

1 **TITLE XII—COMMITTEE ON**
2 **FINANCE**
3 **Subtitle A—Universal**
4 **Comprehensive Paid Leave**

5 **SEC. 120001. COMPREHENSIVE PAID LEAVE.**

6 The Social Security Act is amended by adding at the
7 end the following:

8 **“TITLE XXII—COMPREHENSIVE**
9 **PAID LEAVE BENEFITS**

10 **“SEC. 2201. ENTITLEMENT TO COMPREHENSIVE PAID**
11 **LEAVE BENEFITS.**

12 “(a) IN GENERAL.—Every individual who—

13 “(1) has filed an application for a comprehen-
14 sive paid leave benefit in accordance with section
15 2203(a);

16 “(2) has, or anticipates having, at least 4
17 caregiving hours in a week ending at any time dur-
18 ing the period that begins 90 days before the date
19 on which such application is filed or not later than
20 90 days after such date;

21 “(3) has wages or self-employment income at
22 any time during the period—

1 “(A) beginning with the most recent cal-
2 endar quarter that ends at least 4 months prior
3 to the beginning of the individual’s benefit pe-
4 riod specified in subsection (b); and

5 “(B) ending with the month before the
6 month in which such benefit period begins; and

7 “(4) has at least the specified amount of wages
8 and self-employment income during the most recent
9 8-calendar quarter period that ends at least 4
10 months prior to the beginning of the individual’s
11 benefit period specified in subsection (b),

12 shall be entitled to such a benefit for each month during
13 such benefit period, except as otherwise provided in this
14 section. For purposes of paragraph (4), the specified
15 amount for individuals whose benefit period begins in cal-
16 endar year 2024 shall be \$2,000, and the specified amount
17 for individuals whose benefit period begins in any calendar
18 year after 2024 shall equal the specified amount applicable
19 for the calendar year preceding such calendar year, or, if
20 larger, the product of \$2,000 and the quotient obtained
21 by dividing the national average wage index (as defined
22 in section 2209) for the second calendar year preceding
23 such calendar year by the national average wage index (as
24 so defined) for 2022.

25 “(b) BENEFIT PERIOD.—

1 “(3) LIMITATION.—Notwithstanding para-
2 graphs (1) and (2), no benefit period under this title
3 may begin with any month beginning before January
4 2024.

5 “(c) CAREGIVING HOURS.—

6 “(1) CAREGIVING HOUR DEFINED.—For pur-
7 poses of this title, the term ‘caregiving hour’ means
8 a 1-hour period during which the individual is en-
9 gaged in qualified caregiving (determined on the
10 basis of information filed with the Commissioner
11 pursuant to subsection (c) of section 2203).

12 “(2) QUALIFIED CAREGIVING.—

13 “(A) IN GENERAL.—For purposes of this
14 subsection, the term ‘qualified caregiving’
15 means any activity engaged in by an individual
16 in lieu of work (during the hours that constitute
17 the individual’s regular workweek (within the
18 meaning of section 2202(d))), other than for
19 monetary compensation, for a qualifying reason
20 (as defined in section 2209).

21 “(B) NO MONETARY COMPENSATION PER-
22 MITTED.—For purposes of subparagraph (A),
23 an activity shall be considered to be engaged in
24 by an individual for monetary compensation if,

1 for the time during which the individual was so
2 engaged, the individual received—

3 “(i) wages from an employer;

4 “(ii) self-employment income; or

5 “(iii) any form of cash payment made
6 by an employer for purposes of providing
7 the individual with paid vacation, paid sick
8 leave, or any other form of paid time off
9 (but not including any such form of cash
10 payment to the extent that the sum of
11 such cash payment and any comprehensive
12 paid leave benefits under section 2201 does
13 not exceed 100 percent of the individual’s
14 regular rate of pay (as determined under
15 section 7(e) of the Fair Labor Standards
16 Act of 1938)).

17 “(C) TREATMENT OF INDIVIDUALS COV-
18 ERED BY EMPLOYER-SPONSORED COMPREHEN-
19 SIVE PAID LEAVE PROGRAM.—For purposes of
20 subparagraph (A), an activity engaged in by an
21 individual shall not be considered to be engaged
22 in in lieu of work if, for the time during which
23 the individual was so engaged, the individual is
24 taking leave from covered employment under an

1 employer-sponsored program (as defined in sec-
2 tion 2208(g)).

3 “(D) TREATMENT OF INDIVIDUALS COV-
4 ERED BY LEGACY STATE COMPREHENSIVE PAID
5 LEAVE PROGRAM.—For purposes of subpara-
6 graph (A), an activity engaged in by an indi-
7 vidual shall not be considered to be engaged in
8 in lieu of work if, for the time during which the
9 individual was so engaged, the individual is tak-
10 ing leave from covered employment under the
11 law of a legacy State (as defined in section
12 2207(c)). In the case of an individual who is no
13 longer employed, such individual shall be treat-
14 ed, for purposes of the preceding sentence, as
15 taking leave from covered employment under
16 the law of a legacy State (as so defined) with
17 respect to the portion of the time during which
18 the individual was so engaged corresponding to
19 the share of the individual’s regular workweek
20 (within the meaning of 2202(d)) that was in
21 covered employment under the law of a legacy
22 State (as so defined).

23 “(d) DISQUALIFICATION.—An individual who has
24 been found to have used false statements or representation
25 to secure benefits under this section shall be ineligible for

1 benefits under this section for a 5-year period following
2 the date of such finding.

3 **“SEC. 2202. BENEFIT AMOUNT.**

4 “(a) IN GENERAL.—The amount of the benefit to
5 which an individual is entitled under section 2201 for a
6 month shall be an amount equal to the sum of the weekly
7 benefit amounts for each week ending during such month.
8 The weekly benefit amount of an individual for a week
9 shall be equal to the product of the individual’s weekly
10 benefit rate (as determined under subsection (b)) multi-
11 plied by a fraction—

12 “(1) the numerator of which is the number of
13 caregiving hours of the individual credited to such
14 week (as determined in subsection (c)); and

15 “(2) the denominator of which is the number of
16 hours in a regular workweek of the individual (as de-
17 termined in subsection (d)).

18 **“(b) WEEKLY BENEFIT RATE.—**

19 “(1) IN GENERAL.—For purposes of this sec-
20 tion, an individual’s weekly benefit rate shall be an
21 amount equal to the sum of—

22 “(A) 90.138 percent of the individual’s av-
23 erage weekly earnings to the extent that such
24 earnings do not exceed the amount established

1 for purposes of this subparagraph by paragraph
2 (2);

3 “(B) 73.171 percent of the individual’s av-
4 erage weekly earnings to the extent that such
5 earnings exceed the amount established for pur-
6 poses of subparagraph (A) but do not exceed
7 the amount established for purposes of this sub-
8 paragraph by paragraph (2); and

9 “(C) 53.023 percent of the individual’s av-
10 erage weekly earnings to the extent that such
11 earnings exceed the amount established for pur-
12 poses of subparagraph (B) but do not exceed
13 the amount established for purposes of this sub-
14 paragraph by paragraph (2).

15 “(2) AMOUNTS ESTABLISHED.—

16 “(A) INITIAL AMOUNTS.—For individuals
17 whose benefit period under this title begins in
18 calendar year 2024, the amount established for
19 purposes of subparagraphs (A), (B), and (C) of
20 paragraph (1) shall be $\frac{1}{52}$ of \$15,080,
21 \$34,248, and \$62,000, respectively.

22 “(B) WAGE INDEXING.—For individuals
23 whose benefit period under this title begins in
24 any calendar year after 2024, each of the
25 amounts so established shall equal the cor-

1 responding amount established for the calendar
2 year preceding such calendar year, or, if larger,
3 the product of the corresponding amount estab-
4 lished with respect to the calendar year 2024
5 and the quotient obtained by dividing—

6 “(i) the national average wage index
7 (as defined in section 2209) for the second
8 calendar year preceding such calendar
9 year, by

10 “(ii) the national average wage index
11 (as so defined) for calendar year 2022.

12 “(C) ROUNDING.—Each amount estab-
13 lished under subparagraph (B) for any calendar
14 year shall be rounded to the nearest \$1, except
15 that any amount so established which is a mul-
16 tiple of \$0.50 but not of \$1 shall be rounded to
17 the next higher \$1.

18 “(3) AVERAGE WEEKLY EARNINGS.—For pur-
19 poses of this subsection, an individual’s average
20 weekly earnings, as calculated by the Commissioner,
21 shall be equal to the quotient obtained by dividing—

22 “(A) the total of the wages and self-em-
23 ployment income received by the individual dur-
24 ing the 8-calendar quarter period described in
25 section 2201(a)(4); by

1 “(B) 104.

2 “(4) EVIDENCE OF EARNINGS.—For purposes
3 of determining the wages and self-employment in-
4 come of an individual with respect to an application
5 for benefits under section 2201, the Commissioner
6 shall make such determination on the basis of data
7 provided to the Commissioner from the National Di-
8 rectory of New Hires pursuant to section 453(j)(12)
9 and self-employment income information provided to
10 the Commissioner pursuant to section 6103(l)(1) of
11 the Internal Revenue Code of 1986, except that the
12 Commissioner shall also consider any more recent or
13 additional evidence of wages or self-employment in-
14 come the individual chooses to additionally submit.

15 “(c) CREDITING OF CAREGIVING HOURS TO A
16 WEEK.—The number of caregiving hours of an individual
17 credited to a week as determined under this subsection
18 shall equal the number of caregiving hours of the indi-
19 vidual occurring during such week, except that—

20 “(1) such number may not exceed the number
21 of hours in a regular workweek of the individual (as
22 determined in subsection (d));

23 “(2) no caregiving hours may be credited to a
24 week in which fewer than 4 caregiving hours of the
25 individual occur;

1 “(3) no caregiving hours of the individual may
2 be credited to the individual’s waiting period, con-
3 sisting of the first week during an individual’s ben-
4 efit period in which at least 4 caregiving hours occur
5 (regardless of whether the individual received any
6 form of cash payment for the purpose of providing
7 the individual with paid vacation, paid sick leave, or
8 any other form of paid time off from the individual’s
9 employer during such week in accordance with sec-
10 tion 2201(c)(2)(B)(iii)); and

11 “(4) the total number of caregiving hours cred-
12 ited to weeks during the individual’s benefit period
13 may not exceed the product of 4 multiplied by the
14 number of hours in a regular workweek of the indi-
15 vidual (as so determined).

16 “(d) NUMBER OF HOURS IN A REGULAR WORK-
17 WEEK.—For purposes of this section, the number of hours
18 in a regular workweek of an individual shall be the number
19 of hours that the individual regularly works in a week for
20 all employers or as a self-employed individual (or regularly
21 worked in the case of an individual who is no longer work-
22 ing or whose total weekly hours of work have been re-
23 duced) during the month before the individual’s benefit
24 period begins (or prior to such month, if applicable in the

1 case of an individual who is no longer working or whose
2 total weekly hours of work have been reduced).

3 “(e) SUBMISSION OF REQUIRED INFORMATION.—

4 Any person may submit applicable paid leave information
5 with respect to an individual, including, as applicable, the
6 individual’s representative, the individual’s employer, or
7 any relevant authority identified under section 2203(b)(2).
8 For purposes of this subsection, the term ‘applicable paid
9 leave information’ means, with respect to an individual,
10 any information submitted to the Commissioner with re-
11 spect to the comprehensive paid leave benefits of the indi-
12 vidual, including any initial application, periodic benefit
13 claim report, appeal, and any other information submitted
14 in support of such application, report, or appeal.

15 **“SEC. 2203. BENEFIT DETERMINATION AND PAYMENT.**

16 “(a) IN GENERAL.—An individual seeking benefits
17 under section 2201 shall file an application with the Com-
18 missioner containing at least the information described in
19 subsection (b). Any information contained in an applica-
20 tion for benefits under section 2201, or in a periodic ben-
21 efit claim report filed with respect to such benefits, shall
22 be presumed to be true and accurate, unless the Commis-
23 sioner demonstrates by a preponderance of the evidence
24 that information contained in the application or periodic
25 benefit claim report is false, except that the Commissioner

1 shall mandate procedures to validate the identity of such
2 individual.

3 “(b) REQUIRED CONTENTS OF INITIAL APPLICA-
4 TION.—An application for a comprehensive paid leave ben-
5 efit filed by an individual shall include—

6 “(1) an attestation that the individual has, or
7 anticipates having, at least 4 caregiving hours in a
8 week ending at any time during the period that be-
9 gins 90 days before the date on which such applica-
10 tion is filed or not later than 90 days after such
11 date;

12 “(2) at the option of the Commissioner, a cer-
13 tification, issued by a relevant authority identified
14 under regulations issued by the Commissioner, that
15 contains such information as the Commissioner shall
16 specify in regulations as necessary to affirm the cir-
17 cumstances giving rise to the need for such
18 caregiving hours, which shall be no more than is re-
19 quired for reasonable documentation (as defined in
20 section 2209);

21 “(3) an attestation from the individual that no-
22 tice of the individual’s need to be absent from work
23 during such caregiving hours has been provided, not
24 later than 7 days after such need arises, to the indi-
25 vidual’s employer (except in cases of hardship or

1 other extenuating circumstances or if the individual
2 does not have (or no longer has) an employer);

3 “(4) pay stubs or such other evidence as the in-
4 dividual may provide demonstrating the individual’s
5 wages or self-employment income during the period
6 described in section 2201(a)(3), except that the
7 Commissioner may waive this requirement in any
8 case in which such evidence is otherwise available to
9 the Commissioner; and

10 “(5) an attestation from the individual stating
11 the number of hours in a regular workweek of the
12 individual (within the meaning of section 2202(d)).

13 In the case of an individual who applies for a comprehen-
14 sive paid leave benefit in the anticipation of caregiving
15 hours occurring after the date of application, the certifi-
16 cation described in paragraph (2), the attestations de-
17 scribed in paragraphs (3) and (5), and the evidence de-
18 scribed in paragraph (4) may be provided after the 1st
19 week in which at least 4 such caregiving hours occur.

20 “(c) PERIODIC BENEFIT CLAIM REPORT.—

21 “(1) IN GENERAL.—Except as provided in para-
22 graph (2), not later than 60 days (or such longer pe-
23 riod as may be provided in any case in which the
24 Commissioner determines that good cause exists for
25 an extension) after the end of each month during

1 the benefit period of an individual entitled to bene-
2 fits under section 2201, the individual shall file a
3 periodic benefit claim report with the Commissioner.
4 Such periodic benefit claim report shall specify the
5 caregiving hours of the individual that occurred dur-
6 ing each week that ended in such month. No peri-
7 odic benefit claim report shall be required with re-
8 spect to any week in which fewer than 4 caregiving
9 hours occurred.

10 “(2) RETROACTIVE APPLICATIONS.—In the case
11 of an application filed by an individual for a com-
12 prehensive paid leave benefit with a benefit period
13 that begins, in accordance with section 2201(b)(2),
14 with a month that ends before the date on which
15 such application is filed, the individual may include
16 with such application the information described in
17 the second sentence of paragraph (1) with respect to
18 each week in the benefit period that ends before
19 such date.

20 “(d) DETERMINATIONS.—

21 “(1) INITIAL APPLICATION.—The Commissioner
22 shall determine, with respect to an individual apply-
23 ing for benefits under section 2201, the initial enti-
24 tlement and the benefit period in accordance with
25 such section, and the weekly benefit rate, average

1 weekly earnings, and the number of hours in a reg-
2 ular workweek in accordance with section 2202.

3 “(2) MONTHLY BENEFIT DETERMINATIONS.—

4 On the basis of the information filed with the Com-
5 missioner pursuant to subsection (c), the Commis-
6 sioner shall determine, with respect to an individual
7 for each week ending in a month, the number of
8 caregiving hours to be credited to such week in ac-
9 cordance with section 2202(c).

10 “(3) CHANGING CIRCUMSTANCES.—If more

11 than one type of circumstance gives rise to the need
12 for caregiving hours during the individual’s benefit
13 period, such caregiving hours shall be credited to
14 weeks within the benefit period in accordance with
15 section 2202(c) regardless of circumstance.

16 “(e) CERTIFICATION OF PAYMENT.—Not later than

17 15 days after the making of a determination under sub-
18 section (d)(2) with respect to the number of caregiving
19 hours of an individual to be credited to weeks ending in
20 a month, the Commissioner shall certify payment of the
21 comprehensive paid leave benefit for such month to be
22 made to such individual, and the Secretary of the Treas-
23 ury shall make such payment in accordance with the cer-
24 tification of the Commissioner of Social Security.

1 “(f) REGULATIONS AND PROCEDURES.—The Com-
2 missioner shall have full power and authority to make
3 rules and regulation, including interim final regulations,
4 and to establish procedures, not inconsistent with this
5 title, which are necessary and appropriate to carry out this
6 title.

7 **“SEC. 2204. APPEALS.**

8 “(a) IN GENERAL.—An individual shall have the
9 right—

10 “(1) to appeal to the Commissioner any deter-
11 mination made with respect to—

12 “(A) comprehensive paid leave benefits
13 under section 2201; and

14 “(B) comprehensive paid leave benefits
15 under an employer-sponsored program de-
16 scribed in section 2208 whose appeal to the em-
17 ployer (or administering entity) pursuant to
18 subsection (b)(1)(B)(iii)(I) of such section re-
19 sults in a determination unfavorable to the indi-
20 vidual; and

21 “(2) to have the appeal heard in a timely man-
22 ner by a decisionmaker who was not the initial deci-
23 sionmaker and who reviews any additional evidence
24 submitted.

1 “(b) TREATMENT OF DETERMINATIONS ON AP-
2 PEAL.—Any determination by the Commissioner on an ap-
3 peal under this section shall be a final determination.

4 **“SEC. 2205. ACCURATE PAYMENT.**

5 “(a) UNDERPAYMENTS AND OVERPAYMENTS.—

6 “(1) IN GENERAL.—Whenever the Commis-
7 sioner determines that more or less than the correct
8 amount of payment has been made to any individual
9 under this title, the Commissioner shall promptly no-
10 tify the individual of such determination and inform
11 the individual of the right to appeal such determina-
12 tion in accordance with the provisions of section
13 2204. Proper adjustment or recovery shall be made
14 as follows:

15 “(A) UNDERPAYMENTS.—With respect to
16 payment to an individual of less than the cor-
17 rect amount, the Commissioner shall promptly
18 pay the balance of the amount due to such un-
19 derpaid individual.

20 “(B) OVERPAYMENTS.—

21 “(i) IN GENERAL.—With respect to
22 payment to an individual of more than the
23 correct amount, the Commissioner shall de-
24 crease any payment for a month under sec-
25 tion 2201 to which such overpaid indi-

1 dollar amount as determined under
2 subclause (II).

3 “(II) APPLICABLE DOLLAR
4 AMOUNT.—For purposes of subclause
5 (I), the applicable dollar amount is—

6 “(aa) with respect to a
7 weekly benefit amount deter-
8 mined for a week ending in a
9 month in calendar year 2024,
10 \$315; and

11 “(bb) with respect to a
12 weekly benefit amount deter-
13 mined for a week ending in a
14 month in any calendar year after
15 2024, the corresponding amount
16 established with respect to a
17 weekly benefit amount deter-
18 mined for a week ending in a
19 month in the calendar year pre-
20 ceeding such calendar year or, if
21 larger, the product of the cor-
22 responding amount specified in
23 item (aa) with respect to a week-
24 ly benefit amount determined for
25 a week ending in a month in cal-

1 endar year 2024 multiplied by
2 the quotient obtained by divid-
3 ing—

4 “(AA) the national av-
5 erage wage index (as defined
6 in section 2209) for the sec-
7 ond calendar year preceding
8 such calendar year, by

9 “(BB) the national av-
10 erage wage index (as so de-
11 fined) for 2022.

12 “(2) WAIVER OF CERTAIN OVERPAYMENTS.—In
13 any case in which more than the correct amount of
14 payment for comprehensive paid leave benefits under
15 section 2201 has been made, there shall be no ad-
16 justment of payments to, or recovery from, any indi-
17 vidual who was without fault in connection with the
18 overpayment if such adjustment or recovery would
19 defeat the purpose of this title or would impede effi-
20 cient or effective administration of this title, or if
21 such individual relied on the receipt or expected pay-
22 ment of comprehensive paid leave benefits under sec-
23 tion 2201 to make a financial decision. In consid-
24 ering whether an individual is without fault, the
25 Commissioner shall take into account the individ-

1 ual’s age and any physical impairment or mental im-
2 pairment (including intellectual disability), limited
3 English proficiency, low levels of literacy skills, edu-
4 cational limitations, and any other circumstances
5 that may render the individual not at fault.

6 “(b) CIVIL MONETARY PENALTY.—

7 “(1) IN GENERAL.—Any individual or entity
8 who knowingly makes a false statement, misrepre-
9 sents a fact, or omits material information in con-
10 nection with an application for benefits under sec-
11 tion 2201 or a periodic benefit claim report under
12 section 2203 shall be subject to a civil monetary
13 penalty of not more than the amount determined
14 under paragraph (2) for a calendar year for each
15 such statement, misrepresentation, or omission.

16 “(2) AMOUNT DETERMINED.—The amount de-
17 termined under this paragraph for a calendar year
18 shall be the amount that would be in effect for such
19 calendar year if such penalty—

20 “(A) had been first established in the
21 amount of \$5,000 in calendar year 1994; and

22 “(B) had been initially adjusted for infla-
23 tion in calendar year 2016.

24 “(c) EXCLUSION FROM PARTICIPATION.—

1 “(1) IN GENERAL.—No individual or entity
2 who—

3 “(A) knowingly and willfully makes or
4 causes to be made any false statement or rep-
5 resentation of a material fact in any application
6 for any benefit under this title,

7 “(B) at any time knowingly and willfully
8 makes or causes to be made any false statement
9 or representation of a material fact for use in
10 determining rights to any such benefit,

11 “(C) having knowledge of the occurrence of
12 any event affecting (i) his initial or continued
13 right to any such benefit, or (ii) the initial or
14 continued right to any such benefit of any other
15 individual in whose behalf he has applied for or
16 is receiving such benefit, conceals or fails to dis-
17 close such event with an intent fraudulently to
18 secure such benefit either in a greater amount
19 or quantity than is due or when no such benefit
20 is authorized,

21 “(D) having made application to receive
22 any such benefit for the use and benefit of an-
23 other and having received it, knowingly and
24 willfully converts such benefit or any part there-

1 of to a use other than for the use and benefit
2 of such other person, or

3 “(E) conspires to take any action described
4 in any of subparagraphs (A) through (C),
5 may represent, or submit evidence on behalf of, an
6 individual applying for, or receiving, benefits under
7 this title.

8 “(2) EFFECTIVE DATE.—An exclusion under
9 this paragraph shall be effective with respect to serv-
10 ices furnished to any individual on or after the effec-
11 tive date of the exclusion. Nothing in this paragraph
12 may be construed to preclude consideration of any
13 medical evidence derived from services provided by a
14 health care provider before the effective date of the
15 exclusion of the health care provider under this sub-
16 section.

17 “(d) REDETERMINATION OF ENTITLEMENT.—

18 “(1) IN GENERAL.—

19 “(A) TERMINATION OR REVERSAL OF BEN-
20 EFITS.—The Commissioner shall immediately
21 redetermine the entitlement of an individual to
22 comprehensive paid leave benefits under section
23 2201 if there is reason to believe that fraud or
24 similar fault was involved in the application of
25 the individual for such benefits.

1 “(B) DISREGARD OF CERTAIN EVI-
2 DENCE.—When redetermining the entitlement,
3 or making an initial determination of entitle-
4 ment, of an individual under this title, the Com-
5 missioner shall disregard any evidence if there
6 is reason to believe that fraud or similar fault
7 was involved in the providing of such evidence.

8 “(2) SIMILAR FAULT DESCRIBED.—For pur-
9 poses of paragraph (1), similar fault is involved with
10 respect to a determination if—

11 “(A) an incorrect or incomplete statement
12 that is material to the determination is know-
13 ingly made; or

14 “(B) information that is material to the
15 determination is knowingly concealed.

16 “(3) TERMINATION OF BENEFITS.—If, after re-
17 determining pursuant to this subsection the entitle-
18 ment of an individual to comprehensive paid leave
19 benefits, the Commissioner determines that there is
20 insufficient evidence to support such entitlement, the
21 Commissioner may terminate such entitlement and
22 may treat benefits paid on the basis of such insuffi-
23 cient evidence as overpayments.

1 **“SEC. 2206. FUNDING FOR BENEFIT PAYMENTS, GRANTS,**
2 **AND PROGRAM ADMINISTRATION.**

3 “(a) FUNDING FOR BENEFIT PAYMENTS AND
4 GRANTS.—In addition to amounts otherwise available,
5 there are appropriated, out of any funds in the Treasury
6 not otherwise appropriated, such sums as may be nec-
7 essary to pay benefits under section 2201 and for grants
8 under sections 2207 and 2208.

9 “(b) FUNDING FOR PROGRAM ADMINISTRATION.—

10 “(1) IN GENERAL.—In addition to amounts
11 otherwise available, there is appropriated, out of any
12 funds in the Treasury not otherwise appropriated,
13 \$1,500,000,000 for fiscal year 2022 and
14 \$1,590,700,000 for each subsequent fiscal year (sub-
15 ject to paragraph (2)) for timely and accurate ad-
16 ministration of all sections of this title, including
17 costs related to necessary customer service, staffing,
18 technology, training, data sharing, identity valida-
19 tion, technical assistance to legacy States under sec-
20 tion 2207 and employers or employer-designated
21 third party administrators under section 2208, pub-
22 lic education and outreach to potential beneficiaries,
23 and research for the purpose of ensuring full and eq-
24 uitable access to the programs under this title.

25 “(2) INDEXING TO WAGE GROWTH.—For each
26 fiscal year after 2024, there shall be substituted for

1 the dollar amount specified in paragraph (1) for
2 such fiscal year an amount equal to the larger of the
3 dollar amount in effect under this subsection for the
4 fiscal year preceding such fiscal year or the product
5 of \$1,590,700,000 multiplied by the ratio of—

6 “(A) the national average wage index (as
7 defined in section 2209) for the most recent
8 calendar year that ends before the beginning of
9 such preceding fiscal year, to

10 “(B) the national average wage index (as
11 so defined) for 2021.

12 “(3) NO USE OF TITLE II FUNDS.—No funds
13 made available for the administration of title II may
14 be used to carry out the paid leave program estab-
15 lished under this title.

16 “(c) AVAILABILITY OF EMERGENCY FUNDING.—In
17 addition to amounts otherwise available, there is appro-
18 priated for fiscal year 2022, out of any funds in the Treas-
19 ury not otherwise appropriated, \$500,000,000, to remain
20 available until expended, for administrative expenses de-
21 scribed in subsection (b)(1) during fiscal year 2024 or any
22 subsequent fiscal year, except that such amount shall not
23 be available in any fiscal year unless the Commissioner
24 determines that the number of applications filed during
25 such fiscal year for comprehensive paid leave benefits

1 under section 2201(a) will exceed the number that were
2 anticipated to be filed during such fiscal year (as deter-
3 mined by the Commissioner) by 20 percent or more.

