined in paragraph (2) of section 1834(z))
24 for which the payment amount for a cal-
25 endar quarter under paragraph

1 (3)(A)(ii)(I) of such section for such quar-
2 ter exceeds the inflation-adjusted payment
3 under paragraph (3)(A)(ii)(II) of such sec-
4 tion for such quarter, the amounts paid
5 shall be the difference between (i) the pay-
6 ment amount under paragraph
7 (3)(A)(ii)(I) of such section for such drug,
8 and (ii) 20 percent of the inflation-ad-
9 justed payment amount under paragraph
10 (3)(A)(ii)(II) of such section for such
11 drug”; and

12 (B) by adding at the end of the flush left
13 matter following paragraph (9), the following:

14 “For purposes of applying paragraph (1)(EE), sub-
15 sections (i)(9) and (t)(8)(F), and section 1834(z)(5), the
16 Secretary shall make such estimates and use such data
17 as the Secretary determines appropriate, and may do so
18 by program instruction or otherwise.”;

19 (2) in subsection (i), by adding at the end the
20 following new paragraph:

21 “(9) In the case of a part B rebatable drug (as de-
22 fined in paragraph (2) of section 1834(z)) for which pay-
23 ment under this subsection is not packaged into a payment
24 for a covered OPD service (as defined in subsection
25 (t)(1)(B)) (or group of services) furnished on or after July

1 1, 2023, under the system under this subsection, in lieu
2 of calculation of coinsurance and the amount of payment
3 otherwise applicable under this subsection, the provisions
4 of section 1834(z)(5), paragraph (1)(EE) of subsection
5 (a), and the flush left matter following paragraph (9) of
6 subsection (a), shall, as determined appropriate by the
7 Secretary, apply under this subsection in the same manner
8 as such provisions of section 1834(z)(5) and subsection
9 (a) apply under such section and subsection.”; and

10 (3) in subsection (t)(8), by adding at the end
11 the following new subparagraph:

12 “(F) PART B REBATABLE DRUGS.—In the
13 case of a part B rebatable drug (as defined in
14 paragraph (2) of section 1834(z)) for which
15 payment under this part is not packaged into a
16 payment for a service furnished on or after July
17 1, 2023, under the system under this sub-
18 section, in lieu of calculation of coinsurance and
19 the amount of payment otherwise applicable
20 under this subsection, the provisions of section
21 1834(z)(5), paragraph (1)(EE) of subsection
22 (a), and the flush left matter following para-
23 graph (9) of subsection (a), shall, as determined
24 appropriate by the Secretary, apply under this
25 subsection in the same manner as such provi-

1 **“SEC. 1860D–14B. MANUFACTURER REBATE FOR CERTAIN**
2 **DRUGS WITH PRICES INCREASING FASTER**
3 **THAN INFLATION.**

4 “(a) REQUIREMENTS.—

5 “(1) SECRETARIAL PROVISION OF INFORMA-
6 TION.—Not later than 9 months after the end of
7 each applicable year (as defined in subsection
8 (g)(7)), the Secretary shall, for each part D
9 rebatable drug, report to each manufacturer of such
10 part D rebatable drug the following for such year:

11 “(A) Information on the amount (if any)
12 of the excess average manufacturer price in-
13 crease described in subsection (b)(1)(B) for
14 each dosage form and strength with respect to
15 such drug and year.

16 “(B) The rebate amount specified under
17 subsection (b) for each dosage form and
18 strength with respect to such drug and year.

19 “(2) MANUFACTURER REQUIREMENTS.—For
20 each applicable year, the manufacturer of a part D
21 rebatable drug, for each dosage form and strength
22 with respect to such drug, not later than 30 days
23 after the date of receipt from the Secretary of the
24 information described in paragraph (1) for such
25 year, shall provide to the Secretary a rebate that is
26 equal to the amount specified in subsection (b) for

1 such dosage form and strength with respect to such
2 drug for such year.

3 “(b) REBATE AMOUNT.—

4 “(1) IN GENERAL.—

5 “(A) CALCULATION.—For purposes of this
6 section, the amount specified in this subsection
7 for a dosage form and strength with respect to
8 a part D rebatable drug and applicable year is,
9 subject to subparagraph (B) of this paragraph
10 and subparagraphs (B) and (C) of paragraph
11 (5), the amount equal to the product of—

12 “(i) the total number of units that are
13 used to calculate the average manufacturer
14 price of such dosage form and strength
15 with respect to such part D rebatable
16 drug, as reported by the manufacturer of
17 such drug under section 1927 for each re-
18 cent rebate period under such section, with
19 respect to such year, under such section
20 for which such information is available;
21 and

22 “(ii) the amount (if any) by which—

23 “(I) the annual manufacturer
24 price (as determined in paragraph
25 (2)) paid for such dosage form and

1 strength with respect to such part D
2 rebatable drug for the year; exceeds

3 “(II) the inflation-adjusted pay-
4 ment amount determined under para-
5 graph (3) for such dosage form and
6 strength with respect to such part D
7 rebatable drug for the year.

8 “(B) EXCLUDED UNITS.—For purposes of
9 subparagraph (A)(i), the Secretary shall exclude
10 from the total number of units for a dosage
11 form and strength with respect to a part D
12 rebatable drug and the most recent rebate pe-
13 riod under section 1927, with respect to an ap-
14 plicable year, for which such information is
15 available, units of each dosage form and
16 strength of such part D rebatable drug, for
17 which payment was made under a State plan
18 under title XIX (or waiver of such plan), as re-
19 ported by States under section 1927(b)(2)(A)
20 for such rebate period.

21 “(2) DETERMINATION OF ANNUAL MANUFAC-
22 Turer PRICE.—The annual manufacturer price de-
23 termined under this paragraph for a dosage form
24 and strength, with respect to a part D rebatable

1 drug and an applicable year, is the sum of the prod-
2 ucts of—

3 “(A) the average manufacturer price (as
4 defined in subsection (g)(6)) of such dosage
5 form and strength, as calculated for a unit of
6 such drug, with respect to each of the calendar
7 quarters of such year; and

8 “(B) the ratio of—

9 “(i) the total number of units of such
10 dosage form and strength reported for the
11 purpose of calculating average manufac-
12 turer price under section 1927 during each
13 such calendar quarter of such year; to

14 “(ii) the total number of units of such
15 dosage form and strength reported for the
16 purpose of calculating average manufac-
17 turer price under section 1927 during such
18 year, as determined by the Secretary.

19 “(3) DETERMINATION OF INFLATION-ADJUSTED
20 PAYMENT AMOUNT.—The inflation-adjusted payment
21 amount determined under this paragraph for a dos-
22 age form and strength with respect to a part D
23 rebatable drug for an applicable year, subject to sub-
24 paragraphs (A) and (D) of paragraph (5), is—

1 “(A) the benchmark year manufacturer
2 price determined under paragraph (4) for such
3 dosage form and strength with respect to such
4 drug and year; increased by

5 “(B) the percentage by which the applica-
6 ble year CPI-U (as defined in subsection
7 (g)(5)) for the year exceeds the benchmark pe-
8 riod CPI-U (as defined in subsection (g)(4)).

9 “(4) DETERMINATION OF BENCHMARK YEAR
10 MANUFACTURER PRICE.—The benchmark year man-
11 ufacturer price determined under this paragraph for
12 a dosage form and strength, with respect to a part
13 D rebatable drug and an applicable year, is the sum
14 of the products of—

15 “(A) the average manufacturer price (as
16 defined in subsection (g)(6)) of such dosage
17 form and strength, as calculated for a unit of
18 such drug, with respect to each of the calendar
19 quarters of the payment amount benchmark
20 year (as defined in subsection (g)(3)); and

21 “(B) the ratio of—

22 “(i) the total number of units of such
23 dosage form and strength dispensed during
24 each such calendar quarter of such pay-
25 ment amount benchmark year; to

1 “(ii) the total number of units of such
2 dosage form and strength dispensed during
3 such payment amount benchmark year.

4 “(5) SPECIAL TREATMENT OF CERTAIN DRUGS
5 AND EXEMPTION.—

6 “(A) SUBSEQUENTLY APPROVED DRUGS.—

7 In the case of a part D rebatable drug first ap-
8 proved or licensed by the Food and Drug Ad-
9 ministration after January 1, 2016, subpara-
10 graphs (A) and (B) of paragraph (4) shall be
11 applied as if the term ‘payment amount bench-
12 mark year’ were defined under subsection
13 (g)(3) as the first calendar year beginning after
14 the day on which the drug was first marketed
15 by any manufacturer and subparagraph (B) of
16 paragraph (3) shall be applied as if the term
17 ‘benchmark period CPI-U’ were defined under
18 subsection (g)(4) as if the reference to ‘January
19 2016’ under such subsection were a reference to
20 ‘January of the first year beginning after the
21 date on which the drug was first marketed by
22 any manufacturer’.

23 “(B) EXEMPTION FOR SHORTAGES.—The
24 Secretary may reduce or waive the rebate under
25 paragraph (1) with respect to a part D

1 rebatable drug that is described as currently in
2 shortage on the shortage list in effect under
3 section 506E of the Federal Food, Drug, and
4 Cosmetic Act or in the case of other exigent cir-
5 cumstances, as determined by the Secretary.

6 “(C) TREATMENT OF NEW FORMULA-
7 TIONS.—

8 “(i) IN GENERAL.—In the case of a
9 part D rebatable drug that is a line exten-
10 sion of a part D rebatable drug that is an
11 oral solid dosage form, the Secretary shall
12 establish a formula for determining the
13 amount specified in this subsection with
14 respect to such part D rebatable drug and
15 an applicable year with consideration of
16 the original part D rebatable drug.

17 “(ii) LINE EXTENSION DEFINED.—In
18 this subparagraph, the term ‘line exten-
19 sion’ means, with respect to a part D
20 rebatable drug, a new formulation of the
21 drug, such as an extended release formula-
22 tion, but does not include an abuse-deter-
23 rent formulation of the drug (as deter-
24 mined by the Secretary), regardless of

1 whether such abuse-deterrent formulation
2 is an extended release formulation.

3 “(D) SELECTED DRUGS.—In the case of a
4 part D rebatable drug that is a selected drug
5 (as defined in section 1192(c)) for a price appli-
6 cability period (as defined in section
7 1191(b)(2))—

8 “(i) for plan years during such period
9 for which a maximum fair price (as defined
10 in section 1191(c)(2)) for such drug has
11 been determined and is applied under part
12 E of title XI, the rebate under subsection
13 (a)(1)(B) shall be waived; and

14 “(ii) in the case such drug is deter-
15 mined (pursuant to such section 1192(c))
16 to no longer be a selected drug, for each
17 applicable year beginning after the price
18 applicability period with respect to such
19 drug, subparagraphs (A) and (B) of para-
20 graph (4) shall be applied as if the term
21 ‘payment amount benchmark year’ were
22 defined under subsection (g)(3) as the last
23 year beginning during such price applica-
24 bility period with respect to such selected
25 drug and subparagraph (B) of paragraph

1 (3) shall be applied as if the term ‘bench-
2 mark period CPI-U’ were defined under
3 subsection (g)(4) as if the reference to
4 ‘January 2016’ under such subsection were
5 a reference to January of the last year be-
6 ginning during such price applicability pe-
7 riod with respect to such drug.

8 “(c) REBATE DEPOSITS.—Amounts paid as rebates
9 under subsection (b) shall be deposited into the Medicare
10 Prescription Drug Account in the Federal Supplementary
11 Medical Insurance Trust Fund established under section
12 1841.

13 “(d) INFORMATION.—For purposes of carrying out
14 this section, the Secretary shall use information submitted
15 by manufacturers under section 1927(b)(3) and informa-
16 tion submitted by States under section 1927(b)(2)(A).

17 “(e) CIVIL MONEY PENALTY.—If a manufacturer of
18 a part D rebatable drug has failed to comply with the re-
19 quirement under subsection (a)(1)(B) with respect to such
20 drug for an applicable year, the manufacturer shall be
21 subject to, in accordance with a process established by the
22 Secretary pursuant to regulations, a civil money penalty
23 in an amount equal to 125 percent of the amount specified
24 in subsection (b) for such drug for such year. The provi-
25 sions of section 1128A (other than subsections (a) (with

1 respect to amounts of penalties or additional assessments)
2 and (b)) shall apply to a civil money penalty under this
3 subsection in the same manner as such provisions apply
4 to a penalty or proceeding under section 1128A(a).

5 “(f) JUDICIAL REVIEW.—There shall be no judicial
6 review of the following:

7 “(1) The determination of units under this sec-
8 tion.

9 “(2) The determination of whether a drug is a
10 part D rebatable drug under this section.

11 “(3) The calculation of the rebate amount
12 under this section.

13 “(g) DEFINITIONS.—In this section:

14 “(1) PART D REBATABLE DRUG DEFINED.—

15 “(A) IN GENERAL.—The term ‘part D
16 rebatable drug’ means a drug or biological that
17 would (without application of this section) be a
18 covered part D drug, except such term shall,
19 with respect to an applicable year, not include
20 such a drug or biological if the average annual
21 total cost under this part for such year per in-
22 dividual who uses such a drug or biological, as
23 determined by the Secretary, is less than, sub-
24 ject to subparagraph (B), \$100, as determined
25 by the Secretary using the most recent data

1 available or, if data is not available, as esti-
2 mated by the Secretary.

3 “(B) INCREASE.—The dollar amount ap-
4 plied under subparagraph (A)—

5 “(i) for 2024, shall be the dollar
6 amount specified under such subparagraph
7 for 2023, increased by the percentage in-
8 crease in the consumer price index for all
9 urban consumers (United States city aver-
10 age) for the 12-month period beginning
11 with January of 2023; and

12 “(ii) for a subsequent year, shall be
13 the dollar amount specified in this sub-
14 paragraph for the previous year, increased
15 by the percentage increase in the consumer
16 price index for all urban consumers
17 (United States city average) for the 12-
18 month period beginning with January of
19 the previous year.

20 Any dollar amount specified under this sub-
21 paragraph that is not a multiple of \$10 shall be
22 rounded to the nearest multiple of \$10.

23 “(2) UNIT DEFINED.—The term ‘unit’ means,
24 with respect to a part D rebatable drug, the lowest
25 identifiable quantity (such as a capsule or tablet,

1 milligram of molecules, or grams) of the part D
2 rebatable drug, including data reported under sec-
3 tion 1927.

4 “(3) PAYMENT AMOUNT BENCHMARK YEAR.—
5 The term ‘payment amount benchmark year’ means
6 the year beginning January 1, 2016.

7 “(4) BENCHMARK PERIOD CPI–U.—The term
8 ‘benchmark period CPI–U’ means the consumer
9 price index for all urban consumers (United States
10 city average) for January 2016.