4 **“SEC. 2207. FUNDING FOR STATE ADMINISTRATION OPTION**
5 **FOR LEGACY STATES.**

6 “(a) IN GENERAL.—In each calendar year beginning
7 with calendar year 2025, the Commissioner shall make a
8 grant to each State that, for the calendar year preceding
9 such calendar year, was a legacy State and that met the
10 data sharing requirements of subsection (e), in an amount
11 equal to the lesser of—

12 “(1) an amount, as estimated by the Commis-
13 sioner, equal to the total amount of comprehensive
14 paid leave benefits that would have been paid under
15 section 2201 (including the costs to the Commis-
16 sioner to administer such benefits, not to exceed (for
17 purposes of estimating such total amount under this
18 paragraph) 7 percent of the total amount of such
19 benefits paid) to individuals who received paid family
20 and medical leave benefits under a State law de-
21 scribed in paragraph (1) or (3) of subsection (b)
22 during the calendar year preceding such calendar
23 year if the State had not been a legacy State for
24 such preceding calendar year; or

1 “(2) an amount equal to the total cost of paid
2 family and medical leave benefits under a State law
3 described in paragraph (1) or (3) of subsection (b)
4 for the calendar year preceding such calendar year,
5 including—

6 “(A) any paid family and medical leave
7 benefits provided by an employer (whether di-
8 rectly, under a contract with an insurer, or pro-
9 vided through a multiemployer plan) as de-
10 scribed in subsection (d); and

11 “(B) the full cost to the State of admin-
12 istering such law (except that such cost may
13 not exceed 7 percent of the total amount of
14 paid family and medical leave benefits paid
15 under such State law).

16 In any case in which, during any calendar year, the Com-
17 missioner has reason to believe that a State will be a leg-
18 acy State and meet the data sharing requirements of sub-
19 section (e) for such calendar year, the Commissioner may
20 make estimated payments during such calendar year of
21 the grant which would be paid to such State in the suc-
22 ceeding calendar year, to be adjusted as appropriate in
23 the succeeding calendar year.

1 “(b) LEGACY STATE.—For purposes of this section,
2 the term ‘legacy State’ for a calendar year means a State
3 with respect to which the Commissioner determines that—

4 “(1) the State has enacted, not later than the
5 date of enactment of this title, a State law that pro-
6 vides paid family and medical leave benefits;

7 “(2) for any calendar year that begins before
8 the date that is 3 years after the date of enactment
9 of this title, the State certifies to the Commissioner
10 that the State intends to remain a legacy State and
11 meet the data sharing requirements of subsection (e)
12 at least through the first calendar year that begins
13 on or after such date; and

14 “(3) for any calendar year that begins on or
15 after such date, a State law of the State provides for
16 a State program to remain in effect throughout such
17 calendar year that provides comprehensive paid fam-
18 ily and medical leave benefits (which may be paid di-
19 rectly by the State or, if permitted under such State
20 law, by an employer pursuant to such State law)—

21 “(A) for at least 4 full workweeks of leave
22 during each 12-month period to at least all of
23 those individuals in the State who would be eli-
24 gible for comprehensive paid leave benefits
25 under section 2201 (without regard to section

1 2201(c)(2)(D)), except that the State shall pro-
2 vide such benefits for leave from employment by
3 the State or any political subdivision thereof;

4 “(B) at a wage replacement rate that is at
5 least equivalent to the wage replacement rate
6 under the comprehensive paid leave benefit pro-
7 gram under section 2201 (without regard to
8 section 2201(e)(2)(D)).

9 “(c) COVERED EMPLOYMENT UNDER THE LAW OF
10 A LEGACY STATE.—For purposes of this title, the term
11 ‘covered employment under the law of a legacy State’
12 means employment (or self-employment) with respect to
13 which an individual would be eligible to receive paid family
14 and medical benefits under the State law of a State, as
15 described in paragraph (1) or (3) of subsection (b), during
16 any period during which such State is a legacy State.

17 “(d) EMPLOYER-PROVIDED BENEFITS IN A LEGACY
18 STATE.—

19 “(1) TREATMENT FOR PURPOSES OF THIS
20 TITLE.—Notwithstanding any provision of section
21 2208, in the case of a State that permits paid family
22 and medical leave benefits to be provided by an em-
23 ployer (whether directly, under a contract with an
24 insurer, or provided through a multiemployer plan)

1 pursuant to a State law described in paragraph (1)
2 or (3) of subsection (b)—

3 “(A) such benefits shall be considered, for
4 all purposes under this title, paid family and
5 medical leave benefits under the law of a legacy
6 State; and

7 “(B) leave for which such benefits are paid
8 shall be considered, for all such purposes, leave
9 from covered employment under the law of a
10 legacy State.

11 “(2) DISTRIBUTION OF GRANT FUNDS.—In any
12 case in which paid family and medical leave benefits
13 are provided by one or more employers (whether di-
14 rectly, under a contract with an insurer, or provided
15 through a multiemployer plan) in a legacy State pur-
16 suant to a State law described in paragraph (1) or
17 (3) of subsection (b), the State, upon the receipt of
18 any grant amount under subsection (a), may dis-
19 tribute an appropriate share of such grant to each
20 such employer.

21 “(e) DATA SHARING.—As a condition of receiving a
22 grant under subsection (a) in a calendar year, a State
23 shall enter into an agreement with the Commissioner
24 under which the State shall provide the Commissioner—

1 “(1) with information, to be provided periodi-
2 cally as determined by the Commissioner, concerning
3 individuals who received a paid leave benefit under
4 a State law described in paragraph (1) or (3) of sub-
5 section (b), including each individual’s name, infor-
6 mation to establish the individual’s identity, dates
7 for which such paid leave benefits were paid, the
8 amount of such paid leave benefit, and, to the extent
9 available, such other information concerning such in-
10 dividuals as necessary for the purpose of carrying
11 out this section and section 2201(c)(2)(D);

12 “(2) not later than July 1 of such calendar
13 year, the amount described in subsection (a)(2) for
14 the calendar year preceding such calendar year; and

15 “(3) such other information as needed to deter-
16 mine compliance with grant requirements.

17 “(f) GREATER BENEFITS PERMITTED.—Nothing in
18 this section shall be construed to prohibit a legacy State
19 or an employer providing benefits pursuant to a legacy
20 State law from providing paid family and medical leave
21 benefits that exceed the requirements described in this sec-
22 tion.

1 **“SEC. 2208. REIMBURSEMENT OPTION FOR EMPLOYER-**
2 **SPONSORED COMPREHENSIVE PAID LEAVE**
3 **BENEFITS.**

4 “(a) IN GENERAL.—For each calendar year begin-
5 ning with calendar year 2024, the Commissioner shall
6 make a grant to each employer that is an eligible employer
7 for such calendar year in an amount equal to—

8 “(1) in the case of an eligible employer spon-
9 soring a comprehensive paid leave benefit program
10 with respect to which benefits are awarded and paid
11 under a contract with an insurer (or through a mul-
12 tiemployer plan), an amount (not to exceed the em-
13 ployer’s expenditures for such program) equal to the
14 lesser of—

15 “(A) 90 percent of the product of—

16 “(i) the projected national average
17 cost per individual of providing comprehen-
18 sive paid leave benefits under section 2201
19 as determined by the Commissioner for
20 such calendar year under subsection (c)(3)
21 (or, in the case of a calendar year during
22 which the eligible employer sponsored such
23 comprehensive paid leave benefit program
24 for only a fraction of the year, an equal
25 fraction of such projected national average
26 cost); multiplied by

1 “(ii) the number of eligible employees
2 (within the meaning of subsection
3 (b)(1)(A) and pro-rated for part-time eligi-
4 ble employees) whose employment is cov-
5 ered employment under the employer-spon-
6 sored program (as defined in subsection
7 (g)) for such calendar year (or, in the case
8 of a calendar year during which the eligible
9 employer sponsored such comprehensive
10 paid leave benefit program for only a frac-
11 tion of the year, for such fraction of the
12 year); and

13 “(B) 90 percent of the total premiums
14 paid to the insurer (or contributions paid to the
15 multiemployer plan) by the eligible employer
16 under such contract (or such plan) for such cal-
17 endar year (or such fraction thereof) for the
18 coverage under such contract (or such plan) of
19 eligible employees of the employer; and

20 “(2) in the case of an eligible employer spon-
21 soring a self-insured comprehensive paid leave ben-
22 efit program with respect to which benefits are
23 awarded and paid directly by the employer (or by a
24 third party administrator on behalf of the employer),
25 an amount equal to 90 percent of—

1 “(A) the amount of benefits paid under the
2 program for such calendar year to eligible em-
3 ployees of the employer for up to 4 weeks of
4 leave per eligible employee; or

5 “(B) if lesser, the product of the national
6 average weekly benefit amount paid under sec-
7 tion 2202(a) during such calendar year multi-
8 plied by the number of weeks of leave (up to 4
9 per eligible employee) paid by the employer for
10 all eligible employees under the program for the
11 calendar year.

12 “(b) ELIGIBILITY.—

13 “(1) IN GENERAL.—For purposes of subsection
14 (a), an eligible employer for a calendar year is an
15 employer (other than the Federal Government or the
16 government of any State (or political subdivision
17 thereof) that is a legacy State for such calendar year
18 under section 2207) that satisfies all of the following
19 requirements:

20 “(A) NON-LEGACY STATE EMPLOYEES.—

21 The employer has one or more employees dur-
22 ing such calendar year whose employment with
23 such employer is not covered employment under
24 the law of a legacy State (as defined in section

1 2207(c)) (in this section referred to as ‘eligible
2 employees’).

3 “(B) GRANT CONDITIONS.—As a condition
4 of the grant, the employer agrees—

5 “(i) that, on return from leave under
6 the program described in subparagraph
7 (C)(ii), the eligible employee taking such
8 leave will—

9 “(I) be restored by the employer
10 to the position of employment held by
11 the eligible employee when the leave
12 commenced; or

13 “(II) be restored to an equivalent
14 position with equivalent employment
15 benefits, pay, and other terms and
16 conditions of employment;

17 “(ii) to maintain coverage for the eli-
18 gible employee under any ‘group health
19 plan’ (as defined in section 2209) for the
20 duration of such leave at the level and
21 under the conditions coverage would have
22 been provided if the eligible employee had
23 continued in employment continuously for
24 the duration of such leave;

1 “(iii) in any case in which an eligible
2 employee receives an adverse determination
3 from the employer (or administering enti-
4 ty) with respect to comprehensive paid
5 leave benefits under the program described
6 in subparagraph (C)(ii)—

7 “(I) to provide opportunity for
8 the eligible employee to appeal such
9 adverse determination to the employer
10 (or administering entity); and

11 “(II) in any case in which the eli-
12 gible employee elects to appeal the re-
13 sults of such initial appeal to the
14 Commissioner pursuant to section
15 2204(a)(1)(B) and the final decision
16 of the Commissioner is in the eligible
17 employee’s favor, to provide for the
18 payment of such comprehensive paid
19 leave benefits in addition to the costs
20 to the Commissioner of such sec-
21 ondary appeal;

22 “(iv) to provide annual notice to all el-
23 igible employees stating that their employ-
24 ment is covered employment under an em-
25 ployer-sponsored program (as defined in

1 subsection (g)) and informing them of the
2 right to appeal any adverse determination
3 with respect to comprehensive paid leave
4 benefits under the program described in
5 subparagraph (C)(ii); and

6 “(v) not to impose any fee on any eli-
7 gible employee related to ensuring cov-
8 erage, or to the receipt of comprehensive
9 paid leave benefits, under the program de-
10 scribed in subparagraph (C)(ii).

11 “(C) APPLICATION; SUBMISSION OF RE-
12 QUIRED INFORMATION.—Not later than the cer-
13 tification deadline specified in paragraph (2)(A)
14 for such calendar year, the employer—

15 “(i) notifies the Commissioner that
16 the employer intends to seek a grant under
17 this section for such calendar year;

18 “(ii) certifies to the Commissioner
19 that the employer will have in effect during
20 such calendar year a comprehensive paid
21 leave benefit program that meets the re-
22 quirements of subsection (c) and, not later
23 than the submission deadline specified in
24 paragraph (2)(B) for such calendar year,
25 provides all documentation relating to such

1 program as the Commissioner may request;

2 and

3 “(iii) pays an application fee to the
4 Commissioner in accordance with this sub-
5 paragraph, such amounts to remain avail-
6 able to the Commissioner without further
7 appropriation, in addition to amounts oth-
8 erwise available, to administer this section
9 and appeals described in section
10 2204(a)(1)(B).

11 In the case of an initial application, the applica-
12 tion fee under this subparagraph shall be \$500
13 for an employer with 50 or fewer employees,
14 \$1,000 for an employer with more than 50 but
15 fewer than 500 employees, and \$2,000 for an
16 employer with 500 or more employees. In the
17 case of a renewed application, the application
18 fee under this subparagraph shall be \$200.

19 “(D) APPROVAL BY THE COMMISSIONER.—
20 The comprehensive paid leave benefit program
21 referred to in subparagraph (C)(ii) is subse-
22 quently approved by the Commissioner as meet-
23 ing all applicable requirements.

1 “(E) INFORMATION SUBMISSION REQUIRE-
2 MENT.—At the time of application for such
3 grant for each calendar year, the employer—

4 “(i) submits to the Commissioner—
5 “(I) an attestation that the com-
6 prehensive paid leave benefit program
7 referred to in subparagraph (C)(ii)
8 will remain in effect during the whole
9 of such calendar year (or, in the case
10 of a program not in effect at the be-
11 ginning of such calendar year, an at-
12 testation that such program will re-
13 main in effect until the end of such
14 calendar year); and

15 “(II) with respect to each eligible
16 employee of the employer whose em-
17 ployment is covered employment
18 under the employer-sponsored pro-
19 gram (as defined in subsection (g))
20 for such calendar year, the eligible
21 employee’s name, information to es-
22 tablish the eligible employee’s identity,
23 and in the case of a part-time eligible
24 employee (for purposes of determining
25 the number of eligible employees (pro-

1 rated for part-time eligible employees)
2 covered under the program for such
3 calendar year under subsection
4 (a)(1)(B)), the number of hours the
5 eligible employee regularly works in a
6 week; and

7 “(ii) agrees to submit information to
8 the Commissioner as described in sub-
9 section (e).

10 “(F) MAINTENANCE OF RECORDS.—The
11 employer agrees to retain all records relating to
12 the employer’s comprehensive paid leave benefit
13 program for not less than 3 years.

14 “(G) ADDITIONAL GRANT REQUIRE-
15 MENTS.—As a condition of the grant, the em-
16 ployer (or administering entity) does not—

17 “(i) interfere with, restrain, or deny
18 the exercise of, or the attempt to exercise,
19 any right provided under the program de-
20 scribed in subparagraph (C)(ii); or

21 “(ii) discharge, or in any other man-
22 ner discriminate against, any eligible em-
23 ployee for opposing any practice prohibited
24 by such program.

1 “(H) ADDITIONAL ELIGIBILITY REQUIRE-
2 MENTS FOR SELF-INSURED EMPLOYERS.—In
3 the case of a comprehensive paid leave benefit
4 program of an employer with respect to which
5 benefits are awarded and paid directly by the
6 employer (or by a third party administrator on
7 behalf of the employer)—

8 “(i) such employer employs at least
9 50 eligible employees; and

10 “(ii) such benefits are guaranteed by
11 a surety bond held by the employer.

12 “(2) TIMING OF APPLICATION.—

13 “(A) CERTIFICATION.—The certification
14 deadline specified in this subparagraph for a
15 calendar year is the date that is 90 days before
16 the beginning of the calendar year, or, if later,
17 the date that is 90 days before a plan described
18 in paragraph (1)(C)(ii) first goes into effect.

19 “(B) SUBMISSION OF DOCUMENTATION.—
20 The submission deadline specified in this sub-
21 paragraph for a calendar year is the date that
22 is 45 days before the beginning of the calendar
23 year, or, if later, the date that is 45 days before
24 a plan described in paragraph (1)(C)(ii) first
25 goes into effect.

1 “(c) EMPLOYER PROGRAM REQUIREMENTS.—

2 “(1) IN GENERAL.—A comprehensive paid leave
3 benefit program shall not be considered to meet the
4 requirements of this subsection unless such program
5 consists of a written employer policy in accordance
6 with paragraph (2) that provides for the payment,
7 through one or more employee benefit plans, of fam-
8 ily and medical leave benefits (in addition to any
9 paid vacation, paid sick leave, or paid consolidated
10 leave otherwise provided), which may be guaranteed
11 through an insurer or provided through a multiem-
12 ployer plan and which may be administered by an
13 insurer, multiemployer plan, or by another third-
14 party entity, that includes each element described in
15 subparagraphs (A) through (H) of paragraph (2),
16 and under which the employer provides for each of
17 the following:

18 “(A) Each of the additional grant condi-
19 tions described in subsection (b)(1)(B).

20 “(B) Each of the requirements described
21 in subsection (b)(1)(G).

22 “(C) Submission of information to the
23 Commissioner as described in subsection (e).

24 “(2) COMPREHENSIVE PAID LEAVE PLAN RE-
25 QUIREMENTS FOR GRANTEES.—As a condition of a

1 grant under this section, the written employer policy
2 referred to in paragraph (1) shall provide com-
3 prehensive paid leave benefits—

4 “(A) to all eligible employees of the em-
5 ployer, regardless of length of service, job type,
6 membership in a labor organization, seniority
7 status, or any other employee classification;

8 “(B) at a wage replacement rate that is at
9 least as great as the wage replacement rate that
10 an eligible employee would receive under the
11 comprehensive paid leave benefit program under
12 section 2201 (without regard to section
13 2201(c)(2)(C));

14 “(C) for a total number of weeks of paid
15 leave that is at least as great as the total num-
16 ber of weeks of paid leave that an eligible em-
17 ployee would receive under such program (with-
18 out regard to such section);

19 “(D) for all qualifying reasons (as de-
20 scribed in subparagraphs (A), (B), and (C) of
21 section 2209(6)), regardless of any pre-existing
22 medical conditions;

23 “(E) for leave which may be taken inter-
24 mittently or on a reduced leave schedule;

1 “(F) that does not impose any fee on any
2 eligible employee related to ensuring coverage
3 for, or to the receipt of, such benefits;

4 “(G) which must be paid not less fre-
5 quently than monthly; and

6 “(H) for which any information contained
7 in an application for such benefits shall be pre-
8 sumed to be true and accurate, unless the em-
9 ployer (or administering entity) demonstrates
10 by a preponderance of the evidence that infor-
11 mation contained in the application is false.

12 “(3) NATIONAL AVERAGE COST.—Not later
13 than October 1 of the calendar year before each cal-
14 endar year beginning with 2024, the Commissioner
15 shall determine and publish the projected national
16 average cost per individual of providing comprehen-
17 sive paid leave benefits under section 2201 for such
18 calendar year, such cost to be determined by divid-
19 ing the total cost of benefits under such section for
20 such calendar year (including the costs to the Com-
21 missioner to administer such benefits, not to exceed
22 (for purposes of calculating the national average cost
23 under this paragraph) 7 percent of the total amount
24 of such benefits paid) by the number of individ-
25 uals—

1 “(A) who have wages or self-employment
2 income at any time during such calendar year;
3 and

4 “(B) whose employment in a regular work-
5 week (within the meaning of section 2202(d))
6 includes employment that is not covered em-
7 ployment under an employer-sponsored program
8 (as defined in subsection (g) of this section) or
9 covered employment under the law of a legacy
10 State (as defined in section 2207(c)).

11 “(d) TIMING OF PAYMENT; PENALTY FOR LATE FIL-
12 ING.—

13 “(1) INSURED EMPLOYERS AND EMPLOYERS
14 CONTRIBUTING TO MULTIEMPLOYER PLANS.—A
15 grant paid under this section for a calendar year to
16 an eligible employer described in subsection (a)(1)
17 shall be paid by the Commissioner not later than 30
18 days after the beginning of such calendar year.

19 “(2) SELF-INSURED EMPLOYERS.—A grant
20 paid under this section for a calendar year to an eli-
21 gible employer described in subsection (a)(2) shall be
22 paid by the Commissioner not later than March 31
23 of the calendar year succeeding such calendar year.

24 “(3) PENALTY FOR LATE FILING.—In any case
25 in which an eligible employer seeking a grant under

1 this subsection for a calendar year fails to submit all
2 required documentation by the submission deadline
3 for such calendar year as required under subsection
4 (b)(2)(B)—

5 “(A) the grant for such calendar year for
6 such employer shall not be paid until 45 days
7 after the date of payment otherwise specified in
8 paragraph (1) or (2), as applicable; and

9 “(B) the amount of such grant shall be re-
10 duced by 2 percent for each 7 days by which
11 such submission deadline is exceeded.

12 “(e) INFORMATION SUBMISSION.—As a condition of
13 receiving a grant under subsection (a) for a calendar year,
14 an employer shall provide the Commissioner with informa-
15 tion, at such times and in such manner as required by
16 the Commissioner, concerning eligible employees who re-
17 ceived a paid leave benefit under the comprehensive paid
18 leave benefit program of the employer, including each eli-
19 gible employee’s name, information to establish the eligible
20 employee’s identity, dates for which such paid leave bene-
21 fits were paid, the amount of such paid leave benefit, and,
22 to the extent available, such other information concerning
23 such eligible employees as needed for the purpose of car-
24 rying out this section and section 2201(c)(2)(C), and for
25 otherwise carrying out the provisions of this title.

1 “(f) ENFORCEMENT AND GRANT RECOVERY.—

2 “(1) IN GENERAL.—The Commissioner shall
3 conduct periodic reviews of employers receiving
4 grants under this section (and of entities admin-
5 istering such programs). The Commissioner may
6 withdraw approval of the comprehensive paid leave
7 benefit program of an employer in any case in which
8 the Commissioner finds that the employer (or ad-
9 ministering entity) has violated any requirement of
10 this section, may require the employer to repay the
11 full amount of such grant, and may disqualify an
12 employer from receiving subsequent grants (or an
13 administering entity from administering programs)
14 under this section in the case of repeated violations.

15 “(2) PENALTIES RELATING TO APPEALS.—In
16 any case in which the Commissioner determines that
17 a pattern exists with respect to an employer (or ad-
18 ministering entity) in which the employer (or admin-
19 istering entity) has incorrectly denied claims for paid
20 leave benefits under the employer-sponsored pro-
21 gram and such claims have subsequently been ap-
22 proved by the Commissioner pursuant to an appeal
23 described in section 2204(a)(1)(B), the Commis-
24 sioner shall impose penalties on the employer (or ad-
25 ministering entity), which shall include requiring the

1 employer to repay the full amount of such grant and
2 a reduction in, or disqualification from, receiving
3 subsequent grants (or an entity from administering
4 programs) under this section.

5 “(3) PENALTIES ON ADMINISTERING ENTI-
6 TIES.—In the case of a third-party entity admin-
7 istering a comprehensive paid leave benefit program
8 of an employer, such entity shall notify such em-
9 ployer in any case in which a penalty is imposed
10 under this subsection on the administering entity
11 not later than 30 days after the date on which such
12 penalty has been imposed. In any case in which the
13 Commissioner determines that a pattern of mis-
14 conduct exists with respect to an entity admin-
15 istering benefits under this section for multiple em-
16 ployers, the Commissioner shall disqualify such enti-
17 ty from administering employer-sponsored programs
18 receiving subsequent grants under this section.

19 “(4) EMPLOYER AND ADMINISTRATOR AP-
20 PEALS.—An employer (or administering entity) with
21 respect to which a penalty is imposed under this
22 subsection may appeal such decision to the Commis-
23 sioner only if such appeal is filed with the Commis-
24 sioner not later than 60 days after the date of such
25 decision.

1 “(g) COVERED EMPLOYMENT UNDER AN EMPLOYER-
2 SPONSORED PROGRAM.—For purposes of this title, the
3 term ‘covered employment under an employer-sponsored
4 program’—

5 “(1) means employment with an eligible em-
6 ployer sponsoring a comprehensive paid leave benefit
7 program that meets the requirements of subsection
8 (c) during a calendar year for which the eligible em-
9 ployer receives a grant under subsection (a); and

10 “(2) does not include covered employment
11 under the law of a legacy State (as defined in sec-
12 tion 2207(c)).

13 “(h) GREATER BENEFITS PERMITTED.—Nothing in
14 this section shall be construed to prohibit an eligible em-
15 ployer from providing paid family and medical leave bene-
16 fits that exceed the requirements described in this section.

17 **“SEC. 2209. DEFINITIONS.**

18 “For purposes of this title:

19 “(1) COMMISSIONER.—The term ‘Commis-
20 sioner’ means the Commissioner of Social Security.

21 “(2) ELIGIBILITY.—With respect to any ref-
22 erence in this title to an individual’s eligibility or in-
23 eligibility for comprehensive paid leave benefits
24 under section 2201(a) for a month, an individual
25 shall be considered to be eligible for such benefits

1 for such month if, upon filing an application for
2 such benefits for such month, the individual would
3 be entitled to such benefits for such month.

4 “(3) GROUP HEALTH PLAN.—The term ‘group
5 health plan’ has the meaning given such term in sec-
6 tion 5000(b)(1) of the Internal Revenue Code of
7 1986.

8 “(4) MULTIEMPLOYER PLAN.—The term ‘multi-
9 employer plan’ has the meaning given such term in
10 section 3(37) of the Employee Retirement Income
11 Security Act of 1974 (29 U.S.C. 1002(37)).

12 “(5) NATIONAL AVERAGE WAGE INDEX.—The
13 term ‘national average wage index’ has the meaning
14 given such term in section 209(k)(1).

15 “(6) QUALIFYING REASON.—The term ‘quali-
16 fying reason’ means, with respect to any determina-
17 tion of whether an individual is engaged in qualified
18 caregiving under section 2201(c)(2)(A), any of the
19 following:

20 “(A) A reason described in subparagraph
21 (A) or (B) of section 102(a)(1) of the Family
22 and Medical Leave Act of 1993 (29 U.S.C.
23 2612(a)(1)) (applied for purposes of this para-
24 graph as if the individual involved were the em-
25 ployee referred to in such section).

1 “(B)(i) In order to care for a qualified
2 family member of the individual, if such quali-
3 fied family member has a serious health condi-
4 tion.

5 “(ii) For purposes of clause (i)—

6 “(I) the term ‘qualified family mem-
7 ber’ means, with respect to an individual—

8 “(aa) a spouse (including a do-
9 mestic partner in a civil union or
10 other registered domestic partnership
11 recognized by a State) and a spouse’s
12 parent;

13 “(bb) a child and a child’s
14 spouse;

15 “(cc) a parent and a parent’s
16 spouse;

17 “(dd) a sibling and a sibling’s
18 spouse;

19 “(ee) a grandparent, a grand-
20 child, or a spouse of a grandparent or
21 grandchild; and

22 “(ff) any other individual who is
23 related by blood or affinity and whose
24 association with the individual in-

1 volved is equivalent of a family rela-
2 tionship; and

3 “(II) the term ‘serious health condi-
4 tion’ has the meaning given such term in
5 section 101(11) of the Family and Medical
6 Leave Act of 1993 (29 U.S.C. 2611(11)) .