11 “(5) APPLICABLE YEAR CPI–U.—The term ‘ap-
12 plicable year CPI–U’ means, with respect to an ap-
13 plicable year, the consumer price index for all urban
14 consumers (United States city average) for January
15 of such year.

16 “(6) AVERAGE MANUFACTURER PRICE.—The
17 term ‘average manufacturer price’ has the meaning,
18 with respect to a part D rebatable drug of a manu-
19 facturer, given such term in section 1927(k)(1), with
20 respect to a covered outpatient drug of a manufac-
21 turer for a rebate period under section 1927.

22 “(7) APPLICABLE YEAR.—The term ‘applicable
23 year’ means a year beginning with 2023.”.

24 (b) CONFORMING AMENDMENTS.—

1 (1) TO PART B ASP CALCULATION.—Section
2 1847A(c)(3) of the Social Security Act (42 U.S.C.
3 1395w-3a(c)(3)), as amended by section
4 139101(c)(1), is further amended by striking “sec-
5 tion 1927 or section 1834(z)” and inserting “section
6 1927, section 1834(z), or section 1860D-14B”.

7 (2) EXCLUDING PART D DRUG INFLATION RE-
8 BATE FROM BEST PRICE.—Section
9 1927(c)(1)(C)(ii)(I) of the Social Security Act (42
10 U.S.C. 1396r-8(c)(1)(C)(ii)(I)), as amended by sec-
11 tion 139101(c)(2), is further amended by striking
12 “or section 1834(z)” and inserting “, section
13 1834(z), or section 1860D-14B”.

14 (3) COORDINATION WITH MEDICAID REBATE IN-
15 FORMATION DISCLOSURE.—Section 1927(b)(3)(D)(i)
16 of the Social Security Act (42 U.S.C. 1396r-
17 8(b)(3)(D)(i)), as amended by section 139101(c)(3),
18 is further amended by striking “or section 1834(z)”
19 and inserting “, section 1834(z), or section 1860D-
20 14B”.

1 **PART 3—PART D IMPROVEMENTS AND MAXIMUM**
2 **OUT-OF-POCKET CAP FOR MEDICARE BENE-**
3 **FICIARIES**

4 **SEC. 139201. MEDICARE PART D BENEFIT REDESIGN.**

5 (a) BENEFIT STRUCTURE REDESIGN.—Section
6 1860D–2(b) of the Social Security Act (42 U.S.C. 1395w–
7 102(b)) is amended—

8 (1) in paragraph (2)—

9 (A) in subparagraph (A), in the matter
10 preceding clause (i), by inserting “for a year
11 preceding 2024 and for costs above the annual
12 deductible specified in paragraph (1) and up to
13 the annual out-of-pocket threshold specified in
14 paragraph (4)(B) for 2024 and each subsequent
15 year” after “paragraph (3)”;

16 (B) in subparagraph (C)—

17 (i) in clause (i), in the matter pre-
18 ceding subclause (I), by inserting “for a
19 year preceding 2024,” after “paragraph
20 (4),”; and

21 (ii) in clause (ii)(III), by striking
22 “and each subsequent year” and inserting
23 “through 2023”; and

24 (C) in subparagraph (D)—

25 (i) in clause (i)—

1 (I) in the matter preceding sub-
2 clause (I), by inserting “for a year
3 preceding 2024,” after “paragraph
4 (4),”; and

5 (II) in subclause (I)(bb), by
6 striking “a year after 2018” and in-
7 serting “each of years 2018 through
8 2023”; and

9 (ii) in clause (ii)(V), by striking
10 “2019 and each subsequent year” and in-
11 serting “each of years 2019 through
12 2023”;

13 (2) in paragraph (3)(A)—

14 (A) in the matter preceding clause (i), by
15 inserting “for a year preceding 2024,” after
16 “and (4),”; and

17 (B) in clause (ii), by striking “for a subse-
18 quent year” and inserting “for each of years
19 2007 through 2023”; and

20 (3) in paragraph (4)—

21 (A) in subparagraph (A)—

22 (i) in clause (i)—

23 (I) by redesignating subclauses
24 (I) and (II) as items (aa) and (bb),
25 respectively, and moving the margin

2440

1 of each such redesignated item 2 ems
2 to the right;

3 (II) in the matter preceding item
4 (aa), as redesignated by subclause (I),
5 by striking “is equal to the greater
6 of—” and inserting “is equal to—

7 “(I) for a year preceding 2024,
8 the greater of—”;

9 (III) by striking the period at the
10 end of item (bb), as redesignated by
11 subclause (I), and inserting “; and”;
12 and

13 (IV) by adding at the end the fol-
14 lowing:

15 “(II) for 2024 and each suc-
16 ceeding year, \$0.”; and

17 (ii) in clause (ii), by striking “clause
18 (i)(I)” and inserting “clause (i)(I)(aa)”;

19 (B) in subparagraph (B)—

20 (i) in clause (i)—

21 (I) in subclause (V), by striking
22 “or” at the end;

23 (II) in subclause (VI)—

24 (aa) by striking “for a sub-
25 sequent year” and inserting “for

2441

1 each of years 2021 through
2 2023”; and

3 (bb) by striking the period
4 at the end and inserting a semi-
5 colon; and

6 (III) by adding at the end the
7 following new subclauses:

8 “(VII) for 2024, is equal to
9 \$2,000; or

10 “(VIII) for a subsequent year, is
11 equal to the amount specified in this
12 subparagraph for the previous year,
13 increased by the annual percentage in-
14 crease described in paragraph (6) for
15 the year involved.”; and

16 (ii) in clause (ii), by striking “clause
17 (i)(II)” and inserting “clause (i)”;

18 (C) in subparagraph (C)(i), by striking
19 “and for amounts” and inserting “and, for a
20 year preceding 2024, for amounts”; and

21 (D) in subparagraph (E), by striking “In
22 applying” and inserting “For each of years
23 2011 through 2023, in applying”.

24 (b) DECREASING REINSURANCE PAYMENT
25 AMOUNT.—Section 1860D–15(b)(1) of the Social Security

1 Act (42 U.S.C. 1395w–115(b)(1)) is amended by inserting
2 after “80 percent” the following: “(or, with respect to a
3 coverage year after 2023, 20 percent)”.

4 (c) MANUFACTURER DISCOUNT PROGRAM.—

5 (1) IN GENERAL.—Part D of title XVIII of the
6 Social Security Act (42 U.S.C. 1395w–101 et seq.),
7 as amended by section 139102, is further amended
8 by inserting after section 1860D–14B the following
9 new section:

10 **“SEC. 1860D–14C. MANUFACTURER DISCOUNT PROGRAM.**

11 “(a) ESTABLISHMENT.—The Secretary shall estab-
12 lish a manufacturer discount program (in this section re-
13 ferred to as the ‘program’). Under the program, the Sec-
14 retary shall enter into agreements described in subsection
15 (b) with manufacturers and provide for the performance
16 of the duties described in subsection (c). The Secretary
17 shall establish a model agreement for use under the pro-
18 gram by not later than January 1, 2023, in consultation
19 with manufacturers, and allow for comment on such model
20 agreement.

21 “(b) TERMS OF AGREEMENT.—

22 “(1) IN GENERAL.—

23 “(A) AGREEMENT.—An agreement under
24 this section shall require the manufacturer to
25 provide applicable beneficiaries access to dis-

1 counted prices for applicable drugs of the man-
2 ufacturer that are dispensed on or after Janu-
3 ary 1, 2024.

4 “(B) PROVISION OF DISCOUNTED PRICES
5 AT THE POINT-OF-SALE.—The discounted prices
6 described in subparagraph (A) shall be provided
7 to the applicable beneficiary at the pharmacy or
8 by the mail order service at the point-of-sale of
9 an applicable drug.

10 “(C) TIMING OF AGREEMENT.—

11 “(i) SPECIAL RULE FOR 2024.—In
12 order for an agreement with a manufac-
13 turer to be in effect under this section with
14 respect to the period beginning on January
15 1, 2024, and ending on December 31,
16 2024, the manufacturer shall enter into
17 such agreement not later than 30 days
18 after the date of the establishment of a
19 model agreement under subsection (a).

20 “(ii) 2025 AND SUBSEQUENT
21 YEARS.—In order for an agreement with a
22 manufacturer to be in effect under this
23 section with respect to plan year 2025 or
24 a subsequent plan year, the manufacturer
25 shall enter into such agreement (or such

1 agreement shall be renewed under para-
2 graph (4)(A)) not later than January 30 of
3 the preceding year.

4 “(2) PROVISION OF APPROPRIATE DATA.—Each
5 manufacturer with an agreement in effect under this
6 section shall collect and have available appropriate
7 data, as determined by the Secretary, to ensure that
8 it can demonstrate to the Secretary compliance with
9 the requirements under the program.

10 “(3) COMPLIANCE WITH REQUIREMENTS FOR
11 ADMINISTRATION OF PROGRAM.—Each manufac-
12 turer with an agreement in effect under this section
13 shall comply with requirements imposed by the Sec-
14 retary or a third party with a contract under sub-
15 section (d)(3), as applicable, for purposes of admin-
16 istering the program, including any determination
17 under subparagraph (A) of subsection (c)(1) or pro-
18 cedures established under such subsection (c)(1).

19 “(4) LENGTH OF AGREEMENT.—

20 “(A) IN GENERAL.—An agreement under
21 this section shall be effective for an initial pe-
22 riod of not less than 12 months and shall be
23 automatically renewed for a period of not less
24 than 1 year unless terminated under subpara-
25 graph (B).

1 “(B) TERMINATION.—

2 “(i) BY THE SECRETARY.—The Sec-
3 retary may provide for termination of an
4 agreement under this section for a knowing
5 and willful violation of the requirements of
6 the agreement or other good cause shown.
7 Such termination shall not be effective ear-
8 lier than 30 days after the date of notice
9 to the manufacturer of such termination.
10 The Secretary shall provide, upon request,
11 a manufacturer with a hearing concerning
12 such a termination, and such hearing shall
13 take place prior to the effective date of the
14 termination with sufficient time for such
15 effective date to be repealed if the Sec-
16 retary determines appropriate.

17 “(ii) BY A MANUFACTURER.—A man-
18 ufacturer may terminate an agreement
19 under this section for any reason. Any
20 such termination shall be effective, with re-
21 spect to a plan year—

22 “(I) if the termination occurs be-
23 fore January 30 of a plan year, as of
24 the day after the end of the plan year;
25 and

1 “(II) if the termination occurs on
2 or after January 30 of a plan year, as
3 of the day after the end of the suc-
4 ceeding plan year.

5 “(iii) EFFECTIVENESS OF TERMI-
6 NATION.—Any termination under this sub-
7 paragraph shall not affect discounts for
8 applicable drugs of the manufacturer that
9 are due under the agreement before the ef-
10 fective date of its termination.

11 “(iv) NOTICE TO THIRD PARTY.—The
12 Secretary shall provide notice of such ter-
13 mination to a third party with a contract
14 under subsection (d)(3) within not less
15 than 30 days before the effective date of
16 such termination.

17 “(c) DUTIES DESCRIBED.—The duties described in
18 this subsection are the following:

19 “(1) ADMINISTRATION OF PROGRAM.—Admin-
20 istering the program, including—

21 “(A) the determination of the amount of
22 the discounted price of an applicable drug of a
23 manufacturer;

24 “(B) the establishment of procedures
25 under which discounted prices are provided to

1 applicable beneficiaries at pharmacies or by
2 mail order service at the point-of-sale of an ap-
3 plicable drug;

4 “(C) the establishment of procedures to
5 ensure that, not later than the applicable num-
6 ber of calendar days after the dispensing of an
7 applicable drug by a pharmacy or mail order
8 service, the pharmacy or mail order service is
9 reimbursed for an amount equal to the dif-
10 ference between—

11 “(i) the negotiated price of the appli-
12 cable drug; and

13 “(ii) the discounted price of the appli-
14 cable drug;

15 “(D) the establishment of procedures to
16 ensure that the discounted price for an applica-
17 ble drug under this section is applied before any
18 coverage or financial assistance under other
19 health benefit plans or programs that provide
20 coverage or financial assistance for the pur-
21 chase or provision of prescription drug coverage
22 on behalf of applicable beneficiaries as the Sec-
23 retary may specify; and

24 “(E) providing a reasonable dispute resolu-
25 tion mechanism to resolve disagreements be-

1 tween manufacturers, applicable beneficiaries,
2 and the third party with a contract under sub-
3 section (d)(3).

4 “(2) MONITORING COMPLIANCE.—

5 “(A) IN GENERAL.—The Secretary shall
6 monitor compliance by a manufacturer with the
7 terms of an agreement under this section.

8 “(B) NOTIFICATION.—If a third party
9 with a contract under subsection (d)(3) deter-
10 mines that the manufacturer is not in compli-
11 ance with such agreement, the third party shall
12 notify the Secretary of such noncompliance for
13 appropriate enforcement under subsection (e).

14 “(3) COLLECTION OF DATA FROM PRESCRIP-
15 TION DRUG PLANS AND MA-PD PLANS.—The Sec-
16 retary may collect appropriate data from prescrip-
17 tion drug plans and MA-PD plans in a timeframe
18 that allows for discounted prices to be provided for
19 applicable drugs under this section.

20 “(d) ADMINISTRATION.—

21 “(1) IN GENERAL.—Subject to paragraph (2),
22 the Secretary shall provide for the implementation of
23 this section, including the performance of the duties
24 described in subsection (c).

1 “(2) LIMITATION.—In providing for the imple-
2 mentation of this section, the Secretary shall not re-
3 ceive or distribute any funds of a manufacturer
4 under the program.

5 “(3) CONTRACT WITH THIRD PARTIES.—The
6 Secretary shall enter into a contract with 1 or more
7 third parties to administer the requirements estab-
8 lished by the Secretary in order to carry out this
9 section. At a minimum, the contract with a third
10 party under the preceding sentence shall require
11 that the third party—

12 “(A) receive and transmit information be-
13 tween the Secretary, manufacturers, and other
14 individuals or entities the Secretary determines
15 appropriate;

16 “(B) receive, distribute, or facilitate the
17 distribution of funds of manufacturers to ap-
18 propriate individuals or entities in order to
19 meet the obligations of manufacturers under
20 agreements under this section;

21 “(C) provide adequate and timely informa-
22 tion to manufacturers, consistent with the
23 agreement with the manufacturer under this
24 section, as necessary for the manufacturer to
25 fulfill its obligations under this section; and

1 “(D) permit manufacturers to conduct
2 periodic audits, directly or through contracts, of
3 the data and information used by the third
4 party to determine discounts for applicable
5 drugs of the manufacturer under the program.