7 “(C) Because of a serious health condition
8 (as defined in subparagraph (B)(ii)(II)) that
9 makes the individual unable to satisfy the re-
10 quirements needed to continue receiving (or in
11 the case of an individual no longer employed, to
12 resume receiving) the wages or self-employment
13 income described in section 2201(a)(3).

14 “(7) REASONABLE DOCUMENTATION.—The
15 term ‘reasonable documentation’ means the informa-
16 tion that is required to be stated under subsection
17 (b) of section 103 of the Family and Medical Leave
18 Act of 1993 (29 U.S.C. 2613).

19 “(8) SELF-EMPLOYMENT INCOME.—The term
20 ‘self-employment income’ has the meaning given the
21 term in section 1402(b) of the Internal Revenue
22 Code of 1986 for purposes of the taxes imposed by
23 section 1401(b) of such Code. For purposes of sec-
24 tion 2201(a) and 2202(b)(3), the Commissioner

1 shall determine rules for the crediting of self-employ-
2 ment income to calendar quarters, under which—

3 “(A) in the case of a taxable year which is
4 a calendar year, self-employment income shall
5 be credited equally to each quarter of such cal-
6 endar year; and

7 “(B) in the case of any other taxable year,
8 such income shall be credited equally to the cal-
9 endar quarter in which such taxable year ends
10 and to each of the next three or fewer preceding
11 quarters any part of which is in such taxable
12 year.

13 “(9) STATE.—The term ‘State’ means any
14 State of the United States or the District of Colum-
15 bia or any territory or possession of the United
16 States.

17 “(10) WAGES.—The term ‘wages’ has the
18 meaning given such term in section 3121(a) of the
19 Internal Revenue Code of 1986 for purposes of the
20 taxes imposed by sections 3101(b) and 3111(b) of
21 such Code (without regard to section 3121(u)(2)(C)
22 of such Code), except that such term also includes—

23 “(A) compensation, as defined in section
24 3231(e) of such Code for purposes of the Rail-
25 road Retirement Tax Act; and

1 “(B) unemployment compensation, as de-
2 fined in section 85(b) of such Code.

3 “(11) WEEK.—The term ‘week’ means a 7-day
4 period beginning on a Sunday.”.

5 **SEC. 120002. ACCESS TO WAGE INFORMATION FROM THE**
6 **NATIONAL DIRECTORY OF NEW HIRES FOR**
7 **THE PURPOSE OF ADMINISTERING COM-**
8 **PREHENSIVE PAID LEAVE.**

9 Section 453(j) of the Social Security Act (42 U.S.C.
10 653(j)) is amended by adding at the end the following:

11 “(12) INFORMATION COMPARISONS AND DIS-
12 CLOSURE TO ASSIST IN ADMINISTRATION OF TITLE
13 XXII.—

14 “(A) FURNISHING OF INFORMATION BY
15 THE COMMISSIONER OF SOCIAL SECURITY.—

16 The Commissioner of Social Security shall fur-
17 nish to the Secretary, on such periodic basis as
18 determined by the Commissioner of Social Secu-
19 rity in consultation with the Secretary, informa-
20 tion in the custody of the Commissioner of So-
21 cial Security for comparison with information in
22 the National Directory of New Hires, in order
23 to obtain information in such Directory with re-
24 spect to individuals for purposes of admin-
25 istering title XXII.

1 “(B) REQUIREMENT TO SEEK MINIMUM
2 INFORMATION.—The Commissioner of Social
3 Security shall seek information pursuant to this
4 section only to the extent necessary to admin-
5 ister title XXII.

6 “(C) DUTIES OF THE SECRETARY.—

7 “(i) INFORMATION DISCLOSURE.—The
8 Secretary, in cooperation with the Commis-
9 sioner of Social Security, shall compare in-
10 formation in the National Directory of
11 New Hires with information provided by
12 the Commissioner of Social Security with
13 respect to individuals described in subpara-
14 graph (A), and shall disclose information
15 in such Directory regarding such individ-
16 uals to the Commissioner of Social Secu-
17 rity, in accordance with this paragraph, for
18 the purposes specified in this paragraph.

19 “(ii) CONDITION ON DISCLOSURE.—
20 The Secretary shall make disclosures in ac-
21 cordance with clause (i) only to the extent
22 that the Secretary determines that such
23 disclosures do not interfere with the effec-
24 tive operation of the program under this
25 part.

1 “(D) USE OF INFORMATION BY THE COM-
2 MISSIONER OF SOCIAL SECURITY.—The Com-
3 missioner of Social Security may use informa-
4 tion provided under this paragraph only for
5 purposes of administering title XXII, and shall
6 maintain such information in the records of the
7 Commissioner of Social Security for such time
8 as the Commissioner of Social Security deems
9 necessary for the administration of such title.

10 “(E) DISCLOSURE OF INFORMATION BY
11 THE COMMISSIONER OF SOCIAL SECURITY.—

12 “(i) PURPOSE OF DISCLOSURE.—The
13 Commissioner of Social Security may make
14 a disclosure under this subparagraph only
15 for purposes of verifying the employment
16 and income of individuals described in sub-
17 paragraph (A).

18 “(ii) CONDITIONS ON DISCLOSURE.—
19 Disclosures under this subparagraph shall
20 be—

21 “(I) made in accordance with
22 data security and control policies es-
23 tablished by the Commissioner of So-
24 cial Security and approved by the Sec-
25 retary;

1 “(II) subject to audit in a man-
2 ner satisfactory to the Secretary; and

3 “(III) subject to the sanctions
4 under subsection (l)(2).

5 “(iii) RESTRICTIONS ON REDISCLO-
6 SURE.—A person or entity to which infor-
7 mation is disclosed under this subpara-
8 graph may use or disclose such informa-
9 tion only as needed for verifying the em-
10 ployment and income of individuals de-
11 scribed in subparagraph (A), subject to the
12 conditions in clause (ii) and such addi-
13 tional conditions as agreed to by the Sec-
14 retary and the Commissioner of Social Se-
15 curity.

16 “(F) REIMBURSEMENT OF HHS COSTS.—
17 The Commissioner of Social Security shall reim-
18 burse the Secretary, in accordance with sub-
19 section (k)(3), for the costs incurred by the
20 Secretary in furnishing the information re-
21 quested under this paragraph.”.

1 **SEC. 120003. CERTAIN COMPREHENSIVE PAID LEAVE BENE-**
 2 **FITS EXCLUDED FROM GROSS INCOME.**

3 (a) IN GENERAL.—Part III of subchapter B of chap-
 4 ter 1 of the Internal Revenue Code of 1986 is amended
 5 by inserting after section 139I the following new section:

6 **“SEC. 139J. CERTAIN COMPREHENSIVE PAID LEAVE BENE-**
 7 **FITS.**

8 “In the case of an individual, gross income shall not
 9 include any amount received by the taxpayer by reason
 10 of entitlement to a comprehensive paid leave benefit under
 11 section 2201(a) of the Social Security Act.”.

12 (b) CLERICAL AMENDMENT.—The table of sections
 13 for part III of subchapter B of chapter 1 of such Code
 14 is amended by inserting after the item relating to section
 15 139I the following new item:

“Sec. 139J. Certain comprehensive paid leave benefits.”.

16 **Subtitle B—Medicare, Medicaid**
 17 **and CHIP Provisions**

18 **PART I—MEDICARE**

19 **Subpart A—Medicare Coverage of Hearing Services**

20 **SEC. 122101. PROVIDING COVERAGE FOR HEARING CARE**
 21 **UNDER THE MEDICARE PROGRAM.**

22 (a) PROVISION OF AUDIOLOGY SERVICES BY QUALI-
 23 FIED AUDIOLOGISTS AND HEARING AID EXAMINATION
 24 SERVICES BY QUALIFIED HEARING AID PROFES-
 25 SIONALS.—

1 (1) IN GENERAL.—Section 1861(ll) of the So-
2 cial Security Act (42 U.S.C. 1395x(ll)) is amend-
3 ed—

4 (A) in paragraph (3)—

5 (i) by inserting “(A)” after “(3)”;

6 (ii) in subparagraph (A), as added by
7 clause (i) of this subparagraph—

8 (I) by striking “means such hear-
9 ing and balance assessment services”
10 and inserting “means—

11 “(i) such hearing and balance assessment serv-
12 ices and, beginning January 1, 2023, such hearing
13 aid examination services and treatment services (in-
14 cluding aural rehabilitation, vestibular rehabilitation,
15 and cerumen management)”;

16 (II) in clause (i), as added by
17 subclause (I) of this clause, by strik-
18 ing the period at the end and insert-
19 ing “; and”; and

20 (III) by adding at the end the
21 following new clause:

22 “(ii) beginning January 1, 2023, such hearing
23 aid examination services furnished by a qualified
24 hearing aid professional (as defined in paragraph
25 (4)(C)) as the professional is legally authorized to

1 perform under State law (or the State regulatory
2 mechanism provided by State law), as would other-
3 wise be covered if furnished by a physician.”; and

4 (iii) by adding at the end the fol-
5 lowing new subparagraph:

6 “(B) Beginning January 1, 2023, audiology services
7 described in subparagraph (A)(i) shall be furnished with-
8 out a requirement for an order from a physician or practi-
9 tioner.”; and

10 (B) in paragraph (4), by adding at the end
11 the following new subparagraph:

12 “(C) The term ‘qualified hearing aid profes-
13 sional’ means an individual who—

14 “(i) is licensed or registered as a hearing
15 aid dispenser, hearing aid specialist, hearing in-
16 strument dispenser, or related professional by
17 the State in which the individual furnishes such
18 services; and

19 “(ii) is accredited by the National Board
20 for Certification in Hearing Instrument
21 Sciences or meets such other requirements as
22 the Secretary determines appropriate (including
23 requirements relating to educational certifi-
24 cations or accreditations) taking into account
25 any additional relevant requirements for hear-

1 ing aid specialists, hearing aid dispensers, and
2 hearing instrument dispensers established by
3 Medicare Advantage organizations under part
4 C, State plans (or waivers of such plans) under
5 title XIX, and group health plans and health
6 insurance issuers (as such terms are defined in
7 section 2791 of the Public Health Service
8 Act).”.

9 (2) PAYMENT FOR QUALIFIED HEARING AID
10 PROFESSIONALS.—Section 1833(a)(1) of the Social
11 Security Act (42 U.S.C. 1395l(a)(1)), as amended
12 by section 129101(b), is further amended—

13 (A) by striking “and” before “(EE)”; and

14 (B) by inserting before the semicolon at
15 the end the following: “and (FF) with respect
16 to hearing aid examination services (as de-
17 scribed in paragraph (3)(A)(ii) of section
18 1861(ll)) furnished by a qualified hearing aid
19 professional (as defined in paragraph (4)(C) of
20 such section), the amounts paid shall be equal
21 to 80 percent of the lesser of the actual charge
22 for such services or 85 percent of the amount
23 for such services determined under the payment
24 basis determined under section 1848”.

1 (3) INCLUSION OF QUALIFIED AUDIOLOGISTS
2 AND QUALIFIED HEARING AID PROFESSIONALS AS
3 CERTAIN PRACTITIONERS TO RECEIVE PAYMENT ON
4 AN ASSIGNMENT-RELATED BASIS.—

5 (A) QUALIFIED AUDIOLOGISTS.—Section
6 1842(b)(18)(C) of the Social Security Act (42
7 U.S.C. 1395u(b)(18)(C)) is amended by adding
8 at the end the following new clause:

9 “(vii) Beginning on January 1, 2023, a quali-
10 fied audiologist (as defined in section
11 1861(ll)(4)(B)).”.

12 (B) QUALIFIED HEARING AID PROFES-
13 SIONALS.—Section 1842(b)(18) of the Social
14 Security Act (42 U.S.C. 1395u(b)(18)) is
15 amended—

16 (i) in each of subparagraphs (A) and
17 (B), by “striking subparagraph (C)” and
18 inserting “subparagraph (C) or, beginning
19 on January 1, 2023, subparagraph (E)”;
20 and

21 (ii) by adding at the end the following
22 new subparagraph:

23 “(E) A practitioner described in this subparagraph
24 is a qualified hearing aid professional (as defined in sec-
25 tion 1861(ll)(4)(C)).”.

1 (b) COVERAGE OF HEARING AIDS.—

2 (1) INCLUSION OF HEARING AIDS AS PROS-
3 THETIC DEVICES.—Section 1861(s)(8) of the Social
4 Security Act (42 U.S.C. 1395x(s)(8)) is amended by
5 inserting “, and including hearing aids (as described
6 in section 1834(h)(7)) furnished on or after January
7 1, 2023, to individuals with moderately severe, se-
8 vere, or profound hearing loss” before the semicolon
9 at the end.

10 (2) PAYMENT LIMITATIONS FOR HEARING
11 AIDS.—Section 1834(h) of the Social Security Act
12 (42 U.S.C. 1395m(h)) is amended by adding at the
13 end the following new paragraphs:

14 “(6) PAYMENT ONLY ON AN ASSIGNMENT-RE-
15 LATED BASIS.—Payment for hearing aids for which
16 payment may be made under this part may be made
17 only on an assignment-related basis. The provisions
18 of subparagraphs (A) and (B) of section
19 1842(b)(18) shall apply to hearing aids in the same
20 manner as they apply to services furnished by a
21 practitioner described in subparagraph (C) of such
22 section.

23 “(7) LIMITATIONS FOR HEARING AIDS.—

24 “(A) IN GENERAL.—Payment may be
25 made under this part with respect to an indi-

1 vidual, with respect to hearing aids furnished
2 by a qualified hearing aid supplier (as defined
3 in subparagraph (B)) on or after January 1,
4 2023—

5 “(i) not more than once per ear dur-
6 ing a 5-year period;

7 “(ii) only for types of such hearing
8 aids that are determined appropriate by
9 the Secretary; and

10 “(iii) only if furnished pursuant to a
11 written order of a physician, qualified au-
12 diologist (as defined in section
13 1861(l)(4)), qualified hearing aid profes-
14 sional (as so defined), physician assistant,
15 nurse practitioner, or clinical nurse spe-
16 cialist.

17 “(B) DEFINITIONS.—In this subsection:

18 “(i) HEARING AID.—The term ‘hear-
19 ing aid’ means the item and related serv-
20 ices including selection, fitting, adjustment,
21 and patient education and training.

22 “(ii) QUALIFIED HEARING AID SUP-
23 PLIER.—The term ‘qualified hearing aid
24 supplier’ means—

25 “(I) a qualified audiologist;

1 “(II) a physician (as defined in
2 section 1861(r)(1));

3 “(III) a physician assistant,
4 nurse practitioner, or clinical nurse
5 specialist;

6 “(IV) a qualified hearing aid pro-
7 fessional (as defined in
8 1861(l)(4)(C)); and

9 “(V) other suppliers as deter-
10 mined by the Secretary.”.

11 (3) APPLICATION OF COMPETITIVE ACQUI-
12 SITION.—

13 (A) IN GENERAL.—Section 1834(h)(1)(H)
14 of the Social Security Act (42 U.S.C.
15 1395m(h)(1)(H)) is amended—

16 (i) in the header, by inserting “AND
17 HEARING AIDS” after “ORTHOTICS”;

18 (ii) by inserting “or of hearing aids
19 described in paragraph (2)(D) of such sec-
20 tion,” after “2011,”; and

21 (iii) in clause (i), by inserting “or
22 such hearing aids” after “such orthotics”.

23 (B) CONFORMING AMENDMENTS.—

24 (i) IN GENERAL.—Section 1847(a)(2)
25 of the Social Security Act (42 U.S.C.

1 1395w-3(a)(2)) is amended by adding at
2 the end the following new subparagraph:

3 “(D) HEARING AIDS.—Hearing aids de-
4 scribed in section 1861(s)(8) for which payment
5 would otherwise be made under section
6 1834(h).”.

7 (ii) EXEMPTION OF CERTAIN ITEMS
8 FROM COMPETITIVE ACQUISITION.—Sec-
9 tion 1847(a)(7) of the Social Security Act
10 (42 U.S.C. 1395w-3(a)(7)) is amended by
11 adding at the end the following new sub-
12 paragraph:

13 “(C) CERTAIN HEARING AIDS.—Those
14 items and services described in paragraph
15 (2)(D) if furnished by a physician or other
16 practitioner (as defined by the Secretary) to the
17 physician’s or practitioner’s own patients as
18 part of the physician’s or practitioner’s profes-
19 sional service.”.

20 (iii) IMPLEMENTATION.—Section
21 1847(a) of the Social Security Act (42
22 U.S.C. 1395w-3(a)) is amended by adding
23 at the end the following new paragraph:

24 “(8) COMPETITION WITH RESPECT TO HEARING
25 AIDS.—Not later than January 1, 2028, the Sec-

1 retary shall begin the competition with respect to the
2 items and services described in paragraph (2)(D).”.

3 (4) PHYSICIAN SELF-REFERRAL LAW.—Section
4 1877(b) of the Social Security Act (42 U.S.C.
5 1395nn(b)) is amended by adding at the end the fol-
6 lowing new paragraph:

7 “(6) HEARING AIDS AND SERVICES.—In the
8 case of hearing aid examination services and hearing
9 aids—

10 “(A) furnished on or after January 1,
11 2023, and before January 1, 2025; and

12 “(B) furnished on or after January 1,
13 2025, if the financial relationship specified in
14 subsection (a)(2) meets such requirements the
15 Secretary imposes by regulation to protect
16 against program or patient abuse.”.

17 (c) EXCLUSION MODIFICATION.—Section 1862(a)(7)
18 of the Social Security Act (42 U.S.C. 1395y(a)(7)) is
19 amended by inserting “(except such hearing aids or exami-
20 nations therefor as described in and otherwise allowed
21 under section 1861(s)(8))” after “hearing aids or exami-
22 nations therefor”.

23 (d) INCLUSION AS EXCEPTED MEDICAL TREAT-
24 MENT.—Section 1821(b)(5)(A) of the Social Security Act
25 (42 U.S.C. 1395i–5(b)(5)(A)) is amended—

1 (1) in clause (i), by striking “or”;

2 (2) in clause (ii), by striking the period and in-
3 serting “, or”; and

4 (3) by adding at the end the following new
5 clause:

6 “(iii) consisting of audiology services
7 described in subsection (ll)(3) of section
8 1861, or hearing aids described in sub-
9 section (s)(8) of such section, that are pay-
10 able under part B as a result of the
11 amendments made by An Act to provide
12 for reconciliation pursuant to title II of S.
13 Con. Res. 14.”.

14 (e) RURAL HEALTH CLINICS AND FEDERALLY
15 QUALIFIED HEALTH CENTERS.—

16 (1) CLARIFYING COVERAGE OF AUDIOLOGY
17 SERVICES AS PHYSICIANS’ SERVICES.—Section
18 1861(aa)(1)(A) of the Social Security Act (42
19 U.S.C. 1395x(aa)(1)(A)) is amended by inserting
20 “(including audiology services (as defined in sub-
21 section (ll)(3)))” after “physicians’ services”.

22 (2) INCLUSION OF QUALIFIED AUDIOLOGISTS
23 AND QUALIFIED HEARING AID PROFESSIONALS AS
24 RHC AND FQHC PRACTITIONERS.—Section
25 1861(aa)(1)(B) of the Social Security Act (42

1 U.S.C. 1395x(aa)(1)(B)) is amended by inserting
2 “or by a qualified audiologist or a qualified hearing
3 aid professional (as such terms are defined in sub-
4 section (ll)),” after “(as defined in subsection
5 (hh)(1)),”.

6 (3) TEMPORARY PAYMENT RATES FOR CERTAIN
7 SERVICES UNDER THE RHC AIR AND FQHC PPS.—

8 (A) AIR.—Section 1833 of the Social Se-
9 curity Act (42 U.S.C. 1395l) is amended—

10 (i) in subsection (a)(3)(A), by insert-
11 ing “(which shall, in the case of audiology
12 services (as defined in section 1861(ll)(3)),
13 in lieu of any limits on reasonable costs
14 otherwise applicable, be based on the rates
15 payable for such services under the pay-
16 ment basis determined under section 1848
17 until such time as the Secretary deter-
18 mines sufficient data has been collected to
19 otherwise apply such limits (or January 1,
20 2029, if no such determination has been
21 made as of such date))” after “may pre-
22 scribe in regulations”; and

23 (ii) by adding at the end the following
24 new subsection:

1 “(ee) DISREGARD OF COSTS ATTRIBUTABLE TO CER-
2 TAIN SERVICES FROM CALCULATION OF RHC AIR.—
3 Payments for rural health clinic services other than audi-
4 ology services (as defined in section 1861(ll)(3)) under the
5 methodology for all-inclusive rates (established by the Sec-
6 retary) under subsection (a)(3) shall not take into account
7 the costs of such services while rates for such services are
8 based on rates payable for such services under the pay-
9 ment basis established under section 1848.”.

10 (B) PPS.—Section 1834(o) of the Social
11 Security Act (42 U.S.C. 1395m(o)) is amended
12 by adding at the end the following new para-
13 graph:

14 “(5) TEMPORARY PAYMENT RATES BASED ON
15 PFS FOR CERTAIN SERVICES.—The Secretary shall,
16 in establishing payment rates for audiology services
17 (as defined in section 1861(ll)(3)) that are Federally
18 qualified health center services under the prospective
19 payment system established under this subsection, in
20 lieu of the rates otherwise applicable under such sys-
21 tem, base such rates on rates payable for such serv-
22 ices under the payment basis established under sec-
23 tion 1848 until such time as the Secretary deter-
24 mines sufficient data has been collected to otherwise
25 establish rates for such services under such system

1 (or January 1, 2029, if no such determination has
2 been made as of such date). Payments for Federally
3 qualified health center services other than such audi-
4 ology services under such system shall not take into
5 account the costs of such services while rates for
6 such services are based on rates payable for such
7 services under the payment basis established under
8 section 1848.”.

9 (f) IMPLEMENTATION FOR 2022 THROUGH 2024.—
10 The Secretary of Health and Human Services shall imple-
11 ment the provisions of, and the amendments made by, this
12 section for 2022, 2023, and 2024 by program instruction
13 or other forms of program guidance.

14 (g) FUNDING.—In addition to amounts otherwise
15 available, there is appropriated to the Secretary of Health
16 and Human Services for fiscal year 2022, out of any
17 money in the Treasury not otherwise appropriated,
18 \$370,000,000, to remain available until expended, for pur-
19 poses of implementing the amendments made by this sec-
20 tion during the period beginning on January 1, 2022, and
21 ending on September 30, 2031.

1 **Subpart B—Skilled Nursing Facility and Nursing**
2 **Facility Improvements**

3 **SEC. 122111. FUNDING TO IMPROVE THE ACCURACY AND**
4 **RELIABILITY OF CERTAIN SKILLED NURSING**
5 **FACILITY DATA.**

6 Section 1888 of the Social Security Act (42 U.S.C.
7 1395yy) is amended—

8 (1) in subsection (h)(12)—

9 (A) in subparagraph (A), by striking “and
10 the data submitted under subsection (e)(6) a
11 process to validate such measures and data”
12 and inserting “, the data submitted under sub-
13 section (e)(6), and, during the period beginning
14 with fiscal year 2024 and ending with fiscal
15 year 2031, the resident assessment data de-
16 scribed in section 1819(b)(3) and the direct
17 care staffing information described in section
18 1128I(g) a process to validate such measures,
19 data, and information”; and

20 (B) in subparagraph (B)—

21 (i) by striking “FUNDING.—For pur-
22 poses” and inserting “FUNDING.—

23 “(i) FISCAL YEARS 2023 THROUGH
24 2025.—For purposes”; and

25 (ii) by adding at the end the following
26 new clause:

1 “(ii) ADDITIONAL FUNDING.—There
2 is appropriated to the Secretary, out of
3 any monies in the Treasury not otherwise
4 appropriated, \$50,000,000 for fiscal year
5 2022, to remain available through fiscal
6 year 2031, for purposes of carrying out
7 this paragraph.”; and

8 (2) in subsection (e)(6)(A)—

9 (A) in the header, by striking “FOR FAIL-
10 URE TO REPORT”; and

11 (B) in clause (i)—

12 (i) by striking “For fiscal years begin-
13 ning with fiscal year 2018, in the case of
14 a skilled nursing facility that does not sub-
15 mit” and inserting the following:

16 “(I) FAILURE TO REPORT.—For
17 fiscal years beginning with fiscal year
18 2018, in the case of a skilled nursing
19 facility that does not submit quality
20 measure data specified by the Sec-
21 retary and”; and

22 (ii) by adding at the end the following
23 new subclause:

24 “(II) REPORTING OF INAC-
25 CULATE INFORMATION.—For fiscal

1 years during the period beginning
2 with fiscal year 2026 and ending with
3 fiscal year 2031, in the case of a
4 skilled nursing facility that submits
5 data under this paragraph, measures
6 under subsection (h), resident assess-
7 ment data described in section
8 1819(b)(3), or direct care staffing in-
9 formation described in section
10 1128I(g) with respect to such fiscal
11 year that is inaccurate (as determined
12 by the Secretary through the valida-
13 tion process described in section
14 1888(h)(12) or otherwise), after de-
15 termining the percentage described in
16 paragraph (5)(B)(i), and after appli-
17 cation of clauses (ii) and (iii) of para-
18 graph (5)(B) and of subclause (I) of
19 this clause (if applicable), the Sec-
20 retary shall reduce such percentage
21 for payment rates during such fiscal
22 year by 2 percentage points.”.

1 **SEC. 122112. ENSURING ACCURATE INFORMATION ON COST**
2 **REPORTS.**

3 Section 1888(f) of the Social Security Act (42 U.S.C.
4 1395yy(f)) is amended by adding at the end the following
5 new paragraph:

6 “(5) AUDIT OF COST REPORTS.—There is ap-
7 propriated to the Secretary, out of any monies in the
8 Treasury not otherwise appropriated, \$250,000,000
9 for fiscal year 2022, to remain available through fis-
10 cal year 2031, for purposes of conducting an annual
11 audit (beginning with 2023 and ending with 2031)
12 of cost reports submitted under this title for a rep-
13 resentative sample of skilled nursing facilities.”.

14 **SEC. 122113. SURVEY AND ENFORCEMENT IMPROVEMENTS**
15 **FOR SKILLED NURSING FACILITIES AND**
16 **NURSING FACILITIES.**

17 Section 1128I of the Social Security Act (42 U.S.C.
18 1320a–7j) is amended by adding at the end the following
19 new subsection:

20 “(i) FUNDING FOR SURVEY AND ENFORCEMENT IM-
21 PROVEMENTS.—In addition to amounts otherwise avail-
22 able, there is appropriated to the Secretary for fiscal year
23 2022, out of any money in the Treasury not otherwise ap-
24 propriated, \$325,000,000, to remain available until Sep-
25 tember 30, 2031, for purposes of Federal surveys and en-
26 forcement and providing training, tools, technical assist-

1 ance, and funding to State agencies that perform surveys
2 of facilities for the purpose of improving the surveys con-
3 ducted under subsection (g) of sections 1819 and 1919
4 and the enforcement process under subsection (h) of sec-
5 tions 1819 and 1919 with respect to the following areas:

6 “(1) The extent to which such surveys and en-
7 forcement result in increased compliance with re-
8 quirements under sections 1819 and 1919 and sub-
9 part B of part 483 of title 42, Code of Federal Reg-
10 ulations, with respect to facilities.