6 “(4) PERFORMANCE REQUIREMENTS.—The
7 Secretary shall establish performance requirements
8 for a third party with a contract under paragraph
9 (3) and safeguards to protect the independence and
10 integrity of the activities carried out by the third
11 party under the program under this section.

12 “(5) IMPLEMENTATION.—The Secretary may
13 implement the program under this section by pro-
14 gram instruction or otherwise.

15 “(6) ADMINISTRATION.—Chapter 35 of title 44,
16 United States Code, shall not apply to the program
17 under this section.

18 “(e) ENFORCEMENT.—

19 “(1) AUDITS.—Each manufacturer with an
20 agreement in effect under this section shall be sub-
21 ject to periodic audit by the Secretary.

22 “(2) CIVIL MONEY PENALTY.—

23 “(A) IN GENERAL.—The Secretary may
24 impose a civil money penalty on a manufacturer
25 that fails to provide applicable beneficiaries dis-

1 counts for applicable drugs of the manufacturer
2 in accordance with such agreement for each
3 such failure in an amount the Secretary deter-
4 mines is equal to the sum of—

5 “(i) the amount that the manufac-
6 turer would have paid with respect to such
7 discounts under the agreement, which will
8 then be used to pay the discounts which
9 the manufacturer had failed to provide;
10 and

11 “(ii) 25 percent of such amount.

12 “(B) APPLICATION.—The provisions of
13 section 1128A (other than subsections (a) and
14 (b)) shall apply to a civil money penalty under
15 this paragraph in the same manner as such
16 provisions apply to a penalty or proceeding
17 under section 1128A(a).

18 “(f) CLARIFICATION REGARDING AVAILABILITY OF
19 OTHER COVERED PART D DRUGS.—Nothing in this sec-
20 tion shall prevent an applicable beneficiary from pur-
21 chasing a covered part D drug that is not an applicable
22 drug (including a generic drug or a drug that is not on
23 the formulary of the prescription drug plan or MA–PD
24 plan that the applicable beneficiary is enrolled in).

25 “(g) DEFINITIONS.—In this section:

1 “(1) APPLICABLE BENEFICIARY.—The term
2 ‘applicable beneficiary’ means an individual who, on
3 the date of dispensing a covered part D drug—

4 “(A) is enrolled in a prescription drug plan
5 or an MA–PD plan;

6 “(B) is not enrolled in a qualified retiree
7 prescription drug plan; and

8 “(C) has incurred costs, as determined in
9 accordance with section 1860D–2(b)(4)(C), for
10 covered part D drugs in the year that exceed
11 the annual deductible with respect to such indi-
12 vidual for such year, as specified in section
13 1860D–2(b)(1), section 1860D–14(a)(1)(B), or
14 section 1860D–14(a)(2)(B), as applicable.

15 “(2) APPLICABLE DRUG.—The term ‘applicable
16 drug’, with respect to an applicable beneficiary—

17 “(A) means a covered part D drug—

18 “(i) approved under a new drug appli-
19 cation under section 505(c) of the Federal
20 Food, Drug, and Cosmetic Act or, in the
21 case of a biologic product, licensed under
22 section 351 of the Public Health Service
23 Act; and

24 “(ii)(I) if the PDP sponsor of the pre-
25 scription drug plan or the MA organization

1 offering the MA–PD plan uses a for-
2 mulary, which is on the formulary of the
3 prescription drug plan or MA–PD plan
4 that the applicable beneficiary is enrolled
5 in;

6 “(II) if the PDP sponsor of the pre-
7 scription drug plan or the MA organization
8 offering the MA–PD plan does not use a
9 formulary, for which benefits are available
10 under the prescription drug plan or MA–
11 PD plan that the applicable beneficiary is
12 enrolled in; or

13 “(III) is provided through an excep-
14 tion or appeal; and

15 “(B) does not include a selected drug (as
16 defined in section 1192(c)) during a price appli-
17 cability period (as defined in section
18 1191(b)(2)) with respect to such drug.

19 “(3) APPLICABLE NUMBER OF CALENDAR
20 DAYS.—The term ‘applicable number of calendar
21 days’ means—

22 “(A) with respect to claims for reimburse-
23 ment submitted electronically, 14 days; and

24 “(B) with respect to claims for reimburse-
25 ment submitted otherwise, 30 days.

1 “(4) DISCOUNTED PRICE.—

2 “(A) IN GENERAL.—The term ‘discounted
3 price’ means, with respect to an applicable drug
4 of a manufacturer dispensed during a year to
5 an applicable beneficiary—

6 “(i) who has not incurred costs, as de-
7 termined in accordance with section
8 1860D–2(b)(4)(C), for covered part D
9 drugs in the year that are equal to or ex-
10 ceed the annual out-of-pocket threshold
11 specified in section 1860D–2(b)(4)(B)(i)
12 for the year, 90 percent of the negotiated
13 price of such drug; and

14 “(ii) who has incurred such costs, as
15 so determined, in the year that are equal
16 to or exceed such threshold for the year,
17 70 percent of the negotiated price of such
18 drug.

19 “(B) CLARIFICATION.—Nothing in this
20 section shall be construed as affecting the re-
21 sponsibility of an applicable beneficiary for pay-
22 ment of a dispensing fee for an applicable drug.

23 “(C) SPECIAL CASE FOR CERTAIN
24 CLAIMS.—

1 “(i) CLAIMS SPANNING DEDUCT-
2 IBLE.—In the case where the entire
3 amount of the negotiated price of an indi-
4 vidual claim for an applicable drug with re-
5 spect to an applicable beneficiary does not
6 fall above the annual deductible specified
7 in section 1860D–2(b)(1) for the year, the
8 manufacturer of the applicable drug shall
9 provide the discounted price under this
10 section on only the portion of the nego-
11 tiated price of the applicable drug that
12 falls above such annual deductible.

13 “(ii) CLAIMS SPANNING OUT-OF-POCK-
14 ET THRESHOLD.—In the case where the
15 entire amount of the negotiated price of an
16 individual claim for an applicable drug
17 with respect to an applicable beneficiary
18 does not fall entirely below or entirely
19 above the annual out-of-pocket threshold
20 specified in section 1860D–2(b)(4)(B)(i)
21 for the year, the manufacturer of the ap-
22 plicable drug shall provide the discounted
23 price—

24 “(I) in accordance with subpara-
25 graph (A)(i) on the portion of the ne-

1 negotiated price of the applicable drug
2 that falls below such threshold; and

3 “(II) in accordance with subpara-
4 graph (A)(ii) on the portion of such
5 price of such drug that falls at or
6 above such threshold.

7 “(5) MANUFACTURER.—The term ‘manufac-
8 turer’ means any entity which is engaged in the pro-
9 duction, preparation, propagation, compounding,
10 conversion, or processing of prescription drug prod-
11 ucts, either directly or indirectly by extraction from
12 substances of natural origin, or independently by
13 means of chemical synthesis, or by a combination of
14 extraction and chemical synthesis. Such term does
15 not include a wholesale distributor of drugs or a re-
16 tail pharmacy licensed under State law.

17 “(6) NEGOTIATED PRICE.—The term ‘nego-
18 tiated price’ has the meaning given such term in sec-
19 tion 423.100 of title 42, Code of Federal Regula-
20 tions (or any successor regulation), except that, with
21 respect to an applicable drug, such negotiated price
22 shall not include any dispensing fee for the applica-
23 ble drug.