11 “(2) The timeliness and thoroughness of State
12 agency verification of deficiency corrections at facili-
13 ties.

14 “(3) The identification and the scope and sever-
15 ity of cited deficiencies at facilities, particularly with
16 respect to life safety, infection control, and emer-
17 gency preparedness.

18 “(4) The timeliness of State agency investiga-
19 tions of—

20 “(A) complaints at facilities; and

21 “(B) reported allegations of abuse, neglect,
22 and exploitation at facilities.

23 “(5) The consistency of identifying facilities
24 that consistently fail to report substantiated com-

1 plaints to appropriate State and local authorities in
2 accordance with State law.

3 “(6) Hiring, training, and retention of individ-
4 uals who conduct surveys.

5 “(7) Any other area related to surveys of facili-
6 ties, or the individuals conducting such surveys, de-
7 termined appropriate by the Secretary.”.

8 **SEC. 122114. NURSE STAFFING.**

9 Section 1819(d) of the Social Security Act (42 U.S.C.
10 1395i–3(d)) is amended by adding at the end the following
11 new paragraph:

12 “(5) NURSE STAFFING.—

13 “(A) FUNDING.—In addition to amounts
14 otherwise available, there is appropriated to the
15 Secretary, out of any money in the Treasury
16 not otherwise appropriated, \$50,000,000 for fis-
17 cal years 2022, to remain available until Sep-
18 tember 30, 2031, for purposes of carrying out
19 subparagraph (B).

20 “(B) STUDY.—Not later than 3 years after
21 the date of the enactment of this paragraph,
22 and not less frequently than once every 5 years
23 thereafter, the Secretary shall, out of funds ap-
24 propriated under subparagraph (A), conduct a
25 study and submit to Congress a report on the

1 appropriateness of establishing minimum staff
2 to resident ratios for nursing staff for skilled
3 nursing facilities. Each such report shall in-
4 clude—

5 “(i) with respect to the first such re-
6 port, recommendations regarding appro-
7 priate minimum ratios of registered nurses
8 (and, if practicable, licensed practical
9 nurses (or licensed vocational nurses) and
10 certified nursing assistants) to residents at
11 such skilled nursing facilities; and

12 “(ii) with respect to each subsequent
13 such report, recommendations regarding
14 appropriate minimum ratios of registered
15 nurses, licensed practical nurses (or li-
16 censed vocational nurses), and certified
17 nursing assistants to residents at such
18 skilled nursing facilities.”.

19 **SEC. 122115. REGISTERED PROFESSIONAL NURSES.**

20 (a) **MEDICARE.**—Section 1819(b)(4)(C)(i) of the So-
21 cial Security Act (42 U.S.C. 1395i–3(b)(4)(C)(i)) is
22 amended by striking “registered professional nurse” and
23 all that follows through the period at the end and inserting
24 the following: “registered professional nurse, with respect
25 to such services furnished—

1 “(I) before October 1, 2024, at
2 least 8 consecutive hours a day, 7
3 days a week; and

4 “(II) on or after such date, 24
5 hours a day, 7 days a week.”.

6 (b) MEDICAID.—Section 1919(b)(4)(C)(i)(II) of the
7 Social Security Act (42 U.S.C. 1396r(b)(4)(C)(i)(II)) is
8 amended by striking “registered professional nurse” and
9 all that follows through the period at the end and inserting
10 the following: “registered professional nurse, with respect
11 to such services furnished—

12 “(aa) before October 1,
13 2024, at least 8 consecutive
14 hours a day, 7 days a week; and

15 “(bb) on or after such date,
16 24 hours a day, 7 days a week.”.

17 **SEC. 122116. IMPROVEMENTS TO THE SPECIAL FOCUS FA-**
18 **CILITY PROGRAM.**

19 Section 1128I of the Social Security Act (42 U.S.C.
20 1320a–7j) is amended by adding at the end the following
21 new subsection:

22 “(i) FUNDING FOR THE SPECIAL FOCUS FACILITY
23 PROGRAM, INCLUDING COMPLIANCE ASSISTANCE PRO-
24 GRAMS.—In addition to amounts otherwise available, there
25 is appropriated to the Secretary, out of any money in the

1 Treasury not otherwise appropriated, \$100,000,000 for
2 fiscal years 2022, to remain available until September 30,
3 2026, for purposes of—

4 “(1) for a period of not less than 3 years begin-
5 ning not later than October 1, 2023, ensuring that
6 the number of facilities participating in the special
7 focus facility program under section 1819(f)(8) and
8 section 1919(f)(10) is not less than 3.5 percent of
9 all facilities; and

10 “(2) for a period of not less than 2 years begin-
11 ning not later than October 1, 2024, providing man-
12 datory on-site consultation and educational program-
13 ming for facilities participating in such special focus
14 facility program with respect to compliance with the
15 applicable requirements under titles XVIII and XIX,
16 to be carried out by quality improvement organiza-
17 tions under part B of this title or other independent
18 organizations of a similar type that do not have con-
19 flicts of interest and are deemed appropriate by the
20 Secretary.”.

1 **SEC. 122117. GRANTS TO IMPROVE STAFFING AND INFEC-**
2 **TION CONTROL IN LONG-TERM CARE INSTI-**
3 **TUTIONAL SETTINGS.**

4 Part A of title XI of the Social Security Act (42
5 U.S.C. 1301–1320b–26) is amended by inserting after
6 section 1150C the following:

7 **“SEC. 1150D. GRANTS TO IMPROVE STAFFING AND INFEC-**
8 **TION CONTROL IN LONG-TERM CARE INSTI-**
9 **TUTIONAL SETTINGS.**

10 “(a) **FUNDING.**—Out of any funds in the Treasury
11 not otherwise appropriated, there are appropriated to the
12 Secretary—

13 “(1) for fiscal year 2022, \$800,000,000 for
14 making staffing and infection control improvement
15 grants under subsection (b), to remain available
16 through September 30, 2031; and

17 “(2) for fiscal year 2022, \$3,000,000 for ad-
18 ministrative and technical assistance costs in car-
19 rying out this section, to remain available through
20 September 30, 2031.

21 “(b) **STAFFING AND INFECTION CONTROL IMPROVE-**
22 **MENT GRANTS.**—

23 “(1) **IN GENERAL.**—From the amounts appro-
24 priated under subsection (a)(1), beginning with fis-
25 cal year 2024, the Secretary, acting through the Ad-
26 ministrator, shall solicit and make a grant under

1 this subsection for a term of 4 fiscal years to each
2 State that submits an application which meets the
3 requirements of paragraph (2).

4 “(2) APPLICATION REQUIREMENTS.—To receive
5 a grant under this subsection, a State shall submit
6 to the Administrator an application, in such form
7 and manner as prescribed by the Administrator,
8 which at a minimum shall include the following:

9 “(A) A description of how the State will
10 use the grant funds for activities described in
11 paragraph (4).

12 “(B) A description of how the State will
13 ensure that grant funds (including any funds
14 subgranted to an eligible long-term care facil-
15 ity) are used only for activities and purposes
16 permitted under paragraph (4) and in accord-
17 ance with any other requirements of this section
18 or prescribed by the Secretary to carry out this
19 section.

20 “(C) Information based on the most recent
21 data available on the number of eligible individ-
22 uals in the State.

23 “(3) AMOUNT OF GRANTS.—The Administrator
24 shall determine the amount of the grant to be made
25 to a State under this subsection based on the num-

1 ber of eligible individuals in the State and the pro-
2 posed improvements to staffing and infection con-
3 trol.

4 “(4) USE OF FUNDS.—

5 “(A) IN GENERAL.—A State shall use
6 funds from a grant made under this subsection
7 to carry out at least 2 of the following activities
8 in eligible long-term care facilities:

9 “(i) To provide wage or benefit en-
10 hancements for 1 or more types of eligible
11 workers who care for eligible individuals in
12 eligible long-term care facilities.

13 “(ii) To improve and develop training
14 and career development opportunities,
15 which shall include opportunities for train-
16 ing for infection control, for eligible work-
17 ers who care for eligible individuals in eli-
18 gible long-term care facilities.

19 “(iii) To expand staffing of 1 or more
20 types of eligible workers who care for eligi-
21 ble individuals in eligible long-term care fa-
22 cilities so as to increase staffing ratios of
23 such workers to such individuals.

24 “(B) OTHER REQUIREMENTS.—

1 “(i) ELIGIBLE LONG-TERM CARE FA-
2 CILITIES.—A State shall not be considered
3 to be using funds from a grant under this
4 subsection in accordance with the require-
5 ments of this section unless the State car-
6 ries out activities supported by the grant
7 in eligible long-term care facilities de-
8 scribed in subparagraph (A) of subsection
9 (c)(3) and in eligible long-term care facili-
10 ties described in subparagraph (B) or (C)
11 of such subsection.

12 “(ii) SUPPLEMENT, NOT SUPPLANT.—
13 As a condition of receiving a grant for a
14 fiscal year under this subsection, a State
15 shall agree that with respect to activities
16 for which the State uses funds from such
17 grant for such fiscal year, the total amount
18 of expenditures made by the State during
19 the fiscal year for such activities using
20 non-Federal funds shall not be less than
21 the total amount of expenditures made by
22 the State for such activities using non-Fed-
23 eral funds over the 4-quarter period that
24 ends on the last day of the most recent cal-

1 endar quarter ending on or before the date
2 of enactment of this section.

3 “(iii) LIMITATION ON USE OF
4 FUNDS.—No funds from a grant received
5 by a State under this subsection may be
6 used by the State as the source of the non-
7 Federal share of expenditures under the
8 State Medicaid program.

9 “(c) DEFINITIONS.—In this section:

10 “(1) ADMINISTRATOR.—The term ‘Adminis-
11 trator’ means the Administrator of the Centers for
12 Medicare & Medicaid Services.

13 “(2) ELIGIBLE INDIVIDUAL.—The term ‘eligible
14 individual’ means an individual who—

15 “(A) is eligible for and receiving medical
16 assistance under a State Medicaid program;
17 and

18 “(B) is a resident of an eligible long-term
19 care facility.

20 “(3) ELIGIBLE LONG-TERM CARE FACILITY.—
21 The term ‘eligible long-term care facility’ means—

22 “(A) an institution described in section
23 1905(d) that provides services to eligible indi-
24 viduals;

1 “(B) a nursing facility, as defined in sec-
2 tion 1919(a), that provides services to eligible
3 individuals; and

4 “(C) a skilled nursing facility, as defined
5 in section 1819(a), that provides services to eli-
6 gible individuals.

7 “(4) ELIGIBLE WORKER.—The term ‘eligible
8 worker’ means, with respect to a State, a registered
9 nurse, licensed practical nurse, licensed nursing as-
10 sistant, certified nursing assistant, nursing assist-
11 ant, infection preventionist, and any other relevant
12 staffer, as determined by the Administrator, who
13 furnishes services for which payment is available
14 under the State Medicaid program to an eligible in-
15 dividual in an eligible long-term care facility.

16 “(5) STATE MEDICAID PROGRAM.—The term
17 ‘State Medicaid program’ means, with respect to a
18 State, the program carried out under the State plan
19 approved under title XIX or under a waiver of such
20 plan.

21 “(6) STATE.—The term ‘State’ means each of
22 the 50 States, the District of Columbia, Puerto Rico,
23 the United States Virgin Islands, Guam, the North-
24 ern Mariana Islands, and American Samoa.”.

1 **Subpart C—Miscellaneous**

2 **SEC. 122121. PERMANENT EXTENSION OF THE INDEPEND-**
3 **ENCE AT HOME MEDICAL PRACTICE DEM-**
4 **ONSTRATION PROGRAM.**

5 Section 1866E of the Social Security Act (42 U.S.C.
6 1395cc–5) is amended by adding at the end the following
7 new subsection:

8 “(j) PERMANENT DEMONSTRATION PROGRAM.—

9 “(1) IN GENERAL.—Notwithstanding subsection
10 (e)(1) and subject to paragraph (2), beginning on
11 the date of enactment of this subsection, the Sec-
12 retary shall conduct the demonstration program on
13 a permanent basis.

14 “(2) ADJUSTMENTS.—In conducting the dem-
15 onstration program on a permanent basis pursuant
16 to paragraph (1), the preceding provisions of this
17 section shall apply except that, beginning on the
18 date of enactment of this subsection, the following
19 shall apply:

20 “(A) Notwithstanding paragraphs (1) and
21 (5) of subsection (e):

22 “(i) For 2022 through 2029, the Sec-
23 retary shall limit the number of qualified
24 independence at home medical practices
25 participating under the demonstration pro-
26 gram so that the number of applicable

1 beneficiaries that may participate in the
2 demonstration program does not exceed
3 the following:

4 “(I) 25,000 in 2022.

5 “(II) 50,000 in 2023.

6 “(III) 75,000 in 2024.

7 “(IV) 100,000 in 2025.

8 “(V) 125,000 in 2026.

9 “(VI) 150,000 in 2027.

10 “(VII) 175,000 in 2028.

11 “(VIII) 200,000 in 2029.

12 “(ii) For 2030 and subsequent years,
13 there shall be no limit on the number of
14 qualified independence at home medical
15 practices or applicable beneficiaries that
16 may participate in the demonstration pro-
17 gram.

18 “(iii) Participation of qualified inde-
19 pendence at home medical practices under
20 the demonstration program shall not be
21 limited to practices that were selected to
22 participate prior to the date of enactment
23 of this subsection.

24 “(B) In applying subsection (c), any appli-
25 cable beneficiary that participates in the dem-

1 onstration program, including by reason of the
 2 increase or elimination under subparagraph (A)
 3 of the limit on the number of applicable bene-
 4 ficiaries who may participate, shall be taken
 5 into account in establishing any—

6 “(i) estimated annual spending target
 7 under subsection (c)(1); and

8 “(ii) incentive payment under sub-
 9 section (c)(2).

10 “(3) FUNDING.—In addition to amounts other-
 11 wise available, there is appropriated to the Centers
 12 for Medicare & Medicaid Services Program Manage-
 13 ment Account for fiscal year 2022, out of any money
 14 in the Treasury not otherwise appropriated,
 15 \$60,000,000, to remain available until September
 16 30, 2031, for purposes of administering and car-
 17 rying out the demonstration program, other than for
 18 payments for items and services furnished under this
 19 title and incentive payments under subsection (c).”.

20 **PART II—MEDICAID**

21 **Subpart A—Investments in Home and Community-**
 22 **Based Services and Long-Term Care Quality and**
 23 **Workforce**

24 **SEC. 122201. HCBS IMPROVEMENT PLANNING GRANTS.**

25 (a) FUNDING.—

1 (1) IN GENERAL.—In addition to amounts oth-
2 erwise available, there is appropriated to the Sec-
3 retary for fiscal year 2022, out of any money in the
4 Treasury not otherwise appropriated, \$130,000,000,
5 to remain available until expended, for carrying out
6 this section.

7 (2) TECHNICAL ASSISTANCE AND GUIDANCE.—
8 In addition to amounts otherwise available, there is
9 appropriated to the Secretary for fiscal year 2022,
10 out of any money in the Treasury not otherwise ap-
11 propriated, \$5,000,000, to remain available until ex-
12 pended, for purposes of issuing guidance and pro-
13 viding technical assistance to States intending to
14 apply for, or which are awarded, a planning grant
15 under this section, and for other administrative ex-
16 penses related to awarding planning grants under
17 this section.

18 (b) AWARD AND USE OF GRANTS.—

19 (1) DEADLINE FOR AWARD OF GRANTS.—From
20 the amount appropriated under subsection (a)(1),
21 the Secretary, not later than 12 months after the
22 date of enactment of this Act, shall solicit State re-
23 quests for HCBS improvement planning grants and
24 award such grants to all States that meet such re-
25 quirements as determined by the Secretary.

1 (2) USE OF FUNDS.—Subject to paragraph (3),
2 a State awarded a planning grant under this section
3 shall use the grant to carry out planning activities
4 for purposes of developing and submitting to the
5 Secretary an HCBS improvement plan for the State
6 that meets the requirements of subsection (c). A
7 State may use planning grant funds to support ac-
8 tivities related to the implementation of the HCBS
9 improvement plan for the State.

10 (3) LIMITATION ON USE OF FUNDS.—None of
11 the funds awarded to a State under this section may
12 be used by a State as the source of the non-Federal
13 share of expenditures under the State Medicaid pro-
14 gram.

15 (c) HCBS IMPROVEMENT PLAN REQUIREMENTS.—

16 (1) CONTENT.—The Secretary shall define the
17 content requirements for an HCBS improvement
18 plan, which, at minimum, shall include an assess-
19 ment of access barriers to home and community-
20 based services and the availability (as defined by the
21 Secretary) of such services in the State, a descrip-
22 tion of Medicaid payment rates for such services, a
23 description of the current workforce of direct care
24 workers, the percentage of expenditures made by the
25 State for long-term services and supports that are

1 for home and community-based services, and a de-
2 scription of how the State will meet the require-
3 ments of the HCBS Improvement Program.

4 (2) SUBMISSION; APPROVAL; AMENDMENTS.—

5 Not later than 24 months after the date on which
6 a State is awarded a planning grant under this sec-
7 tion, the State shall submit an HCBS improvement
8 plan for approval by the Secretary, along with assur-
9 ances by the State that the State will implement the
10 plan in accordance with the requirements of the
11 HCBS Improvement Program. The Secretary shall
12 approve the HCBS improvement plan for a State
13 after the plan and such assurances are submitted to
14 the Secretary for approval and the Secretary deter-
15 mines the plan meets the requirements of this sub-
16 section. A State may amend its HCBS improvement
17 plan, subject to the approval of the Secretary that
18 the plan as so amended meets the requirements of
19 this subsection.

20 (d) DEFINITIONS.—In this part:

21 (1) DIRECT CARE WORKER.—The term “direct
22 care worker” means, with respect to a State, any of
23 the following individuals who are paid to provide di-
24 rectly to Medicaid eligible individuals home and com-

1 munity-based services available under the State
2 Medicaid program:

3 (A) A registered nurse, licensed practical
4 nurse, nurse practitioner, or clinical nurse spe-
5 cialist, or a licensed nursing assistant who pro-
6 vides such services under the supervision of a
7 registered nurse, licensed practical nurse, nurse
8 practitioner, or clinical nurse specialist.

9 (B) A direct support professional.

10 (C) A personal care attendant.

11 (D) A home health aide.

12 (E) Any other paid health care profes-
13 sional or worker determined to be appropriate
14 by the State and approved by the Secretary.

15 (2) HCBS IMPROVEMENT PROGRAM.—The term
16 “HCBS Improvement Program” means the program
17 established under subsection (jj) of section 1905 of
18 the Social Security Act (42 U.S.C. 1396d) (as added
19 by section 122202).

20 (3) HCBS IMPROVEMENT PROGRAM STATE.—
21 The term “HCBS Improvement Program State”
22 means a State that is awarded a planning grant
23 under subsection (b) and has an HCBS improve-
24 ment plan approved by the Secretary under sub-
25 section (c)(2).

1 (4) HOME AND COMMUNITY-BASED SERV-
2 ICES.—The term “home and community-based serv-
3 ices” means any of the following (whether provided
4 on a fee-for-service, risk, or other basis):

5 (A) Home health care services authorized
6 under paragraph (7) of section 1905(a) of the
7 Social Security Act (42 U.S.C. 1396d(a)).

8 (B) Private duty nursing services author-
9 ized under paragraph (8) of such section, when
10 such services are provided in a Medicaid eligible
11 individual’s home.

12 (C) Personal care services authorized
13 under paragraph (24) of such section.

14 (D) PACE services authorized under para-
15 graph (26) of such section.

16 (E) Home and community-based services
17 authorized under subsections (b), (c), (i), (j),
18 and (k) of section 1915 of such Act (42 U.S.C.
19 1396n), authorized under a waiver under sec-
20 tion 1115 of such Act (42 U.S.C. 1315), or
21 provided through coverage authorized under
22 section 1937 of such Act (42 U.S.C. 1396u–7).

23 (F) Case management services authorized
24 under section 1905(a)(19) of the Social Secu-

1 rity Act (42 U.S.C. 1396d(a)(19)) and section
2 1915(g) of such Act (42 U.S.C. 1396n(g)).

3 (G) Rehabilitative services, including those
4 related to behavioral health, described in section
5 1905(a)(13) of such Act (42 U.S.C.
6 1396d(a)(13)).

7 (H) Such other services specified by the
8 Secretary.

9 (5) MEDICAID ELIGIBLE INDIVIDUAL.—The
10 term “Medicaid eligible individual” means an indi-
11 vidual who is eligible for and receiving medical as-
12 sistance under a State Medicaid program. Such term
13 includes an individual who is on a waiting list and
14 who would become eligible for medical assistance
15 and enrolled under a State Medicaid program upon
16 receipt of home and community-based services.

17 (6) STATE MEDICAID PROGRAM.—The term
18 “State Medicaid program” means, with respect to a
19 State, the State program under title XIX of the So-
20 cial Security Act (42 U.S.C. 1396 through 1396w-
21 6) (including any waiver or demonstration under
22 such title or under section 1115 of such Act (42
23 U.S.C. 1315) relating to such title).

24 (7) SECRETARY.—The term “Secretary” means
25 the Secretary of Health and Human Services.

1 (8) STATE.—The term “State” means each of
2 the 50 States, the District of Columbia, Puerto Rico,
3 the Virgin Islands, Guam, the Northern Mariana Is-
4 lands, and American Samoa.

5 **SEC. 122202. HCBS IMPROVEMENT PROGRAM.**

6 (a) INCREASED FMAP FOR HCBS IMPROVEMENT
7 PROGRAM STATES.—Section 1905 of the Social Security
8 Act (42 U.S.C. 1396d) is amended—

9 (1) in subsection (b), by striking “and (ii)” and
10 inserting “(ii), and (jj)”;

11 (2) by adding at the end the following new sub-
12 section:

13 “(jj) ADDITIONAL SUPPORT FOR HCBS IMPROVE-
14 MENT PROGRAM STATES.—

15 “(1) IN GENERAL.—

16 “(A) ADDITIONAL SUPPORT.—Subject to
17 paragraph (5), in the case of a State that is an
18 HCBS Improvement Program State, for each
19 fiscal quarter that begins on or after the first
20 date on which the State is an HCBS Improve-
21 ment Program State—

22 “(i) and for which the State meets the
23 requirements described in paragraphs (2)
24 and (4), notwithstanding subsection (b) or
25 (ff), subject to subparagraph (B), with re-

1 spect to amounts expended during the
2 quarter by such State for medical assist-
3 ance for home and community-based serv-
4 ices, the Federal medical assistance per-
5 centage for such State and quarter (as de-
6 termined for the State under subsection
7 (b) or (ff) and, if applicable, increased
8 under subsection (y), (z), (aa), or (ii), sec-
9 tion 6008(a) of the Families First
10 Coronavirus Response Act, or section
11 1915(k)(2)) shall be increased by 6 per-
12 centage points; and

13 “(ii) with respect to the State meeting
14 the requirements described in paragraphs
15 (2) and (4) and with respect to amounts
16 expended during the quarter and before
17 October 1, 2031, administrative costs for
18 expanding and enhancing home and com-
19 munity-based services, including for en-
20 hancing Medicaid data and technology in-
21 frastructure, modifying rate setting proc-
22 esses, adopting or improving training pro-
23 grams for direct care workers and family
24 caregivers, home and community-based
25 services ombudsman office activities, devel-

1 oping processes to identify direct care
2 workers and assign such workers unique
3 identifiers, and adopting, carrying out, or
4 enhancing programs that register direct
5 care workers or connect beneficiaries to di-
6 rect care workers, shall be eligible for Fed-
7 eral financial participation in the same
8 manner as other administrative expendi-
9 tures under section 1903(a), except that,
10 for purposes of this clause, the per centum
11 applicable to such expenditures shall be the
12 greater of 80 percent or the per centum
13 that would otherwise apply.

14 In no case may the application of clause (i) re-
15 sult in the Federal medical assistance percent-
16 age determined for a State being more than 95
17 percent with respect to such expenditures. Any
18 increase pursuant to clause (ii) shall be avail-
19 able to a State before the State meets the re-
20 quirements of paragraphs (2) and (4).

21 “(B) ADDITIONAL HCBS IMPROVEMENT
22 EFFORTS.—Subject to paragraph (5), in addi-
23 tion to the increase to the Federal medical as-
24 sistance percentage under subparagraph (A)(i)
25 for amounts expended during a quarter for

1 medical assistance for home and community-
2 based services by an HCBS Improvement Pro-
3 gram State that meets the requirements of
4 paragraphs (2) and (4) for the quarter, the
5 Federal medical assistance percentage for
6 amounts expended by the State during the
7 quarter for medical assistance for home and
8 community-based services shall be further in-
9 creased by 2 percentage points (but not to ex-
10 ceed 95 percent) during the first 6 fiscal quar-
11 ters throughout which the State has imple-
12 mented and has in effect a program that meets
13 the requirements of paragraph (3).

14 “(C) NONAPPLICATION TO CHIP EFMAP.—
15 Any increase to the Federal medical assistance
16 percentage of a State under subparagraph
17 (A)(i) or (B) or an increase to an applicable
18 Federal matching percentage under subpara-
19 graph (A)(ii) shall not be taken into account in
20 calculating the enhanced FMAP of a State
21 under section 2105.

22 “(2) REQUIREMENTS.—As conditions for re-
23 ceipt of the increase under paragraph (1)(A)(i) to
24 the Federal medical assistance percentage deter-
25 mined for a State, with respect to a fiscal year quar-

1 ter, the State shall meet each of the following re-
2 quirements:

3 “(A) NONSUPPLANTATION.—The State
4 uses an amount in State funds equivalent to the
5 additional Federal funds received by the State
6 that are attributable to the increase to the Fed-
7 eral medical assistance percentage for amounts
8 expended during a quarter for medical assist-
9 ance for home and community-based services
10 under paragraph (1)(A) and paragraph (1)(B)
11 (if applicable) to supplement, and not supplant,
12 the level of State funds expended for home and
13 community-based services for eligible individ-
14 uals through programs in effect as of the date
15 the State is awarded a planning grant under
16 section 122201 of the Act titled ‘An Act to pro-
17 vide for reconciliation pursuant to title II of S.
18 Con. Res. 14’. In applying this subparagraph,
19 the Secretary shall provide that a State shall
20 have a 3-year period, as specified by the Sec-
21 retary, to spend any accumulated unspent State
22 funds attributable to such increase to the Fed-
23 eral medical assistance percentage.

24 “(B) MAINTENANCE OF EFFORT.—

1 “(i) IN GENERAL.—The State does
2 not—

3 “(I) reduce the amount, dura-
4 tion, or scope of home and commu-
5 nity-based services available under the
6 State plan (or waiver of such plan)
7 relative to the home and community-
8 based services available under the
9 plan or a waiver of such plan as of
10 the date on which the State was
11 awarded a planning grant under sec-
12 tion 122201 of the Act titled ‘An Act
13 to provide for reconciliation pursuant
14 to title II of S. Con. Res. 14’;

15 “(II) reduce payment rates for
16 home and community-based services
17 lower than such rates that were in
18 place as of the date described in sub-
19 clause (I), including, to the extent ap-
20 plicable, assumed payment rates for
21 such services that are included in
22 managed care capitation rates as such
23 rates are being prospectively built; or

24 “(III) except to the extent per-
25 mitted under clause (ii), adopt more

1 restrictive standards, methodologies,
2 or procedures for determining eligi-
3 bility for, or the scope of, medical as-
4 sistance for home and community-
5 based services, including with respect
6 to cost-sharing, than the standards,
7 methodologies, or procedures applica-
8 ble as of the date described in sub-
9 clause (I).

10 “(ii) CONDITIONS FOR FLEXI-
11 BILITY.—A State may make modifications
12 that would otherwise violate the mainte-
13 nance of effort described in clause (i) if the
14 State demonstrates to the satisfaction of
15 the Secretary that such modifications shall
16 not result in—

17 “(I) home and community-based
18 services that are less comprehensive
19 or lower in amount, duration, or
20 scope;

21 “(II) fewer individuals (overall
22 and within particular eligibility
23 groups) receiving home and commu-
24 nity-based services, adjusted for de-

1 demographic changes since the date de-
2 scribed in clause (i)(I); or

3 “(III) increased cost-sharing
4 (other than resulting from the rate of
5 inflation) for home and community-
6 based services.

7 “(C) ACCESS TO SERVICES.—The State
8 undertakes efforts to improve access to home
9 and community-based services by doing all of
10 the following not later than an implementation
11 date specified by the Secretary (which may vary
12 for each of the following clauses) after the first
13 day of the first fiscal quarter for which a State
14 receives an increase to the Federal medical as-
15 sistance percentage or other applicable Federal
16 matching percentage under paragraph (1):

17 “(i) Reduces access barriers and dis-
18 parities in access or utilization of home
19 and community-based services.

20 “(ii) Provides coverage of personal
21 care services authorized under subsection
22 (a)(24) for all individuals eligible for and
23 enrolled in medical assistance in the State.

24 “(iii) Provides for navigation of home
25 and community-based services through ‘no

1 wrong door’ programs, provides expedited
2 eligibility for home and community-based
3 services, and improves home and commu-
4 nity-based services counseling and edu-
5 cation programs.

6 “(iv) Expands access to behavioral
7 health services furnished in home and com-
8 munity-based settings.

9 “(v) Improves coordination of home
10 and community-based services with em-
11 ployment, housing, and transportation sup-
12 ports.

13 “(vi) Provides supports to family care-
14 givers.

15 “(vii) Newly provides coverage under,
16 or expands existing eligibility criteria for, 1
17 or more of the eligibility categories author-
18 ized under subclause (XIII), (XV), or
19 (XVI) of section 1902(a)(10)(A)(ii).

20 “(D) WORKFORCE.—The State strength-
21 ens and expands the workforce of direct care
22 workers that provides home and community-
23 based services by—

24 “(i) adopting processes to ensure that
25 payment rates for home and community-

1 based services are sufficient (as defined by
2 the Secretary) to ensure that services are
3 available, including by, not later than 2
4 years after approval of the HCBS improve-
5 ment plan and, at least every 3 years
6 thereafter, updating and, as appropriate,
7 increasing payment rates for home and
8 community-based services to support re-
9 cruitment and retention of direct care
10 workers using, through existing or other
11 processes to determine provider payments,
12 a transparent process involving input from
13 nongovernmental stakeholders;

14 “(ii) ensuring that increases in the
15 payment rates for home and community-
16 based services result in at least a propor-
17 tionate increase to payments for direct
18 care workers; and

19 “(iii) updating qualification standards
20 as appropriate, and developing and adopt-
21 ing training opportunities, for direct care
22 workers and family caregivers, at such
23 times as the Secretary shall prescribe.

24 “(3) SELF-DIRECTED MODELS FOR THE DELIV-
25 ERY OF SERVICES.—As conditions for receipt of the

1 increase under paragraph (1)(B) to the Federal
2 medical assistance percentage determined for a
3 State, with respect to a fiscal year quarter, the State
4 shall establish directly, or by contract with 1 or
5 more entities, including an agency with choice or a
6 similar service delivery model, a program for the
7 performance of all of the following functions, con-
8 sistent with guidance issued by the Secretary, to fa-
9 cilitate beneficiary use of self-directed care in the
10 case the State covers home and community-based
11 services under authorities that permit self-direction:

12 “(A) Recruiting and registering qualified
13 direct care workers and assisting beneficiaries
14 in finding qualified direct care workers.

15 “(B) Supporting beneficiary hiring, if se-
16 lected by the beneficiary, of independent pro-
17 viders of home and community-based services,
18 including through the provision of financial
19 management services.

20 “(C) To the extent a State permits bene-
21 ficiaries to hire a family member or individual
22 with whom they have an existing relationship to
23 provide home and community-based services,
24 providing support to beneficiaries who wish to
25 hire a caregiver who is a family member or in-

1 dividual with whom they have an existing rela-
2 tionship.

3 “(D) Ensuring that the program under
4 this paragraph does not promote or deter the
5 ability of workers to form a labor organization
6 or discriminate against workers who may join
7 or decline to join such an organization

8 “(4) REPORTING AND OVERSIGHT.—As a condi-
9 tion for receipt of an increase under subparagraphs
10 (A)(i) or (B) of paragraph (1) to the Federal med-
11 ical assistance percentage determined for a State,
12 with respect to a fiscal year quarter, the State shall,
13 beginning with the last day of the 5th fiscal quarter
14 for which the State is an HCBS Improvement Pro-
15 gram State, and annually thereafter, report to the
16 Secretary, in a manner the Secretary shall prescribe,
17 on—

18 “(A) the State’s progress in implementing
19 the activities described in subparagraphs (C)
20 and (D) of paragraph (2) and (if applicable)
21 paragraph (3) in accordance with the State
22 HCBS improvement plan; and

23 “(B) the use of the increased funding pro-
24 vided under this subsection.

1 “(5) BENCHMARKS FOR DEMONSTRATING IM-
2 PROVEMENTS.—An HCBS Improvement Program
3 State shall cease to be eligible for an increase to the
4 Federal medical assistance percentage under para-
5 graph (1)(A)(i) or (1)(B) or an increase to an appli-
6 cable Federal matching percentage under paragraph
7 (1)(A)(ii) for each fiscal quarter after the 29th fiscal
8 quarter that begins on or after the first date on
9 which the State is an HCBS Improvement Program
10 State unless, at the end of such 29th fiscal quarter,
11 the State demonstrates the following in the annual
12 report required in paragraph (4) for such quarter:

13 “(A) Increased availability (above a mar-
14 ginal increase) of home and community-based
15 services in the State relative to such availability
16 as reported in the State HCBS improvement
17 plan and adjusted for demographic changes in
18 the State since the submission of such plan.

19 “(B) With respect to the percentage of ex-
20 penditures made by the State for long-term
21 services and supports that are for home and
22 community-based services, in the case of an
23 HCBS Improvement Program State for which
24 such percentage (as reported in the State
25 HCBS improvement plan) was—

1 “(i) less than 50 percent, the State
2 demonstrates that the percentage of such
3 expenditures has increased to at least 50
4 percent since the plan was approved; and

5 “(ii) at least 50 percent, the State
6 demonstrates that such percentage has not
7 decreased since the plan was approved.

8 “(6) DEFINITIONS.—In this subsection, the
9 terms ‘direct care worker’, ‘HCBS Improvement
10 Program State’, and ‘home and community-based
11 services’ have the meaning given those terms in sec-
12 tion 122201(d) of the Act titled ‘An Act to provide
13 for reconciliation pursuant to title II of S. Con. Res.
14 14’.”.

15 **SEC. 122203. FUNDING FOR FEDERAL ACTIVITIES RELATED**
16 **TO MEDICAID HCBS.**

17 In addition to amounts otherwise available, there is
18 appropriated to the Secretary for fiscal year 2022, out of
19 any money in the Treasury not otherwise appropriated,
20 \$40,000,000, to remain available until expended, to carry
21 out section 122202 (including the amendments made by
22 such section), including by issuing necessary guidance and
23 technical assistance to States and conducting program in-
24 tegrity and oversight efforts.

1 **SEC. 122204. FUNDING FOR HCBS QUALITY MEASUREMENT**
2 **AND IMPROVEMENT.**

3 In addition to amounts otherwise available, there is
4 appropriated to the Secretary for fiscal year 2022, out of
5 any money in the Treasury not otherwise appropriated,
6 \$25,000,000, to remain available until expended, for pur-
7 poses of developing, in consultation with nongovernmental
8 stakeholders with expertise in home and community-based
9 services (including recipients and providers of such serv-
10 ices), a recommended set of home and community-based
11 services quality measures that reflect the full range of
12 home and community-based services (as defined in section
13 122201(d)) and the recipients of such services.

14 **SEC. 122205. PERMANENT EXTENSION OF MEDICAID PRO-**
15 **TECTIONS AGAINST SPOUSAL IMPOVERISH-**
16 **MENT FOR RECIPIENTS OF HOME AND COM-**
17 **MUNITY-BASED SERVICES.**

18 (a) IN GENERAL.—Section 1924(h)(1)(A) of the So-
19 cial Security Act (42 U.S.C. 1396r–5(h)(1)(A)) is amend-
20 ed by striking “(at the option of the State) is described
21 in section 1902(a)(10)(A)(ii)(VI)” and inserting the fol-
22 lowing: “is eligible for medical assistance for home and
23 community-based services provided under subsection (c),
24 (d), or (i) of section 1915 or under a waiver approved
25 under section 1115, or who is eligible for such medical
26 assistance by reason of being determined eligible under

1 section 1902(a)(10)(C) or by reason of section 1902(f) or
2 otherwise on the basis of a reduction of income based on
3 costs incurred for medical or other remedial care, or who
4 is eligible for medical assistance for home and community-
5 based attendant services and supports under section
6 1915(k)”.

7 (b) CONFORMING AMENDMENT.—Section 2404 of the
8 Patient Protection and Affordable Care Act (42 U.S.C.
9 1396r–5 note) is amended by striking “September 30,
10 2023” and inserting “the date of the enactment of the
11 Act titled ‘An Act to provide for reconciliation pursuant
12 to title II of S. Con. Res. 14’ ”.

13 **SEC. 122206. PERMANENT EXTENSION OF MONEY FOLLOWS**
14 **THE PERSON REBALANCING DEMONSTRATION.**
15 **TION.**

16 (a) IN GENERAL.—Subsection (h) of section 6071 of
17 the Deficit Reduction Act of 2005 (42 U.S.C. 1396a note)
18 is amended—

19 (1) in paragraph (1)—

20 (A) in subparagraph (I), by inserting
21 “and” after the semicolon;

22 (B) by amending subparagraph (J) to read
23 as follows:

24 “(J) \$450,000,000 for each fiscal year
25 after 2021.”; and

1 (C) by striking subparagraph (K);

2 (2) in paragraph (2), by striking “September
3 30, 2023” and inserting “September 30 of the sub-
4 sequent fiscal year”; and

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

7 “(3) TECHNICAL ASSISTANCE.—In addition to
8 amounts otherwise available, there is appropriated to
9 the Secretary for fiscal year 2022 and for each sub-
10 sequent 3-year period, out of any money in the
11 Treasury not otherwise appropriated, \$5,000,000, to
12 remain available until expended, for carrying out
13 subsections (f), (g), and (i).”.

14 (b) REDISTRIBUTION OF UNEXPENDED GRANT
15 AWARDS.—Subsection (e)(2) of section 6071 of the Deficit
16 Reduction Act of 2005 (42 U.S.C. 1396a note) is amended
17 by adding at the end the following new sentence: “Any
18 portion of a State grant award for a fiscal year under this
19 section that is unexpended by the State at the end of the
20 fourth succeeding fiscal year shall be rescinded by the Sec-
21 retary and added to the appropriation for the fifth suc-
22 ceeding fiscal year.”.

1 **Subpart B—Expanding Access to Maternal Health**

2 **SEC. 122211. EXTENDING CONTINUOUS COVERAGE FOR**
3 **PREGNANT AND POSTPARTUM INDIVIDUALS.**

4 (a) MEDICAID.—

5 (1) REQUIRING FULL BENEFITS FOR PREGNANT
6 AND POSTPARTUM INDIVIDUALS FOR 12-MONTH PE-
7 RIOD POST PREGNANCY.—

8 (A) IN GENERAL.—Paragraph (5) of sec-
9 tion 1902(e) of the Social Security Act (42
10 U.S.C. 1396a(e)) is amended—

11 (i) by striking “(5) A woman who”
12 and inserting “(5)(A) For any fiscal year
13 quarter (beginning with the first fiscal
14 year quarter beginning one year after the
15 date of the enactment of the Act titled ‘An
16 Act to provide for reconciliation pursuant
17 to title II of S. Con. Res. 14’) with respect
18 to which subparagraph (B) does not apply,
19 an individual who”; and

20 (ii) by adding at the end the following
21 new subparagraph:

22 “(B) For any fiscal year quarter (beginning
23 with the first fiscal year quarter beginning one year
24 after the date of the enactment of the Act titled ‘An
25 Act to provide for reconciliation pursuant to title II
26 of S. Con. Res. 14’), any individual who, while preg-

1 nant, is eligible for and received medical assistance
2 under the State plan or a waiver of such plan (re-
3 gardless of the basis for the individual’s eligibility
4 for medical assistance and including during a period
5 of retroactive eligibility under subsection (a)(34)),
6 shall remain eligible, notwithstanding section
7 1916(e)(3) or any other limitation under this title,
8 for medical assistance through the end of the month
9 in which the 12-month period (beginning on the last
10 day of pregnancy of the individual) ends, and such
11 medical assistance shall be in accordance with
12 clauses (i) and (ii) of paragraph (16)(B).”.

13 (B) CONFORMING AMENDMENTS.—Title
14 XIX of the Social Security Act (42 U.S.C. 1396
15 through 1396w-6) is amended—

16 (i) in section 1902(a)(10), in the mat-
17 ter following subparagraph (G), by striking
18 “(VII) the medical assistance” and all that
19 follows through “, (VIII)” and inserting
20 “(VIII)”;

21 (ii) in section 1902(e)(6), by striking
22 “In the case of” and inserting “For any
23 fiscal year quarter with respect to which
24 paragraph (5)(B) does not apply, in the
25 case of”;

1 (iii) in section 1902(l)(1)(A), by strik-
2 ing “60-day period” and inserting “12-
3 month period (or, for any fiscal year quar-
4 ter with respect to which subsection
5 (e)(5)(B) does not apply and for which the
6 State has not adopted the option under
7 section 1902(e)(16)(A), 60-day period”;

8 (iv) in section 1903(v)(4)—

9 (I) in subparagraph (A)(i), by
10 striking “the 60-day period” and in-
11 scribing “the applicable period (as de-
12 scribed in subparagraph (D))”;

13 (II) in subparagraph (A)(ii), by
14 striking the period and inserting “,
15 and, in the case of such an individual
16 who is or becomes pregnant, such in-
17 dividual (regardless of age) during
18 pregnancy and during the applicable
19 period (as described in subparagraph
20 (D)).”;

21 (III) by adding at the end the
22 following new subparagraph:

23 “(D) For purposes of subparagraph (A),
24 the applicable period described in this subpara-
25 graph is—

1 “(i) beginning with the first fiscal
2 year quarter that begins one year after the
3 date of the enactment of the American
4 Rescue Plan Act of 2021, for a State that
5 has adopted the option under section
6 1902(e)(16)(A), the 12-month period;”;
7 and

8 (IV) in the subparagraph (D)
9 added by subclause (III), by adding at
10 the end the following new clauses:

11 “(ii) beginning with the first fiscal
12 year quarter beginning one year after the
13 date of the enactment of the Act titled ‘An
14 Act to provide for reconciliation pursuant
15 to title II of S. Con. Res. 14’, the 12-
16 month period; and

17 “(iii) for any fiscal year quarter (be-
18 ginning with such first fiscal year quarter)
19 with respect to which section
20 1902(e)(5)(B) does not apply and for
21 which the State has not adopted the option
22 under section 1902(e)(16)(A), the 60-day
23 period.”;

24 (v) in section 1905(a), in the 4th sen-
25 tence in the matter following paragraph

1 (31), by striking “60-day period” and in-
2 sserting “12-month period (or, for any fis-
3 cal year quarter with respect to which sec-
4 tion 1902(e)(5)(B) does not apply and for
5 which the State has not adopted the option
6 under section 1902(e)(16)(A), 60-day pe-
7 riod)”; and

8 (vi) in section 1905(y), by adding at
9 the end the following new paragraph:

10 “(3) TREATMENT FOR CERTAIN INDIVID-
11 UALS.—Notwithstanding paragraphs (1) and (2),
12 section 1902(a)(10)(A)(i)(III), and section
13 1902(a)(10)(A)(i)(IV), the term ‘newly eligible’ in
14 paragraph (2)(A) and the phrase ‘newly eligible indi-
15 viduals described in subelause (VIII) of section
16 1902(a)(10)(A)(i)’ in paragraph (1) shall apply to
17 individuals who but for the amendments made by
18 section 122211(a) of the Act titled ‘An Act to pro-
19 vide for reconciliation pursuant to title II of S. Con.
20 Res. 14’ would be eligible under the State plan (or
21 waiver) for medical assistance under section
22 1902(a)(10)(A)(i)(VIII) for the period beginning on
23 the first day occurring after the end of such 60-day
24 period and ending on the last day of the month in

1 which the 12-month period (beginning on the last
2 day of the pregnancy) ends.”.

3 (2) TRANSITION FROM STATE OPTION.—

4 (A) IN GENERAL.—Section 1902(e)(16)(A)
5 of the Social Security Act (42 U.S.C.
6 1396a(e)(16)(A)) is amended by striking “At
7 the option of the State” and inserting “For any
8 fiscal year quarter with respect to which para-
9 graph (5)(B) does not apply, at the option of
10 the State”.

11 (B) CONFORMING AMENDMENT.—Section
12 9812(b) of the American Rescue Plan Act of
13 2021 (Public Law 117–2) is amended by strik-
14 ing “during the 5-year period”.

15 (3) EFFECTIVE DATE.—

16 (A) IN GENERAL.—Subject to subpara-
17 graphs (B) and (C), the amendments made by
18 this paragraph shall take effect on the 1st day
19 of the 1st fiscal year quarter that begins one
20 year after the date of the enactment of this Act
21 and shall apply with respect to medical assist-
22 ance provided on or after such date.

23 (B) EXCEPTION FOR CERTAIN AMERICAN
24 RESCUE PLAN ACT OF 2021 CONFORMING
25 AMENDMENTS.—The amendments made by sub-

1 clauses (I), (II), and (III) of paragraph
2 (1)(B)(iv) shall take effect on the first day of
3 the first fiscal year quarter that begins one year
4 after the date of the enactment of the American
5 Rescue Plan Act of 2021 and shall apply with
6 respect to medical assistance provided on or
7 after such date.

8 (C) EXCEPTION FOR STATE LEGISLA-
9 TION.—In the case of a State plan under title
10 XIX of the Social Security Act (42 U.S.C. 1396
11 through 1396w-6) that the Secretary of Health
12 and Human Services determines requires State
13 legislation in order for the plan to meet any re-
14 quirement imposed by amendments made by
15 this subsection, the plan shall not be regarded
16 as failing to comply with the requirements of
17 such title solely on the basis of its failure to
18 meet such a requirement before the first day of
19 the first calendar quarter beginning after the
20 close of the first regular session of the State
21 legislature that begins after the date of the en-
22 actment of this Act. For purposes of the pre-
23 vious sentence, in the case of a State that has
24 a 2-year legislative session, each year of the ses-

1 sion shall be considered to be a separate regular
2 session of the State legislature.

3 (b) CHIP.—

4 (1) REQUIRING FULL BENEFITS FOR PREGNANT
5 AND POSTPARTUM WOMEN FOR 12-MONTH PERIOD
6 POST PREGNANCY.—

7 (A) IN GENERAL.—Section 2107(e)(1)(J)
8 of the Social Security Act (42 U.S.C.
9 1397gg(e)(1)(J)) is amended—

10 (i) by striking “Paragraphs (5) and
11 (16) of section 1902(e)” and inserting “(i)
12 For any fiscal year quarter with respect to
13 which paragraph (5)(B) of section 1902(e)
14 does not apply, paragraphs (5)(A) and
15 (16) of such section”; and

16 (ii) by adding at the end the following
17 new clause:

18 “(ii) For any fiscal year quarter (beginning
19 with the first fiscal year quarter beginning one
20 year after the date of the enactment of the Act
21 titled ‘An Act to provide for reconciliation pur-
22 suant to title II of S. Con. Res. 14’), section
23 1902(e)(5)(B) (requiring, notwithstanding sec-
24 tion 2103(e)(3)(C)(ii)(I) or any other limitation
25 under this title, continuous coverage for preg-

1 follows through “ends” and inserting
2 “12-month period (or, for any fiscal
3 year quarter with respect to which
4 section 2107(e)(1)(J)(ii) does not
5 apply and for which the State has not
6 adopted the option under section
7 1902(e)(16)(A), 60-day period) ends”;
8 and

9 (ii) in subsection (f)(2), by striking
10 “60-day period” and inserting “12-month
11 period (or, for any fiscal year quarter (be-
12 ginning with the first fiscal year quarter
13 beginning one year after the date of the
14 enactment of the Act titled ‘An Act to pro-
15 vide for reconciliation pursuant to title II
16 of S. Con. Res. 14’) with respect to which
17 section 2107(e)(1)(J)(ii) does not apply
18 and for which the State has not adopted
19 the option under section 1902(e)(16)(A),
20 60-day period)”.

21 (2) TRANSITION FROM STATE PLAN OPTION.—
22 Section 9822(b) of the American Rescue Plan Act of
23 2021 (Public Law 117–2) is amended by striking “,
24 during the 5-year period”.

25 (3) EFFECTIVE DATE.—

1 (A) IN GENERAL.—Subject to subpara-
2 graph (B), the amendments made by this sub-
3 section shall take effect on the 1st day of the
4 1st fiscal year quarter that begins one year
5 after the date of the enactment of this Act and
6 shall apply with respect to child health assist-
7 ance and pregnancy-related assistance, as appli-
8 cable, provided on or after such date.

9 (B) EXCEPTION FOR STATE LEGISLA-
10 TION.—In the case of a State child health plan
11 under title XXI of the Social Security Act (42
12 U.S.C. 1397aa through 1397mm) that the Sec-
13 retary of Health and Human Services deter-
14 mines requires State legislation in order for the
15 plan to meet any requirement imposed by
16 amendments made under this subsection, the
17 plan shall not be regarded as failing to comply
18 with the requirements of such title solely on the
19 basis of its failure to meet such a requirement
20 before the first day of the first calendar quarter
21 beginning after the close of the first regular
22 session of the State legislature that begins after
23 the date of the enactment of this Act. For pur-
24 poses of the previous sentence, in the case of a
25 State that has a 2-year legislative session, each

1 year of the session shall be considered to be a
2 separate regular session of the State legislature.

3 **SEC. 122212. STATE OPTION TO PROVIDE COORDINATED**
4 **CARE THROUGH A MATERNAL HEALTH HOME**
5 **FOR PREGNANT AND POSTPARTUM INDIVID-**
6 **UALS.**

7 Title XIX of the Social Security Act (42 U.S.C.
8 1396a) is amended by inserting after section 1945A the
9 following new section:

10 **“SEC. 1945B. STATE OPTION TO PROVIDE COORDINATED**
11 **CARE THROUGH A MATERNAL HEALTH HOME**
12 **FOR PREGNANT AND POSTPARTUM INDIVID-**
13 **UALS.**

14 “(a) IN GENERAL.—Notwithstanding section
15 1902(a)(1) (relating to statewideness) and section
16 1902(a)(10)(B) (relating to comparability), beginning 24
17 months after the date of enactment of this section, a
18 State, at its option as a State plan amendment, may pro-
19 vide for medical assistance under this title to eligible indi-
20 viduals who choose to enroll in a maternal health home
21 under this section and receive maternal health home serv-
22 ices from a designated provider, a team of health profes-
23 sionals operating with such a provider, or a health team.

24 “(b) MATERNAL HEALTH HOME QUALIFICATION
25 STANDARDS.—A maternal health home under this section

1 shall demonstrate to the State the ability to do the fol-
2 lowing:

3 “(1) Develop an individualized comprehensive
4 care plan for each eligible individual, working in a
5 culturally and linguistically appropriate manner with
6 such individual to develop and incorporate such care
7 plan in a manner consistent with such individual’s
8 needs and choices, including—

9 “(A) primary care;

10 “(B) inpatient care;

11 “(C) social support services;

12 “(D) local hospital emergency care;

13 “(E) care management and planning re-
14 lated to a change in an eligible individual’s eli-
15 gibility for medical assistance or a change in
16 health insurance coverage as needed; and

17 “(F) behavioral health services.

18 “(2) Coordinate all necessary services to sup-
19 port prenatal, labor and delivery, and postpartum
20 care for eligible individuals.

21 “(3) Coordinate access to specialists, behavioral
22 health providers, early intervention services, and pe-
23 diatricians.

24 “(c) PAYMENTS.—

1 “(1) IN GENERAL.—A State shall provide a des-
2 ignated provider, a team of health professionals op-
3 erating with such a provider, or a health team with
4 payments for the provision of maternal health home
5 services to each eligible individual enrolled in a ma-
6 ternal health home. Payments for maternal health
7 home services made to a designated provider, a team
8 of health professionals operating with such a pro-
9 vider, or a health team shall be treated as payments
10 for medical assistance for purposes of section
11 1903(a), except that, during the first 8 fiscal quar-
12 ters that the State plan amendment is in effect, the
13 Federal medical assistance percentage otherwise ap-
14 plicable to such payments shall be increased by 15
15 percentage points, not to exceed 90 percent.

16 “(2) METHODOLOGY.—

17 “(A) IN GENERAL.—The State shall speci-
18 fy in the State plan amendment the method-
19 ology the State will use for determining pay-
20 ment for the provision of maternal health home
21 services. Such methodology for determining
22 payment—

23 “(i) may be tiered or adjusted to re-
24 flect, with respect to each individual pro-
25 vided such services by a designated pro-

1 vider, a team of health care professionals
2 operating with such a provider, or a health
3 team, the acuity of each individual receiv-
4 ing care, or the specific capabilities of the
5 provider, team of health care providers, or
6 health team; and

7 “(ii) shall be established consistent
8 with section 1902(a)(30)(A).

9 “(B) ALTERNATE MODEL OF PAYMENT.—
10 The methodology for determining payment for
11 provision of maternal health home services
12 under this section shall not be limited to a fee-
13 for-service or per-member per-month payment
14 model, and may provide for alternate models of
15 payment that reflect the needs of a State, sub-
16 ject to the approval of the Secretary.