24 “(7) QUALIFIED RETIREE PRESCRIPTION DRUG
25 PLAN.—The term ‘qualified retiree prescription drug

1 plan' has the meaning given such term in section
2 1860D–22(a)(2).”.

3 (2) SUNSET OF MEDICARE COVERAGE GAP DIS-
4 COUNT PROGRAM.—Section 1860D–14A of the So-
5 cial Security Act (42 U.S.C. 1395–114a) is amend-
6 ed—

7 (A) in subsection (a), in the first sentence,
8 by striking “The Secretary” and inserting
9 “Subject to subsection (h), the Secretary”; and

10 (B) by adding at the end the following new
11 subsection:

12 “(h) SUNSET OF PROGRAM.—

13 “(1) IN GENERAL.—The program shall not
14 apply with respect to applicable drugs dispensed on
15 or after January 1, 2024, and, subject to paragraph
16 (2), agreements under this section shall be termi-
17 nated as of such date.

18 “(2) CONTINUED APPLICATION FOR APPLICA-
19 BLE DRUGS DISPENSED PRIOR TO SUNSET.—The
20 provisions of this section (including all responsibil-
21 ities and duties) shall continue to apply after Janu-
22 ary 1, 2024, with respect to applicable drugs dis-
23 pensed prior to such date.”.

24 (3) INCLUSION OF ACTUARIAL VALUE OF MANU-
25 FACTURER DISCOUNTS IN BIDS.—Section 1860D–11

1 of the Social Security Act (42 U.S.C. 1395w-111)
2 is amended—

3 (A) in subsection (b)(2)(C)(iii)—

4 (i) by striking “assumptions regarding
5 the reinsurance” and inserting “assump-
6 tions regarding—

7 “(I) the reinsurance”; and

8 (ii) by adding at the end the fol-
9 lowing:

10 “(II) for 2024 and each subse-
11 quent year, the manufacturer dis-
12 counts provided under section 1860D-
13 14C subtracted from the actuarial
14 value to produce such bid; and”; and

15 (B) in subsection (c)(1)(C)—

16 (i) by striking “an actuarial valuation
17 of the reinsurance” and inserting “an ac-
18 tuarial valuation of—

19 “(i) the reinsurance”;

20 (ii) in clause (i), as inserted by clause
21 (i) of this subparagraph, by adding “and”
22 at the end; and

23 (iii) by adding at the end the fol-
24 lowing:

1 “(ii) for 2024 and each subsequent
2 year, the manufacturer discounts provided
3 under section 1860D–14C;”.

4 (d) CONFORMING AMENDMENTS.—

5 (1) Section 1860D–2 of the Social Security Act
6 (42 U.S.C. 1395w–102) is amended—

7 (A) in subsection (a)(2)(A)(i)(I), by strik-
8 ing “, or an increase in the initial” and insert-
9 ing “or, for a year preceding 2024, an increase
10 in the initial”;

11 (B) in subsection (c)(1)(C)—

12 (i) in the subparagraph heading, by
13 striking “AT INITIAL COVERAGE LIMIT”;
14 and

15 (ii) by inserting “for a year preceding
16 2024 or the annual out-of-pocket threshold
17 specified in subsection (b)(4)(B) for the
18 year for 2024 and each subsequent year”
19 after “subsection (b)(3) for the year” each
20 place it appears; and

21 (C) in subsection (d)(1)(A), by striking “or
22 an initial” and inserting “or, for a year pre-
23 ceding 2024, an initial”.

24 (2) Section 1860D–4(a)(4)(B)(i) of the Social
25 Security Act (42 U.S.C. 1395w–104(a)(4)(B)(i)) is

1 amended by striking “the initial” and inserting “for
2 a year preceding 2024, the initial”.

3 (3) Section 1860D–14(a) of the Social Security
4 Act (42 U.S.C. 1395w–114(a)) is amended—

5 (A) in paragraph (1)—

6 (i) in subparagraph (C), by striking
7 “The continuation” and inserting “For a
8 year preceding 2024, the continuation”;

9 (ii) in subparagraph (D)(iii), by strik-
10 ing “1860D–2(b)(4)(A)(i)(I)” and insert-
11 ing “1860D–2(b)(4)(A)(i)(I)(aa)”;

12 (iii) in subparagraph (E), by striking
13 “The elimination” and inserting “For a
14 year preceding 2024, the elimination”;

15 (B) in paragraph (2)—

16 (i) in subparagraph (C), by striking
17 “The continuation” and inserting “For a
18 year preceding 2024, the continuation”;

19 and

20 (ii) in subparagraph (E), by striking
21 “1860D–2(b)(4)(A)(i)(I)” and inserting
22 “1860D–2(b)(4)(A)(i)(I)(aa)”.

23 (4) Section 1860D–21(d)(7) of the Social Secu-
24 rity Act (42 U.S.C. 1395w–131(d)(7)) is amended

1 by striking “section 1860D–2(b)(4)(B)(i)” and in-
2 sserting “section 1860D–2(b)(4)(C)(i)”.

3 (5) Section 1860D–22(a)(2)(A) of the Social
4 Security Act (42 U.S.C. 1395w–132(a)(2)(A)) is
5 amended—

6 (A) by striking “the value of any discount”
7 and inserting the following: “the value of—

8 “(i) for years prior to 2024, any dis-
9 count”;

10 (B) in clause (i), as inserted by subpara-
11 graph (A) of this paragraph, by striking the pe-
12 riod at the end and inserting “; and”; and

13 (C) by adding at the end the following new
14 clause:

15 “(ii) for 2024 and each subsequent
16 year, any discount provided pursuant to
17 section 1860D–14C.”.

18 (6) Section 1860D–41(a)(6) of the Social Secu-
19 rity Act (42 U.S.C. 1395w–151(a)(6)) is amended—

20 (A) by inserting “for a year before 2024”
21 after “1860D–2(b)(3)”; and

22 (B) by inserting “for such year” before the
23 period.

24 (7) Section 1860D–43 of the Social Security
25 Act (42 U.S.C. 1395w–153) is amended—

1 (A) in subsection (a)—

2 (i) by striking paragraph (1) and in-
3 serting the following:

4 “(1) participate in—

5 “(A) for 2011 through 2023, the Medicare
6 coverage gap discount program under section
7 1860D–14A; and

8 “(B) for 2024 and each subsequent year,
9 the manufacturer discount program under sec-
10 tion 1860D–14C;”;

11 (ii) by striking paragraph (2) and in-
12 serting the following:

13 “(2) have entered into and have in effect—

14 “(A) for 2011 through 2023, an agreement
15 described in subsection (b) of section 1860D–
16 14A with the Secretary; and

17 “(B) for 2024 and each subsequent year,
18 an agreement described in subsection (b) of sec-
19 tion 1860D–14C with the Secretary; and”;

20 (iii) by striking paragraph (3) and in-
21 serting the following:

22 “(3) have entered into and have in effect, under
23 terms and conditions specified by the Secretary—

24 “(A) for 2011 through 2023, a contract
25 with a third party that the Secretary has en-

1 tered into a contract with under subsection
2 (d)(3) of section 1860D–14A; and

3 “(B) for 2024 and each subsequent year,
4 a contract with a third party that the Secretary
5 has entered into a contract with under sub-
6 section (d)(3) of section 1860D–14C.”; and

7 (B) by striking subsection (b) and insert-
8 ing the following:

9 “(b) EFFECTIVE DATE.—Paragraphs (1)(A), (2)(A),
10 and (3)(A) of subsection (a) shall apply to covered part
11 D drugs dispensed under this part on or after January
12 1, 2011, and before January 1, 2024, and paragraphs
13 (1)(B), (2)(B), and (3)(B) of such subsection shall apply
14 to covered part D drugs dispensed under this part on or
15 after January 1, 2024.”.