17 “(3) PLANNING GRANTS.—

18 “(A) IN GENERAL.—Beginning 12 months
19 after the date of enactment of this section, the
20 Secretary may award planning grants to States
21 for purposes of developing a State plan amend-
22 ment under this section. A planning grant
23 awarded to a State under this paragraph shall
24 remain available until expended.

1 “(B) STATE CONTRIBUTION.—A State
2 awarded a planning grant shall contribute an
3 amount equal to the State percentage deter-
4 mined under section 1905(b) for each fiscal
5 year for which the grant is awarded.

6 “(C) APPROPRIATIONS.—In addition to
7 amounts otherwise available, there is appro-
8 priated for fiscal year 2022, out of any money
9 in the Treasury not otherwise appropriated, to
10 remain available until expended, to carry out
11 this paragraph, \$5,000,000 for awarding grants
12 under this section.

13 “(d) STATE PLAN AMENDMENT.—A State plan
14 amendment submitted pursuant to this section shall in-
15 clude—

16 “(1) eligibility criteria for maternal health
17 homes;

18 “(2) services available to eligible individuals
19 through the maternal health home;

20 “(3) a description of providers that may provide
21 care through a maternal health home, and that in-
22 clude how such State will ensure any provider ar-
23 rangement offered includes a person-centered plan-
24 ning approach to determining necessary services and
25 supports and providing the appropriate care coordi-

1 nation to meet clinical and non-clinical needs of eli-
2 gible individuals; and

3 “(4) reimbursement methodologies (as described
4 in subsection (c)(2)).

5 “(e) DEFINITIONS.—In this section:

6 “(1) DESIGNATED PROVIDER.—The term ‘des-
7 ignated provider’ means a physician, clinical practice
8 or clinical group practice, rural health clinic, free-
9 standing birth center, community health center, ob-
10 stetrician gynecologist, midwife who meets at a min-
11 imum the international definition of the midwife and
12 global standards for midwifery education as estab-
13 lished by the International Confederation of Mid-
14 wives, or any other health care entity or provider de-
15 termined by the State and approved by the Sec-
16 retary to be qualified to act as a maternal health
17 home.

18 “(2) ELIGIBLE INDIVIDUAL.—The term ‘eligible
19 individual’ means an individual eligible for medical
20 assistance under the State plan or under a waiver of
21 such plan who—

22 “(A) is pregnant or in the postpartum pe-
23 riod that begins on the last day of the preg-
24 nancy and ends on the last day of the month
25 in which the 12-month period (beginning on the

1 last day of the pregnancy of the individual)
2 ends (or, if the State provides for a longer pe-
3 riod of postpartum coverage period under such
4 plan or waiver, on the last day of such longer
5 period); and

6 “(B) is not enrolled in a health home
7 under section 1945 or 1945A.

8 “(3) HEALTH TEAM.—The term ‘health team’
9 has the meaning given such term for purposes of
10 section 3502 of Public Law 111–148.

11 “(4) MATERNAL HEALTH HOME.—The term
12 ‘maternal health home’ means a designated provider
13 (including a provider that operates in coordination
14 with a team of health care professionals), or a health
15 team selected by a State to provide maternal health
16 home services to pregnant and postpartum individ-
17 uals.

18 “(5) MATERNAL HEALTH HOME SERVICES.—

19 “(A) IN GENERAL.—The term ‘maternal
20 health home services’ means comprehensive and
21 timely high-quality services described in sub-
22 paragraph (B) that are provided by a des-
23 ignated provider, a team of health professionals
24 operating with such a provider, or a health
25 team.

1 “(B) SERVICES DESCRIBED.—The services
2 described in this subparagraph shall include—

3 “(i) a standardized risk assessment
4 for all participants to determine needs;

5 “(ii) comprehensive care management;

6 “(iii) care coordination and health
7 promotion;

8 “(iv) comprehensive transitional care,
9 including arranging appropriate follow-up,
10 for individuals transitioning from inpatient
11 care to other settings;

12 “(v) individual and family support (in-
13 cluding authorized representatives);

14 “(vi) making referrals to other med-
15 ical, community, and social support serv-
16 ices, if relevant; and

17 “(vii) the use of health information
18 technology to link services and coordinate
19 care, to the extent practicable.

20 “(6) STANDARDIZED RISK ASSESSMENT.—The
21 term ‘standardized risk assessment’ means an as-
22 sessment to determine the needs of an eligible indi-
23 vidual, and shall include an assessment of medical,
24 obstetric, behavioral health, and social needs per-
25 formed at the initial prenatal or postpartum visit.

1 “(7) TEAM OF HEALTH PROFESSIONALS.—The
2 term ‘team of health professionals’ means a team of
3 health professionals (as described in the State plan
4 amendment under this section) that may—

5 “(A) include physicians, midwives who
6 meet at a minimum the international definition
7 of the midwife and global standards for mid-
8 wifery education as established by the Inter-
9 national Confederation of Midwives, nurses,
10 nurse care coordinators, nutritionists, social
11 workers, doulas, behavioral health professionals,
12 community health workers, translators and in-
13 terpreters, and other professionals determined
14 to be appropriate by the State;

15 “(B) a health care entity or individual who
16 is designated to coordinate such a team; and

17 “(C) provide care at a facility that is free-
18 standing, virtual, or based at a hospital, free-
19 standing birth center, community health center,
20 community mental health center, rural clinic,
21 clinical practice or clinical group practice, aca-
22 demic health center, children’s hospital, or any
23 health care entity determined to be appropriate
24 by the State and approved by the Secretary.”.

1 data with respect to such year), rounded to
2 the nearest \$100,000;”;

3 (2) in subparagraph (B)—

4 (A) in clause (i), by striking “except as
5 provided in clause (ii),” and inserting “for each
6 of fiscal years 1999 through 2019,”;

7 (B) in clause (ii), by striking “and” at the
8 end;

9 (C) by adding at the end the following:

10 “(iv) for fiscal year 2022,
11 \$135,000,000; and

12 “(v) for fiscal year 2023 and each
13 subsequent year, the sum of the amount
14 provided in this subsection for the pre-
15 ceding fiscal year, increased by the per-
16 centage increase described in subparagraph
17 (A)(iv) for the preceding year, rounded to
18 the nearest \$10,000;”;

19 (3) in subparagraph (C)—

20 (A) in clause (i), by striking “except as
21 provided in clause (ii),” and inserting “for each
22 of fiscal years 1999 through 2019,”;

23 (B) in clause (ii), by striking “and” at the
24 end;

25 (C) by adding at the end the following:

1 “(iv) for fiscal year 2022,
2 \$140,000,000; and

3 “(v) for fiscal year 2023 and each
4 subsequent year, the sum of the amount
5 provided in this subsection for the pre-
6 ceding fiscal year, increased by the per-
7 centage increase described in subparagraph
8 (A)(iv) for the preceding year, rounded to
9 the nearest \$10,000;”;

10 (4) in subparagraph (D)—

11 (A) in clause (i), by striking “except as
12 provided in clause (ii),” and inserting “for each
13 of fiscal years 1999 through 2019,”;

14 (B) in clause (ii), by striking “and” at the
15 end;

16 (C) in clause (iii), by striking “and” at the
17 end; and

18 (D) by adding at the end the following new
19 clauses:

20 “(iv) for fiscal year 2022,
21 \$73,000,000; and

22 “(v) for fiscal year 2023 and each
23 subsequent year, the sum of the amount
24 provided in this subsection for the pre-
25 ceding fiscal year, increased by the per-

1 centage increase described in subparagraph
2 (A)(iv) for the preceding year, rounded to
3 the nearest \$10,000; and”;

4 (5) in subparagraph (E)—

5 (A) in clause (i), by striking “except as
6 provided in clause (ii),” and inserting “for each
7 of fiscal years 1999 through 2019,”;

8 (B) in clause (ii), by striking “and” at the
9 end;

10 (C) in clause (iii), by striking the period
11 and inserting a semicolon; and

12 (D) by adding at the end the following:

13 “(iv) for fiscal year 2022,
14 \$90,000,000; and

15 “(v) for fiscal year 2023 and each
16 subsequent year, the sum of the amount
17 provided in this subsection for the pre-
18 ceding fiscal year, increased by the per-
19 centage increase described in subparagraph
20 (A)(iv) for the preceding year, rounded to
21 the nearest \$10,000.”; and

22 (6) by striking the flush matter following sub-
23 paragraph (E).

24 (b) FMAP ADJUSTMENTS.—Section 1905(ff) of the
25 Social Security Act (42 U.S.C. 1396d(ff)), as amended by

1 section 2104(a) of title I of division C of the Further Ex-
2 tending Government Funding Act (Public Law 117–70),
3 is amended—

4 (1) by redesignating paragraphs (1) through
5 (3) as subparagraphs (A) through (C), respectively,
6 and adjusting the margins accordingly;

7 (2) by striking “Notwithstanding” and insert-
8 ing the following:

9 “(1) IN GENERAL.—Notwithstanding”;

10 (3) in paragraph (1), as so inserted—

11 (A) in the matter preceding subparagraph
12 (A), as so redesignated, by inserting “para-
13 graph (2) and” after “subject to”;

14 (B) in subparagraph (B), as so redesign-
15 ated—

16 (i) by striking “1108(g)(7)(C)” and
17 inserting “1108(g)(7)(B)”;

18 (ii) by striking “December 3, 2021,”
19 and inserting “September 30, 2021”; and

20 (iii) by striking “and” at the end;

21 (C) in subparagraph (C), as so redesign-
22 ated, by striking “February 18, 2022,” and
23 inserting “September 30, 2021”;

24 (D) by adding at the end the following:

1 “(D) for fiscal year 2022 and each subse-
2 quent fiscal year, the Federal medical assist-
3 ance percentage for the Virgin Islands, Guam,
4 the Northern Mariana Islands, and American
5 Samoa shall be equal to 83 percent;

6 “(E) for fiscal year 2022, the Federal
7 medical assistance percentage for Puerto Rico
8 shall be equal to 76 percent; and

9 “(F) for fiscal year 2023 and each subse-
10 quent fiscal year, the Federal medical assist-
11 ance percentage for Puerto Rico shall be equal
12 to 83 percent.”; and

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

15 “(2) SPECIAL RULE FOR PUERTO RICO RELAT-
16 ING TO ESTABLISHING A PAYMENT FLOOR.—

17 “(A) IN GENERAL.—For each fiscal quar-
18 ter (beginning with the first fiscal quarter be-
19 ginning on or after the date of the enactment
20 of this paragraph), Puerto Rico’s State plan (or
21 waiver of such plan) shall establish a reimburse-
22 ment floor, implemented through a directed
23 payment arrangement plan, for physician serv-
24 ices that are covered under the Medicare part
25 B fee schedule in the Puerto Rico locality estab-

1 lished under section 1848(b) that is not less
2 than 70 percent of the payment that would
3 apply to such services if they were furnished
4 under part B of title XVIII during such fiscal
5 quarter.

6 “(B) APPLICATION TO MANAGED CARE.—
7 In determining whether Puerto Rico has estab-
8 lished a reimbursement floor under a directed
9 payment arrangement plan that satisfies the re-
10 quirements of subparagraph (A) for a fiscal
11 quarter occurring during fiscal year 2022 or a
12 subsequent fiscal year—

13 “(i) the Secretary shall disregard pay-
14 ments made under sub-capitated arrange-
15 ments for services such as primary care
16 case management; and

17 “(ii) if the reimbursement floor for
18 physician services applicable under a man-
19 aged care contract satisfies the require-
20 ments of subparagraph (A) for a fiscal
21 quarter occurring during a year in which
22 the contract is entered into or renewed,
23 such reimbursement floor shall be deemed
24 to satisfy such requirements for each sub-
25 sequent fiscal quarter occurring during

1 preceding fiscal quarter, the number
 2 of percentage points of such reduction
 3 for such preceding fiscal quarter, plus
 4 0.25 percentage points, except that in
 5 no case may the application of this
 6 subclause result in a reduction of
 7 more than 5 percentage points.”.

8 **Subpart D—Other Medicaid**

9 **SEC. 122231. INVESTMENTS TO ENSURE CONTINUED AC-**
 10 **CESS TO HEALTH CARE FOR CHILDREN AND**
 11 **OTHER INDIVIDUALS.**

12 (a) PROVIDING FOR 1 YEAR OF CONTINUOUS ELIGI-
 13 BILITY FOR CHILDREN.—

14 (1) UNDER THE MEDICAID PROGRAM.—

15 (A) IN GENERAL.—Section 1902(e) of the
 16 Social Security Act (42 U.S.C. 1396a(e)) is
 17 amended—

18 (i) in paragraph (12), by inserting
 19 “before the date that is one year after the
 20 date of the enactment of paragraph (17)”
 21 after “subsection (a)(10)(A)”; and

22 (ii) by adding at the end following
 23 new paragraph:

24 “(17) 1 YEAR OF CONTINUOUS ELIGIBILITY FOR
 25 CHILDREN.—The State plan (or waiver of such

1 State plan) shall provide that an individual who is
2 under the age of 19 and who is determined to be eli-
3 gible for benefits under a State plan (or waiver of
4 such plan) approved under subsection (a)(10)(A)
5 shall remain eligible for such benefits until the ear-
6 lier of—

7 “(A) the end of the 12-month period begin-
8 ning on the date of such determination;

9 “(B) the time that such individual attains
10 the age of 19; or

11 “(C) the date that such individual ceases
12 to be a resident of such State.”.

13 (B) EFFECTIVE DATE.—

14 (i) IN GENERAL.—Subject to clause
15 (ii), the amendments made by subpara-
16 graph (A)(ii) shall take effect one year
17 after the date of enactment of this Act.

18 (ii) EXCEPTION FOR STATE LEGISLA-
19 TION.—In the case of a State plan under
20 title XIX of the Social Security Act (42
21 U.S.C. 1396 through 1396w-6) that the
22 Secretary of Health and Human Services
23 determines requires State legislation in
24 order for the plan to meet any requirement
25 imposed by amendments made under sub-

1 paragraph (A)(ii), the plan shall not be re-
2 garded as failing to comply with the re-
3 quirements of such title solely on the basis
4 of its failure to meet such a requirement
5 before the first day of the first calendar
6 quarter beginning after the close of the
7 first regular session of the State legislature
8 that begins after the date of the enactment
9 of this Act. For purposes of the previous
10 sentence, in the case of a State that has a
11 2-year legislative session, each year of the
12 session shall be considered to be a separate
13 regular session of the State legislature.

14 (2) UNDER THE CHILDREN'S HEALTH INSUR-
15 ANCE PROGRAM.—Section 2107(e)(1) of the Social
16 Security Act (42 U.S.C. 1397gg(e)(1)) is amended—

17 (A) by redesignating subparagraphs (K)
18 through (T) as subparagraphs (L) through (U),
19 respectively; and

20 (B) by inserting after subparagraph (J)
21 the following new subparagraph:

22 “(K) Section 1902(e)(17) (relating to 1
23 year of continuous eligibility for children).”.

24 (b) REVISIONS TO TEMPORARY INCREASE OF MED-
25 ICAID FMAP UNDER THE FAMILIES FIRST CORONAVIRUS

1 RESPONSE ACT.—Section 6008 of the Families First
2 Coronavirus Response Act (42 U.S.C. 1396d note) is
3 amended—

4 (1) in subsection (a)—

5 (A) by striking “IN GENERAL.—Subject
6 to” and inserting “TEMPORARY INCREASE.—

7 “(1) IN GENERAL.—Subject to”;

8 (B) in the paragraph (1) inserted by sub-
9 paragraph (A)—

10 (i) by striking “the last day of the cal-
11 endar quarter in which the last day of such
12 emergency period occurs” and inserting
13 “September 30, 2022”; and

14 (ii) by striking “6.2 percentage
15 points” and inserting “the number of per-
16 centage points specified in paragraph (2)
17 with respect to such calendar quarter”;
18 and

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

21 “(2) PERCENTAGE POINTS SPECIFIED.—For
22 purposes of paragraph (1), the number of percent-
23 age points specified in this paragraph is—

24 “(A) 6.2 percentage points with respect to
25 each calendar quarter occurring during the pe-

1 riod beginning on the first day of the emer-
2 gency period defined in paragraph (1)(B) of
3 section 1135(g) of the Social Security Act (42
4 U.S.C. 1320b-5(g)) and ending March 31,
5 2022;

6 “(B) 3.0 percentage points with respect to
7 the calendar quarter beginning on April 1,
8 2022, and ending on June 30, 2022; and

9 “(C) 1.5 percentage points with respect to
10 the calendar quarter beginning on July 1, 2022,
11 and ending on September 30, 2022.”;

12 (2) in subsection (b)(3)—

13 (A) by striking “the State fails” and in-
14 serting “subject to subsection (f), the State
15 fails”;

16 (B) by striking “and ending the last day of
17 the month in which the emergency period de-
18 scribed in subsection (a) ends” and inserting
19 “and ending on March 31, 2022,”; and

20 (C) by striking “through the end of the
21 month in which such emergency period ends”
22 and inserting “through September 30, 2022,”;
23 and

24 (3) by adding at the end the following new sub-
25 section:

1 “(f) SPECIAL RULE FOR ENROLLMENTS AS OF APRIL
2 1, 2022.—For calendar quarters during the period de-
3 scribed in subsection (a) that begin on or after April 1,
4 2022, a State described in such subsection may, in accord-
5 ance with paragraph (3), terminate coverage for an indi-
6 vidual who is determined to be no longer eligible for med-
7 ical assistance and who has been enrolled for at least 12
8 consecutive months under the State plan of such State
9 under title XIX of the Social Security Act (42 U.S.C.
10 1396 through 1396w–6) (including any waiver under such
11 title or section 1115 of such Act (42 U.S.C. 1315)), and
12 such State shall not be ineligible for the increase to the
13 Federal medical assistance percentage of the State de-
14 scribed in such subsection on the basis that the State is
15 in violation of the requirement of subsection (b)(3), if the
16 State, with respect to such terminations of coverage con-
17 ducted through September 30, 2022, for such individuals,
18 is in compliance with each of the following:

19 “(1) The State shall conduct such eligibility re-
20 determinations, with respect to such an individual,
21 in accordance with all Federal legal requirements
22 that govern eligibility redeterminations under title
23 XIX of the Social Security Act, as applicable.

24 “(2) Prior to terminating coverage for an indi-
25 vidual, the State shall undertake a good faith effort

1 to ensure that the State has contact information (in-
2 cluding an up-to-date mailing address, phone num-
3 ber, or email address) for such individuals by coordi-
4 nating with Medicaid managed care organizations
5 (where applicable), and other applicable State health
6 and human services agencies.

7 “(3) The State may not disenroll from the
8 State plan (or waiver) such an individual determined
9 ineligible pursuant to such a redetermination for
10 medical assistance under the State plan (or waiver)
11 on the basis of returned mail unless—

12 “(A) there have been at least 2 failed at-
13 tempts to contact such individual through at
14 least 2 modalities; and

15 “(B) the individual had reasonable notice
16 (as provided in accordance with guidance issued
17 by the Secretary) before such disenrollment
18 takes effect.

19 “(4) The State may not initiate eligibility rede-
20 terminations for more than 1/9 of individuals en-
21 rolled in the State plan (or waiver) with respect to
22 any month during the period beginning on the date
23 that the State begins to initiate such redetermina-
24 tions in accordance with this subsection, and ending
25 on September 30, 2022.

1 “(5) During the period described in subsection
2 (a) that begins on or after April 1, 2022, and for
3 which the State receives an increase in its Federal
4 medical assistance percentage pursuant to such sub-
5 section , the State shall submit to the Secretary
6 monthly reports on the activities of the State, in-
7 cluding, with respect to the period for which the re-
8 port is submitted—

9 “(A) the number of eligibility renewals ini-
10 tiated, beneficiaries renewed, and individuals
11 whose eligibility was terminated;

12 “(B) the number of such cases in which
13 eligibility for medical assistance under the State
14 plan (or waiver) were so terminated due to the
15 individual’s failure to return a renewal form or
16 other information needed by the state to make
17 an eligibility determination;

18 “(C) the number of such cases in which
19 eligibility for medical assistance under the State
20 plan (or waiver) were so terminated pursuant to
21 such a redetermination due to a known change
22 in circumstance;

23 “(D) the number of individuals whose cov-
24 erage was terminated pursuant to such a rede-
25 termination whose accounts were, during such

1 period, transferred to the Exchange, CHIP, or
2 basic health program; and

3 “(E) the total call center volume, average
4 wait times, and average abandonment rate (as
5 determined by the Secretary) for each call cen-
6 ter during such month.”.

7 (c) MEDICAL ASSISTANCE UNDER MEDICAID FOR IN-
8 MATES DURING 30-DAY PERIOD PRECEDING RELEASE.—

9 (1) IN GENERAL.—The subdivision (A) fol-
10 lowing paragraph (31) of section 1905(a) of the So-
11 cial Security Act (42 U.S.C. 1396d(a)) is amended
12 by inserting “and, beginning on the first day of the
13 first fiscal year quarter that begins two years after
14 the date of the enactment of the Act titled ‘An Act
15 to provide for reconciliation pursuant to title II of
16 S. Con. Res. 14’, except during the 30-day period
17 preceding the date of release of an inmate of a pub-
18 lic institution” after “medical institution”.

19 (2) CONFORMING AMENDMENTS IN TITLE
20 XIX.—Section 1902(a) of the Social Security Act (42
21 U.S.C. 1396a(a)) is amended—

22 (A) in paragraph (74), by striking at the
23 end “and”; and

24 (B) in paragraph (84)—

1 (i) in subparagraph (A), by inserting
2 “, except, beginning on the first day of the
3 first fiscal year quarter that begins 2 years
4 after the date of enactment of the Act ti-
5 tled ‘An Act to provide for reconciliation
6 pursuant to title II of S. Con. Res. 14’, the
7 State may not suspend coverage during the
8 30-day period preceding the date of release
9 of the juvenile” after “during the period
10 the juvenile is such an inmate”; and

11 (ii) in subparagraph (C), by striking
12 “upon release” and inserting “30 days
13 prior to release”.

14 (3) CONFORMING AMENDMENT IN TITLE XXI.—
15 Section 2110(b)(2) of the Social Security Act (42
16 U.S.C. 1397jj(b)(2)) is amended—

17 (A) by redesignating subparagraph (B) as
18 subparagraph (C); and

19 (B) by striking subparagraph (A) and in-
20 serting the following:

21 “(A) a child who is an inmate of a public
22 institution except, beginning on the first day of
23 the first fiscal year quarter that begins 2 years
24 after the date of enactment of the Act titled
25 ‘An Act to provide for reconciliation pursuant

1 to title II of S. Con. Res. 14,' during the 30-
2 day period preceding the date of release of such
3 child from such public institution;

4 “(B) a child who is a patient in an institu-
5 tion for mental diseases; or”.

6 (d) EXTENSION OF CERTAIN PROVISIONS.—

7 (1) EXPRESS LANE ELIGIBILITY OPTION.—Sec-
8 tion 1902(e)(13) of the Social Security Act (42
9 U.S.C. 1396a(e)(13)) is amended by striking sub-
10 paragraph (I).

11 (2) CONFORMING AMENDMENTS FOR ASSUR-
12 ANCE OF AFFORDABILITY STANDARD FOR CHILDREN
13 AND FAMILIES.—Section 1902(gg)(2) of the Social
14 Security Act (42 U.S.C. 1396a(gg)(2)) is amend-
15 ed—

16 (A) in the paragraph heading, by striking
17 “THROUGH SEPTEMBER 30, 2027”; and

18 (B) by striking “through September 30”
19 and all that follows through “ends on Sep-
20 tember 30, 2027” and inserting “(but begin-
21 ning on October 1, 2019,”.

22 (e) EXPANSION OF COMMUNITY MENTAL HEALTH
23 SERVICES DEMONSTRATION PROGRAM.—Section 223 of
24 the Protecting Access to Medicare Act of 2014 (42 U.S.C.
25 1396a note) is amended—

1 (1) in subsection (c), by adding at the end the
2 following new paragraph:

3 “(3) ADDITIONAL PLANNING GRANTS.—In addi-
4 tion to the planning grants awarded under para-
5 graph (1), the Secretary shall award planning grants
6 to States (other than States selected to conduct
7 demonstration programs under paragraph (1) or (8)
8 of subsection (d)) for the purpose of developing pro-
9 posals to participate in time-limited demonstration
10 programs described in subsection (d).”;

11 (2) in subsection (d)—

12 (A) in paragraph (3), by striking “Subject
13 to paragraph (8)” and inserting “Subject to
14 paragraphs (8) and (9)”;

15 (B) in paragraph (5)(C)(iii)(II), by insert-
16 ing “or paragraph (9)” after “paragraph (8)”;

17 (C) in paragraph (8), by striking “2
18 years” and all that follows through the period
19 and inserting “4 years.”; and

20 (D) by adding at the end the following new
21 paragraph:

22 “(9) FURTHER ADDITIONAL PROGRAMS.—

23 “(A) IN GENERAL.—In addition to the
24 States selected under paragraphs (1) and (8)
25 and without regard to paragraph (4), the Sec-

1 retary shall select any State that meets the re-
2 quirements described in subparagraph (B) to
3 conduct a demonstration program that meets
4 the requirements of this subsection for 4 years.

5 “(B) REQUIREMENTS.—The requirements
6 described in this subparagraph with respect to
7 a State are that the State—

8 “(i) was awarded a planning grant
9 under paragraph (1) or (3) of subsection
10 (c); and

11 “(ii) submits an application (in addi-
12 tion to any application that the State may
13 have previously submitted under this sec-
14 tion) that meets the requirements of para-
15 graph (2)(B).

16 “(C) REQUIREMENTS FOR SELECTED
17 STATES.—The requirements applicable to
18 States selected under paragraph (8) pursuant
19 to subparagraph (C) of such paragraph shall
20 apply in the same manner to States selected
21 under this paragraph.”;

22 (3) in subsection (e), by amending paragraph
23 (4) to read as follows:

24 “(4) STATE.—The term State means each of
25 the 50 States, the District of Columbia, Puerto Rico,

1 the Virgin Islands, Guam, the Northern Mariana Is-
2 lands, and American Samoa.”; and

3 (4) in subsection (f)(1)—

4 (A) in subparagraph (A), by striking “;
5 and” and inserting a semicolon;

6 (B) in subparagraph (B), by striking the
7 period and inserting “, and \$40,000,000 for fis-
8 cal year 2022; and”; and

9 (C) by adding at the end the following new
10 subparagraph:

11 “(C) for purposes of updating the criteria
12 under subsection (a) as needed for certified
13 community behavioral health clinics, carrying
14 out subsections (c)(3), (d)(7), and (d)(9), and
15 the provision of technical assistance to States
16 applying for planning grants under subsection
17 (c)(3) and all States conducting demonstration
18 projects under this section, \$5,000,000 for fis-
19 cal year 2022, to remain available until ex-
20 pended.”.