16 (8) Section 1927 of the Social Security Act (42
17 U.S.C. 1396r–8) is amended—

18 (A) in subsection (c)(1)(C)(i)(VI), by in-
19 serting before the period at the end the fol-
20 lowing: “or under the manufacturer discount
21 program under section 1860D–14C”; and

22 (B) in subsection (k)(1)(B)(i)(V), by in-
23 serting before the period at the end the fol-
24 lowing: “or under section 1860D–14C”.

1 (e) EFFECTIVE DATE.—The amendments made by
2 this section shall apply with respect to plan year 2024 and
3 subsequent plan years.

4 **SEC. 139202. ALLOWING CERTAIN ENROLLEES OF PRE-**
5 **SCRIPTION DRUG PLANS AND MA-PD PLANS**
6 **UNDER MEDICARE PROGRAM TO SPREAD**
7 **OUT COST-SHARING UNDER CERTAIN CIR-**
8 **CUMSTANCES.**

9 Section 1860D–2(b)(2) of the Social Security Act (42
10 U.S.C. 1395w–102(b)(2)), as amended by section 139201,
11 is further amended—

12 (1) in subparagraph (A), by striking “Subject
13 to subparagraphs (C) and (D)” and inserting “Sub-
14 ject to subparagraphs (C), (D), and (E)”; and

15 (2) by adding at the end the following new sub-
16 paragraph:

17 “(E) ENROLLEE OPTION REGARDING
18 SPREADING COST-SHARING.—The Secretary
19 shall establish by regulation a process under
20 which, with respect to plan year 2024 and sub-
21 sequent plan years, a prescription drug plan or
22 an MA–PD plan shall, in the case of a part D
23 eligible individual enrolled with such plan for
24 such plan year who is not a subsidy eligible in-
25 dividual (as defined in section 1860D–14(a)(3))

1 and with respect to whom the plan projects that
2 the dispensing of the first fill of a covered part
3 D drug to such individual will result in the indi-
4 vidual incurring costs that are equal to or above
5 the annual out-of-pocket threshold specified in
6 paragraph (4)(B) for such plan year, provide
7 such individual with the option to make the co-
8 insurance payment required under subpara-
9 graph (A) (for the portion of such costs that
10 are not above such annual out-of-pocket thresh-
11 old) in the form of periodic installments over
12 the remainder of such plan year.”.

13 **PART 4—REPEAL OF CERTAIN PRESCRIPTION**

14 **DRUG REBATE RULE**

15 **SEC. 139301. PROHIBITING IMPLEMENTATION OF RULE RE-**
16 **LATING TO ELIMINATING THE ANTI-KICK-**
17 **BACK STATUTE SAFE HARBOR PROTECTION**
18 **FOR PRESCRIPTION DRUG REBATES.**

19 Beginning January 1, 2026, the Secretary of Health
20 and Human Services shall not implement, administer, or
21 enforce the provisions of the final rule published by the
22 Office of the Inspector General of the Department of
23 Health and Human Services on November 30, 2020, and
24 titled “Fraud and Abuse; Removal of Safe Harbor Protec-
25 tion for Rebates Involving Prescription Pharmaceuticals

1 and Creation of New Safe Harbor Protection for Certain
2 Point-of-Sale Reductions in Price on Prescription Phar-
3 maceuticals and Certain Pharmacy Benefit Manager Serv-
4 ice Fees” (85 Fed. Reg. 76666).

MINORITY VIEWS

Committee approval of this bill is misguided and misleading. After failing for months to adopt a budget in a timely manner, Democrats moved quickly when it suited their agenda to adopt a fiscal year (FY) 2022 budget resolution solely to trigger the reconciliation process to enact a partisan, reckless tax and spending spree, which currently calls for \$4.3 trillion in new spending, \$2.1 trillion in tax increases, and will increase the federal debt by \$2.4 trillion (including \$200 billion in net interest). Estimated, because at the date of consideration by the Committee on the Budget, only four of the 13 cost estimates were available equating to only one percent of the bill having been scored by the Congressional Budget Office (CBO). Due to the nature of the reconciliation process, the role of the Budget Committee, and Senate procedures, this bill will likely be radically amended, disregarding the numerous hours of work across the 13 House authorizing committees and Members. For example, it has been confirmed that major provisions in this bill, such as granting amnesty to millions of illegal immigrants, violate the Senate's Byrd Rule. Additionally, as many as six of the 13 House authorizing committees have spent more than authorized by their respective reconciliation instructions. In other words, the bill considered by the Budget Committee is disingenuous and clearly an attempt by Congressional Democrats to abuse the process and push through an agenda in a nontransparent way that will ultimately be rewritten by Democrat Leadership **after** the Budget Committee markup in an effort to buy off votes for a bill harmful to the American people.

It is also disconcerting that Democrats decided to use the reconciliation process to push through a massive tax and spending bill before first addressing the current budget crisis facing the nation—the debt limit. The debt limit suspension expired on August 1, 2021 and the U.S. Department of the Treasury projects extraordinary measures will be exhausted by mid-to-late October. Instead of addressing the debt limit to avoid default—an imminent threat—Democrats are focused entirely on enacting a bill, as currently drafted and considered by the Budget Committee, that adds \$4.3 trillion in new spending, \$2.1 trillion in tax increases, and will increase the federal debt by \$2.4 trillion. This is why Committee Republicans offered a motion to postpone the markup by 48 hours—to provide Congressional Democrats additional time to draft the amendment needed to the FY 2022 budget resolution to include reconciliation instructions to address the debt limit. Before the Budget Committee's markup, Ranking Member Smith also sent a letter to Chairman Yarmuth requesting that the Committee use its markup as an opportunity to also amend the FY 2022 budget resolution to address the debt limit through the reconciliation process. This letter and Committee Republicans' motion to postpone were an effort to ensure Democrats have the necessary tools to address the current crisis facing them, given they are the controlling party of government, before enacting trillions of dollars in new spending. Unfortunately, Democrats rejected this motion to postpone.

Democrats are not only failing to utilize the budget process to address the debt limit but are acting quickly to enact the most expensive piece of legislation in American history, in a rash and nontransparent manner. CBO has yet to publish a comprehensive cost estimate of this legislation, leaving the Budget Committee, which serves as the House of Representatives' scorekeeper, unable to determine whether the legislation complies with the FY 2022 budget resolution's reconciliation instructions. In fact, 99 percent of the bill's cost was not scored by CBO at the time of the markup. Moreover, there is bipartisan and bicameral support for Congressional

Democrats to pause consideration of this legislation until a comprehensive analysis is provided on the actual budgetary and economic impacts of this legislation.

The lack of a complete cost estimate has deprived this Committee and Members of Congress a full accounting of this legislation's proposed spending and tax increases. This bill is the most expensive piece of legislation in the history of the United States—its price tag amounts to five times America's annual defense budget, eight times the cost of building the interstate highway system, nearly five times annual Medicare spending to support seniors, 40 times the annual amount invested in veterans' health care, and more than the gross domestic products (GDPs) of Canada and Mexico combined. This bill, combined with annual government funding and the \$1.9 trillion Biden Bailout Bill enacted earlier this year, would increase yearly government spending by more than 73 percent each year for the next 10 years. This bill, if enacted, would bring total new spending approved within the past 18 months to more than the total combined wages of the American people. Upon enactment, Democrats will have added \$13 trillion in new spending since they took control of the U.S. House of Representatives in 2019.