21 (f) MAKING PERMANENT A STATE OPTION TO PRO-
22 VIDE QUALIFYING COMMUNITY-BASED MOBILE CRISIS
23 INTERVENTION SERVICES.—Section 1947 of the Social
24 Security Act (42 U.S.C. 1396w–6) is amended—

1 (1) in subsection (a), by striking “during the 5-
2 year period”;

3 (2) in subsection (c), by striking “occurring
4 during the period described in subsection (a) that a
5 State” and inserting “in which a State provides
6 medical assistance for qualifying community-based
7 mobile crisis intervention services under this section
8 and”; and

9 (3) in subsection (d)(2)—

10 (A) in subparagraph (A), by striking “for
11 the fiscal year preceding the first fiscal quarter
12 occurring during the period described in sub-
13 section (a)” and inserting “for the fiscal year
14 preceding the first fiscal quarter in which the
15 State provides medical assistance for qualifying
16 community-based mobile crisis intervention
17 services under this section”; and

18 (B) in subparagraph (B), by striking “oc-
19 ccurring during the period described in sub-
20 section (a)” and inserting “occurring during a
21 fiscal quarter”.

22 (g) EXTENSION OF 100 PERCENT FEDERAL MED-
23 ICAL ASSISTANCE PERCENTAGE FOR URBAN INDIAN
24 HEALTH ORGANIZATIONS AND NATIVE HAWAIIAN
25 HEALTH CARE SYSTEMS.—Effective as if included in the

1 enactment of section 9815 of the American Rescue Plan
2 Act of 2021 (Public Law 117–2), the third sentence of
3 section 1905(b) of the Social Security Act (42 U.S.C.
4 1396d(b)) is amended—

5 (1) by striking “for the 8 fiscal year quarters
6 beginning with the first fiscal year quarter beginning
7 after the date of the enactment of the American
8 Rescue Plan Act of 2021” and inserting “for the pe-
9 riod of the 16 fiscal year quarters that begins on
10 April 1, 2021”; and

11 (2) by striking “such 8 fiscal year quarters”
12 and inserting “such period of 16 fiscal year quar-
13 ters”; and

14 (3) by striking “Papa Ola Lokahi” and all that
15 follows through the period and inserting “Secretary
16 under section (6) of such Act.”.

17 (h) ENSURING ACCURATE PAYMENTS TO PHAR-
18 MACIES UNDER MEDICAID.—

19 (1) IN GENERAL.—Section 1927(f) of the Social
20 Security Act (42 U.S.C. 1396r–8(f)) is amended—

21 (A) by striking “and” after the semicolon
22 at the end of paragraph (1)(A)(i) and all that
23 precedes it through “(1)” and inserting the fol-
24 lowing:

1 “(1) DETERMINING PHARMACY ACTUAL ACQUI-
2 SITION COSTS.—The Secretary shall conduct a sur-
3 vey of retail community pharmacy drug prices in the
4 50 States and the District of Columbia, to determine
5 the national average drug acquisition cost, as fol-
6 lows:

7 “(A) USE OF VENDOR.—The Secretary
8 may contract services for—

9 “(i) with respect to retail community
10 pharmacies, the determination of retail
11 survey prices of the national average drug
12 acquisition cost for covered outpatient
13 drugs based on a monthly survey of such
14 pharmacies, net of all discounts and re-
15 bates (to the extent any information with
16 respect to such discounts and rebates is
17 available), the average reimbursement re-
18 ceived for such drugs by such pharmacies
19 from all sources of payment and, to the ex-
20 tent available, the usual and customary
21 charges to consumers for such drugs;
22 and”;

23 (B) by adding at the end of paragraph (1)
24 the following:

1 “(F) SURVEY REPORTING.—A State shall
2 require that any retail community pharmacy in
3 the State that receives any payment, reimburse-
4 ment, administrative fee, discount, or rebate re-
5 lated to the dispensing of covered outpatient
6 drugs to individuals receiving benefits under
7 this title or title XXI, regardless of whether
8 such payment, fee, discount, or rebate is re-
9 ceived from the State or a managed care entity
10 directly or from a pharmacy benefit manager or
11 another entity that has a contract with the
12 State or a managed care entity or other speci-
13 fied entity (as such terms are defined in section
14 1903(m)(9)(D)), shall respond to surveys of re-
15 tail prices conducted under this subsection with
16 the specific information requested by the ven-
17 dor.

18 “(G) SURVEY INFORMATION.—Information
19 on retail community actual acquisition prices
20 obtained under this paragraph shall be made
21 publicly available and shall include at least the
22 following:

23 “(i) The monthly response rate of the
24 survey, including a list of pharmacies not
25 in compliance with subparagraph (F) and

1 the identification numbers for such phar-
2 macies.

3 “(ii) The sampling frame and number
4 of pharmacies sampled monthly.

5 “(iii) Characteristics of reporting
6 pharmacies, including type (such as inde-
7 pendent or chain), geographic or regional
8 location, and dispensing volume.

9 “(iv) Reporting of a separate national
10 average drug acquisition cost for each drug
11 for independent retail pharmacies and
12 chain pharmacies.

13 “(v) Information on price concessions
14 including on and off invoice discounts, re-
15 bates, and other price concessions.

16 “(vi) Information on average profes-
17 sional dispensing fees paid.

18 “(H) PENALTIES.—

19 “(i) FAILURE TO PROVIDE TIMELY IN-
20 FORMATION.—A retail community phar-
21 macy that knowingly fails to respond to a
22 survey conducted under this subsection on
23 a timely basis may be subject to a civil
24 monetary penalty in an amount not to ex-
25 ceed \$10,000 for each day (in the case of

1 a retail community pharmacy that is a
2 small business pharmacy, as defined by the
3 Secretary, not to exceed \$750 for each
4 day) in which such information has not
5 been provided. A retail community phar-
6 macy shall not be subject to such penalty
7 if the pharmacy makes a good faith effort
8 to provide the information requested by the
9 survey on a timely basis.

10 “(ii) FALSE INFORMATION.—A retail
11 community pharmacy that knowingly pro-
12 vides false information in response to a
13 survey conducted under this subsection
14 may be subject to a civil money penalty in
15 an amount not to exceed \$100,000 for
16 each item of false information.”; and

17 (C) in paragraph (4), by inserting “, and
18 \$7,000,000 for fiscal year 2023 and each fiscal
19 year thereafter,” after “2010”.

20 (2) CONDITION FOR FEDERAL FINANCIAL PAR-
21 TICIPATION.—Section 1903(i)(10) of the Social Se-
22 curity Act (42 U.S.C. 1396b(i)(10)) is amended—

23 (A) in subparagraph (D), by striking
24 “and” after the semicolon;

1 (B) in subparagraph (E), by striking “or”
2 after the semicolon and inserting “and”; and

3 (C) by inserting after subparagraph (E),
4 the following new subparagraph:

5 “(F) with respect to any amount expended for
6 reimbursement to a retail community pharmacy
7 under this title unless the State requires the retail
8 community pharmacy to respond to surveys of retail
9 prices conducted under section 1927(f) in accord-
10 ance with paragraph (1)(F) of such section; or”.

11 (3) EFFECTIVE DATE.—The amendments made
12 by this subsection take effect on the 1st day of the
13 1st quarter that begins on or after the date that is
14 18 months after the date of enactment of this Act.

15 (i) FUNDING FOR IMPLEMENTATION AND ADMINIS-
16 TRATION.—In addition to amounts otherwise available,
17 there is appropriated to the Secretary, for fiscal year
18 2022, to be available until expended, out of any money
19 in the Treasury not otherwise appropriated, \$20,000,000,
20 to provide technical assistance and guidance and cover ad-
21 ministrative costs associated with implementing the
22 amendments made by this section and sections 122211
23 and 122212.

1 **SEC. 122232. ADJUSTMENTS TO UNCOMPENSATED CARE**
2 **POOLS.**

3 Section 1903 of the Social Security Act (42 U.S.C.
4 1396b) is amended by adding at the end the following new
5 subsection:

6 “(cc) EXCLUDING EXPENDITURES FOR EXPANSION
7 POPULATION FROM ASSISTANCE UNDER WAIVERS RE-
8 LATING TO UNCOMPENSATED CARE.—With respect to a
9 State with a State plan (or waiver of such plan) that does
10 not provide, with respect to a fiscal year (beginning with
11 fiscal year 2023), to all individuals described in section
12 1902(a)(10)(A)(i)(VIII) benchmark coverage described in
13 section 1937(b)(1) or benchmark equivalent coverage de-
14 scribed in section 1937(b)(2), in the case of any experi-
15 mental, pilot, or demonstration project undertaken under
16 section 1115, with respect to such State and fiscal year,
17 that provides for Federal financial participation with re-
18 spect to expenditures for payments to providers for other-
19 wise uncompensated care that is furnished to low-income
20 individuals, uninsured individuals, or underinsured indi-
21 viduals, notwithstanding any authority available under
22 such section, such project shall exclude from Federal fi-
23 nancial participation any expenditures relating to care
24 that is furnished with respect to such fiscal year to individ-
25 uals described in section 1902(a)(10)(A)(i)(VIII).”

1 **SEC. 122233. FURTHER INCREASE IN FMAP FOR MEDICAL**
2 **ASSISTANCE FOR NEWLY ELIGIBLE MANDA-**
3 **TORY INDIVIDUALS.**

4 Section 1905(y)(1) of the Social Security Act (42
5 U.S.C. 1396d(y)(1)) is amended—

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

8 (2) in subparagraph (E), by striking “2020 and
9 each year thereafter.” and inserting “2020, 2021,
10 and 2022; and”; and

11 (3) by adding at the end the following new sub-
12 paragraphs:

13 “(F) 93 percent for calendar quarters in
14 2023, 2024, and 2025; and

15 “(G) 90 percent for calendar quarters in
16 2026 and each year thereafter.”.

17 **Subpart E—Maintenance of Effort**

18 **SEC. 122241. ENCOURAGING CONTINUED ACCESS AFTER**
19 **THE END OF THE PUBLIC HEALTH EMER-**
20 **GENCY.**

21 Section 6008 of the Families First Coronavirus Re-
22 sponse Act (42 U.S.C. 1396d note), as amended by section
23 122231(b), is further amended—

24 (1) by redesignating the second subsection (d)
25 added by section 11 of division X of Public Law
26 116–260 as subsection (e); and

1 (2) by adding at the end the following new sub-
2 section:

3 “(g) ENCOURAGING CONTINUED ACCESS AFTER THE
4 END OF THE PUBLIC HEALTH EMERGENCY.—

5 “(1) IN GENERAL.—Subject to paragraph (2),
6 if, between October 1, 2022, and December 31,
7 2025, a State puts into effect for any calendar quar-
8 ter occurring during such period eligibility stand-
9 ards, methodologies, or procedures for individuals
10 (except individuals described in subparagraph (D) of
11 section 1902(e)(14) of the Social Security Act (42
12 U.S.C. 1396a(e)(14))) who are applying for or re-
13 ceiving medical assistance under the State plan of
14 such State under title XIX of the Social Security
15 Act (42 U.S.C. 1396 through 1396w–6) (including
16 any waiver under such title or section 1115 of such
17 Act (42 U.S.C. 1315)) that are more restrictive than
18 the eligibility standards, methodologies, or proce-
19 dures, respectively, under the State plan (or waiver
20 of such plan) that are in effect on October 1, 2021,
21 the Federal medical assistance percentage otherwise
22 determined under the first sentence of subsection (b)
23 of section 1905 of the Social Security Act (42
24 U.S.C. 1396d) for that State shall be reduced by 3.1
25 percentage points for such calendar quarter. In ap-

1 plying the preceding sentence to a State, the eligi-
2 bility standards, methodologies, or procedures, re-
3 spectively, under the State plan (or waiver of such
4 plan) that are in effect on October 1, 2021, shall be
5 determined without regard to any eligibility stand-
6 ards, methodologies, or procedures, respectively, that
7 were established by the State during the emergency
8 period defined in section 1135(g)(1)(B) of the Social
9 Security Act (42 U.S.C. 1320b–5(g)(1)(B)) under a
10 legal authority dependent on the existence of such
11 emergency period or using a waiver or State plan
12 amendment template issued by the Centers for Medi-
13 care & Medicaid Services to help States respond to
14 the COVID–19 pandemic or any other disaster or
15 emergency.

16 “(2) NONAPPLICATION.—During the period de-
17 scribed in paragraph (1), at the option of the State,
18 the condition under such paragraph may not apply
19 to the State with respect to nonpregnant, non-
20 disabled adults who are eligible for medical assist-
21 ance under the State plan under title XIX of the So-
22 cial Security Act (42 U.S.C. 1396 through 1396w–
23 6) (including any waiver under such title or section
24 1115 of such Act (42 U.S.C. 1315)) whose income
25 exceeds 133 percent of the poverty line (as defined

1 in section 2110(c)(5) of such Act (42 U.S.C.
2 1397jj(c)(5)) applicable to a family of the size in-
3 volved if, on or after December 31, 2022, the State
4 had certified or certifies to the Secretary that, with
5 respect to the State fiscal year during which the cer-
6 tification is made, the State has a budget deficit, or
7 with respect to the succeeding State fiscal year, the
8 State is projected to have a budget deficit. Upon
9 submission of such a certification to the Secretary,
10 the condition under paragraph (1) shall not apply to
11 the State with respect to any remaining portion of
12 the period described in the preceding sentence.”.

13 **PART III—CHILDREN’S HEALTH INSURANCE**
14 **PROGRAM**

15 **SEC. 122301. INVESTMENTS TO STRENGTHEN CHIP.**

16 (a) PERMANENT EXTENSION OF CHILDREN’S
17 HEALTH INSURANCE PROGRAM.—

18 (1) IN GENERAL.—Section 2104(a)(28) of the
19 Social Security Act (42 U.S.C. 1397dd(a)(28)) is
20 amended to read as follows:

21 “(28) for fiscal year 2027 and each subsequent
22 year, such sums as are necessary to fund allotments
23 to States under subsection (m).”.

24 (2) ALLOTMENTS.—

1 (A) IN GENERAL.—Section 2104(m) of the
2 Social Security Act (42 U.S.C. 1397dd(m)) is
3 amended—

4 (i) in paragraph (2)(B)(i), by striking
5 “, 2023, and 2027” and inserting “and
6 2023”;

7 (ii) in paragraph (5)—

8 (I) by striking “(10), or (11)”
9 and inserting “or (10)”;

10 (II) by striking “for a fiscal
11 year” and inserting “for a fiscal year
12 before 2027”; and

13 (III) by striking “2023, or 2027”
14 and inserting “or 2023”;

15 (iii) in paragraph (7)—

16 (I) in subparagraph (A), by strik-
17 ing “and ending with fiscal year
18 2027,”; and

19 (II) in the flush left matter at
20 the end, by striking “or fiscal year
21 2026” and inserting “fiscal year
22 2026, or a subsequent even-numbered
23 fiscal year”;

24 (iv) in paragraph (9)—

1 (I) by striking “(10), or (11)”
2 and inserting “or (10)”; and
3 (II) by striking “2023, or 2027,”
4 and inserting “or 2023”; and
5 (v) by striking paragraph (11).

6 (B) CONFORMING AMENDMENT.—Section
7 50101(b)(2) of the Bipartisan Budget Act of
8 2018 (Public Law 115–123) is repealed.

9 (b) OTHER RELATED CHIP POLICIES.—

10 (1) PEDIATRIC QUALITY MEASURES PRO-
11 GRAM.—Section 1139A(i)(1) of the Social Security
12 Act (42 U.S.C. 1320b–9a(i)(1)) is amended—

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

15 (B) in subparagraph (D), by striking the
16 period at the end and inserting a semicolon;
17 and

18 (C) by adding at the end the following new
19 subparagraphs:

20 “(E) for fiscal year 2028, \$15,000,000 for
21 the purpose of carrying out this section (other
22 than subsections (e), (f), and (g)); and

23 “(F) for each subsequent fiscal year, the
24 amount appropriated under this paragraph for
25 the previous fiscal year, increased by the per-

1 centage increase in the consumer price index for
2 all urban consumers (all items; United States
3 city average, as published by the Bureau of
4 Labor Statistics) rounded to the nearest
5 \$100,000 over such previous fiscal year, for the
6 purpose of carrying out this section (other than
7 subsections (e), (f), and (g)).”.

8 (2) ASSURANCE OF ELIGIBILITY STANDARDS
9 FOR CHILDREN.—Section 2105(d)(3) of the Social
10 Security Act (42 U.S.C. 1397ee(d)(3)) is amended—

11 (A) in the paragraph heading, by striking
12 “THROUGH SEPTEMBER 30, 2027”; and

13 (B) in subparagraph (A)—

14 (i) in the matter preceding clause

15 (i)—

16 (I) by striking “During the pe-
17 riod that begins on the date of enact-
18 ment of the Patient Protection and
19 Affordable Care Act and ends on Sep-
20 tember 30, 2027” and inserting “Be-
21 ginning on the date of the enactment
22 of the Patient Protection and Afford-
23 able Care Act”;

24 (II) by striking “During the pe-
25 riod that begins on October 1, 2019,

1 and ends on September 30, 2027”
2 and inserting “Beginning on October
3 1, 2019”; and

4 (III) by striking “The preceding
5 sentences shall not be construed as
6 preventing a State during any such
7 periods from” and inserting “The pre-
8 ceding sentences shall not be con-
9 strued as preventing a State from”;

10 (ii) in clause (i), by striking the semi-
11 colon at the end and inserting a period;

12 (iii) by striking clauses (ii) and (iii);

13 and

14 (iv) as amended by subclause (i)(III),
15 by striking “as preventing a State from”
16 and all that follows through “applying eli-
17 gibility standards” and inserting “as pre-
18 venting a State from applying eligibility
19 standards”.

20 (3) QUALIFYING STATES OPTION.—Section
21 2105(g)(4) of the Social Security Act (42 U.S.C.
22 1397ee(g)(4)) is amended—

23 (A) in the paragraph heading, by striking
24 “FOR FISCAL YEARS 2009 THROUGH 2027” and
25 inserting “AFTER FISCAL YEAR 2008”; and

1 (B) in subparagraph (A), by striking “for
2 any of fiscal years 2009 through 2027” and in-
3 sserting “for any fiscal year after fiscal year
4 2008”.

5 (4) OUTREACH AND ENROLLMENT PROGRAM.—
6 Section 2113 of the Social Security Act (42 U.S.C.
7 1397mm) is amended—

8 (A) in subsection (a)—

9 (i) in paragraph (1), by striking “dur-
10 ing the period of fiscal years 2009 through
11 2027” and inserting “, beginning with fis-
12 cal year 2009,”;

13 (ii) in paragraph (2)—

14 (I) by striking “10 percent of
15 such amounts” and inserting “10 per-
16 cent of such amounts for the period or
17 the fiscal year for which such amounts
18 are appropriated”; and

19 (II) by striking “during such pe-
20 riod” and inserting “, during such pe-
21 riod or such fiscal year,”; and

22 (iii) in paragraph (3), by striking
23 “For the period of fiscal years 2024
24 through 2027, an amount equal to 10 per-
25 cent of such amounts” and inserting “Be-

1 ginning with fiscal year 2024, an amount
2 equal to 10 percent of such amounts for
3 the period or the fiscal year for which such
4 amounts are appropriated”; and

5 (B) in subsection (g)—

6 (i) by striking “2017,,” and inserting
7 “2017,”;

8 (ii) by striking “and \$48,000,000”
9 and inserting “\$48,000,000”; and

10 (iii) by inserting after “through
11 2027” the following: “, \$60,000,000 for
12 fiscal years 2028, 2029, and 2030, and for
13 each 3 fiscal years after fiscal year 2030,
14 the amount appropriated under this sub-
15 section for the previous fiscal year, in-
16 creased by the percentage increase in the
17 consumer price index for all urban con-
18 sumers (all items; United States city aver-
19 age, as published by the Bureau of Labor
20 Statistics) rounded to the nearest
21 \$100,000 over such previous fiscal year”.

22 (5) CHILD ENROLLMENT CONTINGENCY
23 FUND.—Section 2104(n) of the Social Security Act
24 (42 U.S.C. 1397dd(n)) is amended—

25 (A) in paragraph (2)—

- 1 (i) in subparagraph (A)(ii)—
2 (I) by striking “2024 through
3 2026” and inserting “beginning with
4 fiscal year 2024”; and
5 (II) by striking “2023, and
6 2027” and inserting “and 2023”; and
7 (ii) in subparagraph (B)—
8 (I) by striking “2024 through
9 2026” and inserting “beginning with
10 fiscal year 2024”; and
11 (II) by striking “2023, and
12 2027” and inserting “and 2023”; and
13 (B) in paragraph (3)(A)—
14 (i) by striking “fiscal years 2024
15 through 2026” and inserting “fiscal year
16 2024 or any subsequent fiscal year”; and
17 (ii) by striking “2023, or 2027” and
18 inserting “or 2023”.

19 (c) CHIP DRUG REBATES.—

- 20 (1) IN GENERAL.—Section 2107 of the Social
21 Security Act (42 U.S.C. 1397gg), as amended by
22 section 122231(a)(2), is further amended—

- 23 (A) in subsection (e)(1), by adding at the
24 end the following new subparagraph:

1 “(V) Beginning January 1, 2024, section
2 1927, in accordance with subsection (h) of this
3 section, with respect to covered outpatient
4 drugs (as defined in section 1927) for which
5 child health assistance or pregnancy-related as-
6 sistance (as defined in section 2112(d)(1)) is
7 provided under the State child health plan, in-
8 cluding such drugs dispensed to individuals en-
9 rolled with a managed care organization that
10 meets the requirements of subpart L of part
11 457 of title 42, Code of Federal Regulations (or
12 a successor regulation) if the organization is re-
13 sponsible for coverage of such drugs, in the
14 same manner as such section 1927 applies to
15 States and managed care organizations under
16 title XIX.”; and

17 (B) by adding at the end the following new
18 subsection:

19 “(h) DRUG REBATES.—For purposes of subsection
20 (e)(1)(V), in applying section 1927—

21 “(1) the Secretary shall take such actions as
22 are necessary and develop or adapt such processes
23 and mechanisms as are necessary, including to re-
24 port and collect data to bill and track rebates under
25 section 1927 for covered outpatient drugs (as de-

1 fined in such section 1927) for which child health
2 assistance or pregnancy-related assistance (as de-
3 fined in section 2112(d)(1)) is provided under the
4 State child health plan, and in order to ensure that
5 entities described in section 1927(a)(5)(B) do not
6 request payment under this title with respect to cov-
7 ered outpatient drugs (as defined in such section
8 1927) that are subject to the payment of a rebate
9 to the State under this title if the drugs are subject
10 to an agreement described in section 1927(a)(5)(A);

11 “(2) the requirements of such section 1927
12 shall apply to any drug or biological product de-
13 scribed in paragraph (1)(A) of section 1905(ee) that
14 is—

15 “(A) furnished as child health assistance
16 or pregnancy-related assistance under the State
17 child health plan; and

18 “(B) a covered outpatient drug (as defined
19 in section 1927(k), except that, in applying
20 paragraph (2)(A) of such section to a drug de-
21 scribed in such paragraph (1)(A) of such sec-
22 tion 1905(ee), such drug shall be deemed ‘a
23 prescribed drug for purposes of subsection
24 (a)(12))’; and

1 “(3) in order for payment to be available under
2 section 2105 with respect to child health assistance
3 or pregnancy-related assistance for covered out-
4 patient drugs of a manufacturer, the manufacturer
5 must have entered into and have in effect a single
6 rebate agreement to—

7 “(A) provide rebates under section 1927 to
8 a State Medicaid program under title XIX as
9 well as a State program under this title; and

10 “(B) provide such rebates to a State pro-
11 gram under this title in the same form and
12 manner as the manufacturer is required to pro-
13 vide rebates under an agreement described in
14 section 1927(b) to a State Medicaid program
15 under title XIX.

16 Nothing in this subsection or subsection (e)(1)(V)
17 shall be construed as limiting Federal financial par-
18 ticipation for prescription drugs and biological prod-
19 ucts that do not satisfy the definition of a covered
20 outpatient drug and for which there is not a rebate
21 agreement in effect.”.

22 (2) DRUG REBATE CONFORMING AMEND-
23 MENT.—Section 1927(a)(1) of the Social Security
24 Act (42 U.S.C. 1396r-8(a)(1)) is amended in the
25 first sentence—

1 (A) by striking “or under part B of title
2 XVIII” and inserting “, under part B of title
3 XVIII, or, beginning with the first full calendar
4 quarter with respect to which section
5 2107(e)(1)(V) applies, under section 2105 with
6 respect to child health assistance or pregnancy-
7 related assistance under title XXI”;

8 (B) by striking “a rebate agreement de-
9 scribed in subsection (b)” and inserting “a sin-
10 gle rebate agreement described in subsection (b)
11 with respect to payment under section 1903(a)
12 and, beginning January 1, 2024, title XXI,”;
13 and

14 (C) by inserting “and including as such
15 subsection (b) is applied pursuant to sub-
16 sections (e)(1)(V) and (h) of section 2107 with
17 respect to child health assistance and preg-
18 nancy-related assistance under a State child
19 health plan under title XXI” before “, and
20 must meet”.

21 (3) EXCLUSION OF REBATES FROM BEST PRICE
22 CONFORMING AMENDMENT.—Section
23 1927(e)(1)(C)(i) of the Social Security Act (42
24 U.S.C. 1396r-8(c)(1)(C)(i)) is amended—

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

3 (B) in subclause (VI), by striking the pe-
4 riod and inserting “; and”; and

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

7 “(VII) any rebates paid pursuant
8 to section 2107(e)(1)(V).”.

9 (d) FUNDING FOR IMPLEMENTATION AND ADMINIS-
10 TRATION.—In addition to amounts otherwise available,
11 there is appropriated to the Secretary, for fiscal year
12 2022, to be available until expended, out of any money
13 in the Treasury not otherwise appropriated, \$5,000,000,
14 to provide technical assistance and guidance and cover ad-
15 ministrative costs associated with implementing the
16 amendments made by this section.

17 **Subtitle C—Trade Adjustment**
18 **Assistance**

19 **SEC. 123001. APPLICATION OF PROVISIONS RELATING TO**
20 **TRADE ADJUSTMENT ASSISTANCE.**

21 (a) EFFECTIVE DATE; APPLICABILITY.—Except as
22 otherwise provided in this subtitle, the provisions of chap-
23 ters 2 through 6 of title II of the Trade Act of 1974, as
24 in effect on June 30, 2021, and as amended by this sub-
25 title, shall—

1 (1) take effect on the date of the enactment of
2 this Act; and

3 (2) apply with respect to petitions for certifi-
4 cation filed under chapter 2, 3, 4, or 6 of title II of
5 the Trade Act of 1974 on or after such date of en-
6 actment.

7 (b) REFERENCE.—Except as otherwise provided in
8 this subtitle, whenever in this subtitle an amendment or
9 repeal is expressed in terms of an amendment to, or repeal
10 of, a provision of chapters 2 through 6 of title II of the
11 Trade Act of 1974, the reference shall be considered to
12 be made to a provision of any such chapter, as in effect
13 on June 30, 2021.