America currently faces an inflation crisis driven by Washington's reckless spending. The prices of goods and services have increased seven percent on an annualized basis since Joe Biden became President, the highest since Carter-era policies. It is a serious disservice to policymakers and the American people to debate legislation without first confirming the impact the bill will have on inflation, a tax on all Americans. This is particularly true given the bill as considered by the Budget Committee calls for an additional \$4.3 trillion in new spending and will increase the federal debt by \$2.4 trillion, which will likely sustain, or even exacerbate, the current inflation crisis. An additional \$2.1 trillion in taxes will also lead to higher prices, as part of these taxes will undoubtedly be passed on to consumers in the prices they pay for goods and services.

Not only is the spending magnitude of this bill unprecedented, but the spending priorities are seriously misguided. A vast majority of the spending in this bill consists of the Democrats' far-left wish list items. These include: \$7.5 billion to create a Civilian Climate Corps to promote the Green New Deal; \$2 billion for job training in "climate change" careers; more than \$150 million on "species protection;" \$4 million for the President to establish an "environmental justice initiative;" \$27.5 billion for a new climate financing "green bank;" \$6.8 billion in housing grants available to felons convicted of domestic violence or hate crimes; more than \$100 billion for amnesty to 10 million illegal immigrants—making them eligible for benefits; and countless tax breaks and handouts to the wealthy, including, but not limited to, \$42.3 billion in tax credits for the wealthy to purchase electric vehicles, \$28,000 in taxpayer-funded paid leave benefits for households making \$500,000 a year, \$1,200 average monthly child care subsidy for a family of four making \$200,000 a year, and \$10,000 more in Obamacare premium tax credits for families making more than \$200,000 per year than for families making \$50,000 per year.

This bill includes historic tax increases on Americans totaling \$2.1 trillion. This is the largest tax increase in American history and would lead to the highest sustained tax burden as a share of the economy. The policies included in this bill break President Biden's promise to not raise taxes on families making less than \$400,000 per year. The nonpartisan Joint Committee on Taxation (JCT) released an analysis confirming that this legislation will in fact increase the tax burden on low- and middle-income Americans. It contains \$1.1 trillion in new taxes on American families

and small businesses, including \$54.3 billion in tax increases on grieving families with an enhanced death tax, a \$78 billion tax hike on America's small businesses by limiting the 20 percent small business deduction, and a \$96.8 billion tax increase on low- and middle-income Americans with 77 percent of the regressive tobacco tax falling on individuals making less than \$100,000 a year.

This bill creates approximately \$1 trillion in new taxes on American job creators to drive jobs overseas, which JCT has confirmed will overwhelmingly hit low- and middle-income Americans with two-thirds of the tax increase falling on them. The combined federal-state tax rate would make the tax burden on America's main street businesses higher than Europe or communist China.

Committee Republicans offered 16 motions to instruct, to stand up for federalism, transparency, communities in need, American taxpayers, the sanctity of life, and working families in general, including:

A motion offered by Representative Smith (MO) to cancel handouts and tax cuts for the wealthy.

A motion offered by Representative Kelly (MS) to protect the agriculture industry from a new methane fee.

A motion offered by Representative McClintock (CA) to stop amnesty for illegal immigrants.

A motion offered by Representative Grothman (WI) to put American students first.

A motion offered by Representative Smucker (PA) to protect America's farmers and small businesses from ruinous tax hikes.

A motion offered by Representative Jacobs (NY) to help tenants stay in their homes while preserving affordable housing.

A motion offered by Representative Burgess (TX) to protect access to life-saving treatments, cures, and medical innovation.

A motion offered by Representative Cline (VA) to uphold President Biden's pledge that no American earning less than \$400,000 will shoulder the burden of the tobacco tax.

A motion offered by Representative Carter (GA) to ensure states' rights in administering their health care programs.

A motion offered by Representative Boebert (CO) to prioritize funding for combatting wildfires and hurricane relief instead of earmarks for Speaker Pelosi and other Democrat pet projects.

A motion offered by Representative Donalds (FL) to stop the weaponization of the Internal Revenue Service (IRS) to target American taxpayers.

A motion offered by Representative Feenstra (IA) to provide CBO time to analyze the remaining 99 percent of the Democrats' proposal that has yet to be scored and ensure Congress and the American people have a clear understanding of the true impact of the legislation.

A motion offered by Representative Good (VA) to prevent taxpayer dollars from being used to fund abortion services.

A motion offered by Representative Hinson (IA) to prevent subsidies for the wealthy to purchase luxury electric vehicles.

A motion offered by Representative Obernolte (CA) to focus Congressional attention on how to reduce spending.

A motion offered by Representative Miller (WV) to prevent tax increases on Americans making less than \$400,000 per year.

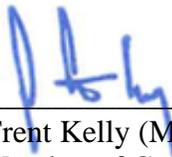
None of these motions were adopted, but several received bipartisan support, including motions that would protect America's farmers and small businesses from ruinous tax hikes, ensure that no American earning less than \$400,000 will shoulder the burden of the tobacco tax, and stop the weaponization of the IRS in targeting American taxpayers. Additionally, there was bipartisan opposition to the bill in the Budget Committee. With a government shutdown approaching in less than a week, now is the time for Congressional Democrats to refocus their priorities and put forth policies and solutions that will help American families and address the many crises this country is facing.



Jason Smith (MO-8), Ranking Member
Member of Congress



Ben Cline (VA-06)
Member of Congress



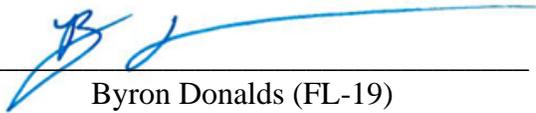
Trent Kelly (MS-01)
Member of Congress



Lauren Boebert (CO-03)
Member of Congress



Tom McClintock (CA-04)
Member of Congress



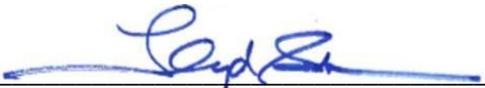
Byron Donalds (FL-19)
Member of Congress



Glenn Grothman (WI-06)
Member of Congress



Randy Feenstra (IA-04)
Member of Congress



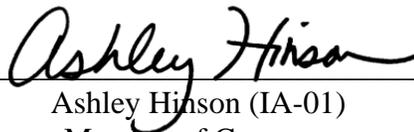
Lloyd Smucker (PA-11)
Member of Congress



Bob Good (VA-05)
Member of Congress



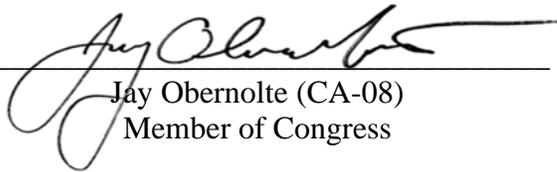
Chris Jacobs (NY-27)
Member of Congress



Ashley Hinson (IA-01)
Member of Congress



Michael C. Burgess, M.D. (TX-26)
Member of Congress



Jay Obernolte (CA-08)
Member of Congress



Earl L. "Buddy" Carter (GA-01)
Member of Congress



Carol Miller (WV-03)
Member of Congress