14 (c) REPEAL OF SNAPBACK.—Section 406 of the
15 Trade Adjustment Assistance Reauthorization Act of
16 2015 (Public Law 114–27; 129 Stat. 379) is repealed.

17 **PART 1—TRADE ADJUSTMENT ASSISTANCE FOR**
18 **WORKERS**

19 **SEC. 123101. FILING PETITIONS.**

20 Section 221(a)(1) of the Trade Act of 1974 (19
21 U.S.C. 2271(a)(1)) is amended—

22 (1) by amending subparagraph (A) to read as
23 follows:

24 “(A) One or more workers in the group of
25 workers.”; and

1 (2) in subparagraph (C), by striking “or a
2 State dislocated worker unit” and inserting “a State
3 dislocated worker unit, or workforce intermediaries,
4 including labor-management organizations that carry
5 out reemployment and training services”.

6 **SEC. 123102. GROUP ELIGIBILITY REQUIREMENTS.**

7 (a) IN GENERAL.—Section 222(a)(2) of the Trade
8 Act of 1974 (19 U.S.C. 2272(a)(2)) is amended—

9 (1) in subparagraph (A)—

10 (A) in clause (i), by inserting “, failed to
11 increase, or will decrease absolutely due to a
12 scheduled or imminently anticipated, long-term
13 decrease in or reallocation of the production ca-
14 pacity of the firm” after “absolutely”; and

15 (B) in clause (iii)—

16 (i) by striking “to the decline” and in-
17 serting “to any decline or absence of in-
18 crease”; and

19 (ii) by striking “or” at the end;

20 (2) in subparagraph (B)(ii), by striking the pe-
21 riod at the end and inserting “; or”; and

22 (3) by adding at the end the following:

23 “(C)(i) the sales or production, or both, of such
24 firm have decreased;

1 “(ii)(I) exports of articles produced or services
2 supplied by such workers’ firm have decreased; or

3 “(II) imports of articles or services necessary
4 for the production of articles or services supplied by
5 such firm have decreased; and

6 “(iii) the decrease in exports or imports de-
7 scribed in clause (ii) contributed to such workers’
8 separation or threat of separation and to the decline
9 in the sales or production of such firm.”.

10 (b) REPEAL.—Section 222 of the Trade Act of 1974
11 (19 U.S.C. 2272) is amended—

12 (1) in subsections (a) and (b), by striking “im-
13 portantly” each place it appears; and

14 (2) in subsection (c)—

15 (A) by striking paragraph (1); and

16 (B) by redesignating paragraphs (2)
17 through (4) as paragraphs (1) through (3), re-
18 spectively.

19 (c) ELIGIBILITY OF STAFFED WORKERS AND TELE-
20 WORKERS.—Section 222 of the Trade Act of 1974 (19
21 U.S.C. 2272), as amended by subsection (b), is further
22 amended by adding at the end the following:

23 “(f) TREATMENT OF STAFFED WORKERS AND TELE-
24 WORKERS.—

1 “(1) IN GENERAL.—For purposes of subsection
2 (a), workers in a firm include staffed workers and
3 teleworkers.

4 “(2) DEFINITIONS.—In this subsection:

5 “(A) STAFFED WORKER.—The term
6 ‘staffed worker’ means a worker who performs
7 work under the operational control of a firm
8 that is the subject of a petition filed under sec-
9 tion 221, even if the worker is directly em-
10 ployed by another firm.

11 “(B) TELEWORKER.—The term ‘tele-
12 worker’ means a worker who works remotely
13 but who reports to the location listed for a firm
14 in a petition filed under section 221.”.

15 **SEC. 123103. APPLICATION OF DETERMINATIONS OF ELIGI-**
16 **BILITY TO WORKERS EMPLOYED BY SUCCES-**
17 **SORS-IN-INTEREST.**

18 Section 223 of the Trade Act of 1974 (19 U.S.C.
19 2273) is amended by adding at the end the following:

20 “(f) TREATMENT OF WORKERS OF SUCCESSORS-IN-
21 INTEREST.—If the Secretary certifies a group of workers
22 of a firm as eligible to apply for adjustment assistance
23 under this chapter, a worker of a successor-in-interest to
24 that firm shall be covered by the certification to the same
25 extent as a worker of that firm.”.

1 **SEC. 123104. PROVISION OF BENEFIT INFORMATION TO**
2 **WORKERS.**

3 Section 225 of the Trade Act of 1974 (19 U.S.C.
4 2275) is amended—

5 (1) in subsection (a), by inserting after the sec-
6 ond sentence the following: “The Secretary shall
7 make every effort to provide such information and
8 assistance to workers in their native language.”; and

9 (2) in subsection (b)—

10 (A) by redesignating paragraph (2) as
11 paragraph (3);

12 (B) by inserting after paragraph (1) the
13 following:

14 “(2) The Secretary shall provide a second notice to
15 a worker described in paragraph (1) before the worker has
16 exhausted all rights to any unemployment insurance to
17 which the worker is entitled (other than additional com-
18 pensation described in section 231(a)(2)(B) funded by a
19 State and not reimbursed from Federal funds).”;

20 (C) in paragraph (3), as redesignated by
21 paragraph (1), by striking “newspapers of gen-
22 eral circulation” and inserting “appropriate
23 print or digital outlets”; and

24 (D) by adding at the end the following:

25 “(4) The Secretary shall provide sustained outreach
26 regarding the benefits available under this chapter to

1 workers covered by a certification made under this sub-
2 chapter by taking any necessary actions, including, as ap-
3 propriate, working with firms, unions, community-based
4 organizations, and others to provide information through
5 direct outreach, advertising, or public information cam-
6 paigns.”.

7 **SEC. 123105. QUALIFYING REQUIREMENTS FOR WORKERS.**

8 (a) IN GENERAL.—Section 231(a) of the Trade Act
9 of 1974 (19 U.S.C. 2291(a)) is amended—

10 (1) by striking paragraph (2);

11 (2) by redesignating paragraphs (3), (4), and
12 (5) as paragraphs (2), (3), and (4), respectively; and

13 (3) in paragraph (4) (as redesignated), by strik-
14 ing “paragraphs (1) and (2)” each place it appears
15 and inserting “paragraph (1)”.

16 (b) CONFORMING AMENDMENTS.—

17 (1) WEEKLY AMOUNTS.—Section 232 of the
18 Trade Act of 1974 (19 U.S.C. 2292) is amended by
19 striking “section 231(a)(3)(B)” each place it ap-
20 pears and inserting “section 231(a)(2)(B)”.

21 (2) LIMITATIONS ON TRADE READJUSTMENT
22 ALLOWANCES.—Section 233(a) of the Trade Act of
23 1974 (19 U.S.C. 2293(a)) is amended—

1 (A) in paragraph (1), by striking “section
2 231(a)(3)(A)” and inserting “section
3 231(a)(2)(A)”; and

4 (B) in paragraph (2)—

5 (i) by striking “adversely affected em-
6 ployment” and all that follows through
7 “(A) within” and inserting “adversely af-
8 fected employment within”;

9 (ii) by striking “, and” and inserting
10 a period; and

11 (iii) by striking subparagraph (B).

12 **SEC. 123106. MODIFICATION TO TRADE READJUSTMENT AL-**
13 **LOWANCES.**

14 Section 233 of the Trade Act of 1974 (19 U.S.C.
15 2293) is amended—

16 (1) in subsection (a)—

17 (A) in paragraph (2), by inserting after
18 “104-week period” the following: “(or, in the
19 case of an adversely affected worker who re-
20 quires a program of prerequisite education or
21 remedial education (as described in section
22 236(a)(5)(D)) in order to complete training ap-
23 proved for the worker under section 236, the
24 130-week period)”;

1 (B) in paragraph (3), by striking “65 addi-
2 tional weeks in the 78-week period” and insert-
3 ing “78 additional weeks in the 91-week pe-
4 riod”; and

5 (C) in the flush text, by striking “78-week
6 period” and inserting “91-week period”;

7 (2) by striking subsection (d); and

8 (3) by amending subsection (f) to read as fol-
9 lows:

10 “(f) PAYMENT OF TRADE READJUSTMENT ALLOW-
11 ANCES TO COMPLETE TRAINING.—Notwithstanding any
12 other provision of this section, in order to assist an ad-
13 versely affected worker to complete training approved for
14 the worker under section 236 that includes a program of
15 prerequisite education or remedial education (as described
16 in section 236(a)(5)(D)), and in accordance with regula-
17 tions prescribed by the Secretary, payments may be made
18 as trade readjustment allowances for up to 26 additional
19 weeks in the 26-week period that follows the last week of
20 entitlement to trade readjustment allowances otherwise
21 payable under this chapter.”.

1 **SEC. 123107. AUTOMATIC EXTENSION OF TRADE READJUST-**
2 **MENT ALLOWANCES.**

3 Part I of subchapter B of chapter 2 of title II of the
4 Trade Act of 1974 (19 U.S.C. 2291–2294) is amended
5 by inserting after section 233 the following:

6 **“SEC. 233A. AUTOMATIC EXTENSION OF TRADE READJUST-**
7 **MENT ALLOWANCES.**

8 “(a) IN GENERAL.—Notwithstanding the limitations
9 under section 233(a), the Secretary shall extend the period
10 during which trade readjustment allowances are payable
11 to an adversely affected worker who completes training ap-
12 proved under section 236 by the Secretary during a period
13 of heightened unemployment with respect to the State in
14 which such worker seeks benefits, for the shorter of—

15 “(1) the 26-week period beginning on the date
16 of completion of such training; or

17 “(2) the period ending on the date on which the
18 adversely affected worker secures employment.

19 “(b) JOB SEARCH REQUIRED.—A worker shall be eli-
20 gible for an extension under subsection (a) only if the
21 worker is complying with the job search requirements as-
22 sociated with unemployment insurance in the applicable
23 State.

24 “(c) PERIOD OF HEIGHTENED UNEMPLOYMENT DE-
25 FINED.—In this section, the term ‘period of heightened
26 unemployment’ with respect to a State means a 90-day

1 period during which, in the determination of the Sec-
2 retary, either of the following average rates equals or ex-
3 ceeds 5.5 percent:

4 “(1) The average rate of total unemployment in
5 such State (seasonally adjusted) for the period con-
6 sisting of the most recent 3-month period for which
7 data for all States are published before the close of
8 such period.

9 “(2) The average rate of total unemployment in
10 all States (seasonally adjusted) for the period con-
11 sisting of the most recent 3-month period for which
12 data for all States are published before the close of
13 such period.”.

14 **SEC. 123108. EMPLOYMENT AND CASE MANAGEMENT SERV-**
15 **ICES.**

16 Section 235 of the Trade Act of 1974 (19 U.S.C.
17 2295) is amended—

18 (1) in paragraph (3)—

19 (A) by inserting after “regional areas” the
20 following: “(including information about reg-
21 istered apprenticeship programs, on-the-job
22 training opportunities, and other work-based
23 learning opportunities)”; and

24 (B) by inserting after “suitable training”
25 the following: “, information regarding the

1 track record of a training provider’s ability to
2 successfully place participants into suitable em-
3 ployment”;

4 (2) by redesignating paragraph (8) as para-
5 graph (10); and

6 (3) by inserting after paragraph (7) the fol-
7 lowing:

8 “(8) Information related to direct job place-
9 ment, including facilitating the extent to which em-
10 ployers within the community commit to employing
11 workers who would benefit from the employment and
12 case management services under this section.

13 “(9) Sustained outreach to groups of workers
14 likely to be certified as eligible for adjustment assist-
15 ance under this chapter and members of certified
16 worker groups who have not yet applied for or been
17 enrolled in benefits or services under this chapter,
18 especially such groups and members from minority
19 or low-income populations.”.

20 **SEC. 123109. TRAINING.**

21 Section 236 of the Trade Act of 1974 (19 U.S.C.
22 2296(a)) is amended—

23 (1) in subsection (a)—

24 (A) in paragraph (1)(D), by inserting “,
25 with a demonstrated ability to place partici-

1 pants into employment” before the comma at
2 the end;

3 (B) in paragraph (3), by inserting before
4 the period at the end the following: “, except
5 that every effort shall be made to ensure that
6 employment opportunities are available upon
7 the completion of training”; and

8 (C) in paragraph (5)—

9 (i) in subparagraph (G), by striking “,
10 and” and inserting a comma;

11 (ii) in subparagraph (H)(ii), by strik-
12 ing the period at the end and inserting “,
13 and”; and

14 (iii) by adding at the end before the
15 flush text the following:

16 “(I) pre-apprenticeship training.”; and

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

18 “(h) REIMBURSEMENT FOR OUT-OF-POCKET TRAIN-
19 ING EXPENSES.—If the Secretary approves training for
20 a worker under paragraph (1) of subsection (a), the Sec-
21 retary may reimburse the worker for out-of-pocket ex-
22 penses relating to training program described in para-
23 graph (5) of that subsection that were incurred by the
24 worker on and after the date of the worker’s total or par-
25 tial separation and before the date on which the certifi-

1 cation of eligibility under section 222 that covers the work-
2 er is issued.”.

3 **SEC. 123110. JOB SEARCH, RELOCATION, AND CHILD CARE**
4 **ALLOWANCES.**

5 (a) **JOB SEARCH ALLOWANCES.**—Section 237 of the
6 Trade Act of 1974 (19 U.S.C. 2297) is amended—

7 (1) in subsection (a)—

8 (A) in paragraph (1), by striking “may use
9 funds made available to the State to carry out
10 sections 235 through 238” and inserting “shall
11 use, from funds made available to the State to
12 carry out sections 235 through 238A, such
13 amounts as may be necessary”; and

14 (B) in paragraph (2), in the matter pre-
15 ceding subparagraph (A), by striking “may
16 grant” and inserting “shall grant”; and

17 (2) in subsection (b)—

18 (A) in paragraph (1), by striking “not
19 more than 90 percent” and inserting “100 per-
20 cent”;

21 (B) in paragraph (2), by striking “\$1,250”
22 and inserting “\$2,000 (subject to adjustment
23 under paragraph (4))”; and

24 (C) by adding at the end the following:

1 “(4) ADJUSTMENT OF MAXIMUM ALLOWANCE
2 LIMITATION FOR INFLATION.—

3 “(A) IN GENERAL.—The Secretary of
4 Labor shall adjust the maximum allowance limi-
5 tation under paragraph (2) on the date that is
6 30 days after the date of the enactment of this
7 paragraph, and at the beginning of each fiscal
8 year thereafter, to reflect the percentage (if
9 any) of the increase in the average of the Con-
10 sumer Price Index for the preceding 12-month
11 period compared to the Consumer Price Index
12 for fiscal year 2020.

13 “(B) SPECIAL RULES FOR CALCULATION
14 OF ADJUSTMENT.—In making an adjustment
15 under subparagraph (A), the Secretary—

16 “(i) shall round the amount of any in-
17 crease in the Consumer Price Index to the
18 nearest dollar; and

19 “(ii) may ignore any such increase of
20 less than 1 percent.

21 “(C) CONSUMER PRICE INDEX DEFINED.—
22 For purposes of this paragraph, the term ‘Con-
23 sumer Price Index’ means the Consumer Price
24 Index for All Urban Consumers published by

1 the Bureau of Labor Statistics of the Depart-
2 ment of Labor.”.

3 (b) RELOCATION ALLOWANCES.—Section 238 of the
4 Trade Act of 1974 (19 U.S.C. 2298) is amended—

5 (1) in subsection (a)—

6 (A) in paragraph (1), by striking “may use
7 funds made available to the State to carry out
8 sections 235 through 238” and inserting “shall
9 use, from funds made available to the State to
10 carry out sections 235 through 238A, such
11 amounts as may be necessary”; and

12 (B) in paragraph (2), in the matter pre-
13 ceding subparagraph (A), by striking “may be
14 granted” and inserting “shall be granted”;

15 (2) in subsection (b)—

16 (A) in paragraph (1), by striking “not
17 more than 90 percent” and inserting “100 per-
18 cent”; and

19 (B) in paragraph (2), by striking “\$1,250”
20 and inserting “\$2,000 (subject to adjustment
21 under subsection (d))”; and

22 (3) by adding at the end the following:

23 “(d) ADJUSTMENT OF MAXIMUM PAYMENT LIMITA-
24 TION FOR INFLATION.—

1 “(1) IN GENERAL.—The Secretary of Labor
2 shall adjust the maximum payment limitation under
3 subsection (b)(2) on the date that is 30 days after
4 the date of the enactment of this subsection, and at
5 the beginning of each fiscal year thereafter, to re-
6 flect the percentage (if any) of the increase in the
7 average of the Consumer Price Index for the pre-
8 ceding 12-month period compared to the Consumer
9 Price Index for fiscal year 2020.

10 “(2) SPECIAL RULES FOR CALCULATION OF AD-
11 JUSTMENT.—In making an adjustment under para-
12 graph (1), the Secretary—

13 “(A) shall round the amount of any in-
14 crease in the Consumer Price Index to the near-
15 est dollar; and

16 “(B) may ignore any such increase of less
17 than 1 percent.

18 “(3) CONSUMER PRICE INDEX DEFINED.—For
19 purposes of this subsection, the term ‘Consumer
20 Price Index’ means the Consumer Price Index for
21 All Urban Consumers published by the Bureau of
22 Labor Statistics of the Department of Labor.”.

23 (c) CHILD CARE ALLOWANCES.—

24 (1) IN GENERAL.—Part II of subchapter B of
25 chapter 2 of title II of the Trade Act of 1974 (19

1 U.S.C. 2295–2298) is amended by adding at the end
2 the following:

3 **“SEC. 238A. CHILD CARE ALLOWANCES.**

4 “(a) CHILD CARE ALLOWANCES AUTHORIZED.—

5 “(1) IN GENERAL.—Each State shall use, from
6 funds made available to the State to carry out sec-
7 tions 235 through 238A, such amounts as may be
8 necessary to allow an adversely affected worker cov-
9 ered by a certification issued under subchapter A of
10 this chapter to file an application for a child care al-
11 lowance with the Secretary, and the Secretary may
12 grant the child care allowance, subject to the terms
13 and conditions of this section.

14 “(2) CONDITIONS FOR GRANTING ALLOW-
15 ANCE.—A child care allowance shall be granted if
16 the allowance will assist an adversely affected worker
17 to attend training or seek suitable employment, by
18 providing for the care of one or more of the minor
19 dependents of the worker.

20 “(b) AMOUNT OF ALLOWANCE.—Any child care al-
21 lowance granted to a worker under subsection (a) shall
22 not exceed \$2,000 (subject to adjustment under subsection
23 (c)) per minor dependent per year.

24 “(c) ADJUSTMENT OF MAXIMUM ALLOWANCE LIM-
25 ITATION FOR INFLATION.—

1 “(1) IN GENERAL.—The Secretary of Labor
2 shall adjust the maximum allowance limitation under
3 subsection (b) on the date that is 30 days after the
4 date of the enactment of this section, and at the be-
5 ginning of each fiscal year thereafter, to reflect the
6 percentage (if any) of the increase in the average of
7 the Consumer Price Index for the preceding 12-
8 month period compared to the Consumer Price
9 Index for fiscal year 2020.

10 “(2) SPECIAL RULES FOR CALCULATION OF AD-
11 JUSTMENT.—In making an adjustment under para-
12 graph (1), the Secretary—

13 “(A) shall round the amount of any in-
14 crease in the Consumer Price Index to the near-
15 est dollar; and

16 “(B) may ignore any such increase of less
17 than 1 percent.

18 “(3) CONSUMER PRICE INDEX DEFINED.—For
19 purposes of this subsection, the term ‘Consumer
20 Price Index’ means the Consumer Price Index for
21 All Urban Consumers published by the Bureau of
22 Labor Statistics of the Department of Labor.”.

23 (2) CONFORMING AMENDMENTS.—

24 (A) LIMITATIONS ON ADMINISTRATIVE EX-
25 PENSES AND EMPLOYMENT AND CASE-MANAGE-

1 MENT SERVICES.—Section 235A of the Trade
2 Act of 1974 (19 U.S.C. 2295a) is amended in
3 the matter preceding paragraph (1) by striking
4 “through 238” and inserting “through 238A”.

5 (B) TRAINING.—Section 236(a)(2) of the
6 Trade Act of 1974 (19 U.S.C. 2296(a)(2)) is
7 amended by striking “and 238” each place it
8 appears and inserting “238, and 238A”.

9 (C) AUTHORIZATION OF APPROPRIA-
10 TIONS.—Section 245 of the Trade Act of 1974
11 (19 U.S.C. 2317) is amended—

12 (i) in subsection (b), by striking
13 “238” and inserting “238A”; and

14 (ii) in subsection (c), by striking
15 “238” in each place it appears and insert-
16 ing “238A”.

17 **SEC. 123111. AGREEMENTS WITH STATES.**

18 (a) COORDINATION.—Section 239(f) of the Trade Act
19 of 1974 (19 U.S.C. 2311(f)) is amended—

20 (1) by striking “(f) Any agreement” and insert-
21 ing the following:

22 “(f)(1) Any agreement”; and

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

24 “(2) In arranging for training programs to be carried
25 out under this chapter, each cooperating State agency

1 shall, among other factors, take into account and measure
2 the progress of the extent to which such programs—

3 “(A) achieve a satisfactory rate of completion
4 and placement in jobs that provide a living wage and
5 that increase economic security;

6 “(B) assist workers in developing the skills, net-
7 works, and experiences necessary to advance along a
8 career path; and

9 “(C) assist individuals from minority and low-
10 income populations, immigrants, persons with dis-
11 abilities, and formerly incarcerated individuals to es-
12 tablish a work history, demonstrate success in the
13 workplace, and develop the skills that lead to entry
14 into and retention in unsubsidized employment.”.

15 (b) ADMINISTRATION.—Section 239(g) of the Trade
16 Act of 1974 (19 U.S.C. 2311(g)) is amended—

17 (1) by redesignating—

18 (A) paragraph (5) as paragraph (8); and

19 (B) paragraphs (1) through (4) as para-
20 graphs (3) through (6), respectively; and

21 (2) by inserting before paragraph (3) (as redес-
22 igned) the following:

23 “(1) review each layoff of more than 5 workers
24 in a firm to determine whether trade played a role
25 in the layoff and whether workers in such firm are

1 potentially eligible to receive benefits under this
2 chapter,

3 “(2) perform sustained outreach to firms to fa-
4 cilitate and assist with filing petitions under section
5 221 and collecting necessary supporting informa-
6 tion,”;

7 (3) in paragraph (3) (as redesignated), by strik-
8 ing “who applies for unemployment insurance of”
9 and inserting “identified under paragraph (1) of un-
10 employment insurance benefits and”;

11 (4) in paragraph (4) (as redesignated), by in-
12 serting “and assist with” after “facilitate”;

13 (5) in paragraph (6) (as redesignated), by strik-
14 ing “and” at the end;

15 (6) by inserting after paragraph (6) (as redesi-
16 gnated) the following:

17 “(7) perform sustained outreach to workers
18 from minority and low-income populations and to
19 firms that employ a majority or a substantial per-
20 centage of workers from minority or low-income pop-
21 ulations,”; and

22 (7) by adding at the end the following:

23 “(9) develop a strategy to engage with local
24 workforce development institutions, including local

1 community colleges and other educational institu-
2 tions, and

3 “(10) develop a comprehensive strategy to pro-
4 vide agency staffing to support the requirements of
5 paragraphs (1) through (9).”.

6 (c) STAFFING.—Section 239 of the Trade Act of
7 1974 (19 U.S.C. 2311) is amended by adding at the end
8 the following:

9 “(l) STAFFING.—An agreement entered into under
10 this section shall provide that the cooperating State or co-
11 operating State agency shall require that any individual
12 engaged in functions (other than functions that are not
13 inherently governmental) to carry out the trade adjust-
14 ment assistance program under this chapter shall be a
15 State employee covered by a merit system of personnel ad-
16 ministration.”.

17 **SEC. 123112. REEMPLOYMENT TRADE ADJUSTMENT ASSIST-**
18 **ANCE PROGRAM.**

19 Section 246(a) of the Trade Act of 1974 (19 U.S.C.
20 2318(a)) is amended—

21 (1) in paragraph (3)(B)(ii), by striking
22 “\$50,000” and inserting “\$70,000 (subject to ad-
23 justment under paragraph (8))”;

1 (2) in paragraph (5)(B)(i), by striking
2 “\$10,000” and inserting “\$20,000 (subject to ad-
3 justment under paragraph (8))”; and

4 (3) by adding at the end the following:

5 “(8) ADJUSTMENT OF SALARY LIMITATION AND
6 TOTAL AMOUNT OF PAYMENTS FOR INFLATION.—

7 “(A) IN GENERAL.—The Secretary of
8 Labor shall adjust the salary limitation under
9 paragraph (3)(B)(ii) and the amount under
10 paragraph (5)(B)(i) on the date that is 30 days
11 after the date of the enactment of this para-
12 graph, and at the beginning of each fiscal year
13 thereafter, to reflect the percentage (if any) of
14 the increase in the average of the Consumer
15 Price Index for the preceding 12-month period
16 compared to the Consumer Price Index for fis-
17 cal year 2020.

18 “(B) SPECIAL RULES FOR CALCULATION
19 OF ADJUSTMENT.—In making an adjustment
20 under subparagraph (A), the Secretary—

21 “(i) shall round the amount of any in-
22 crease in the Consumer Price Index to the
23 nearest dollar; and

24 “(ii) may ignore any such increase of
25 less than 1 percent.

1 “(C) CONSUMER PRICE INDEX DEFINED.—
2 For purposes of this paragraph, the term ‘Con-
3 sumer Price Index’ means the Consumer Price
4 Index for All Urban Consumers published by
5 the Bureau of Labor Statistics of the Depart-
6 ment of Labor.”.

7 **SEC. 123113. EXTENSION OF TRADE ADJUSTMENT ASSIST-**
8 **ANCE TO PUBLIC AGENCY WORKERS.**

9 (a) DEFINITIONS.—Section 247 of the Trade Act of
10 1974 (19 U.S.C. 2319) is amended—

11 (1) in paragraph (3)—

12 (A) in the matter preceding subparagraph
13 (A), by striking “The” and inserting “Subject
14 to section 222(d)(5), the”; and

15 (B) in subparagraph (A), by striking “or
16 service sector firm” and inserting “, service sec-
17 tor firm, or public agency”; and

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

19 “(20) The term ‘public agency’ means a depart-
20 ment or agency of a State or local government or of
21 the Federal Government.”.

22 (b) GROUP ELIGIBILITY REQUIREMENTS.—Section
23 222 of the Trade Act of 1974 (19 U.S.C. 2272), as
24 amended by subsections (b) and (c) of section 123102, is
25 further amended—

1 (1) by redesignating subsections (c), (d), (e),
2 and (f) as subsections (d), (e), (f), and (g), respec-
3 tively;

4 (2) by inserting after subsection (b) the fol-
5 lowing:

6 “(c) ADVERSELY AFFECTED WORKERS IN PUBLIC
7 AGENCIES.—A group of workers in a public agency shall
8 be certified by the Secretary as eligible to apply for adjust-
9 ment assistance under this chapter pursuant to a petition
10 filed under section 221 if the Secretary determines that—

11 “(1) a significant number or proportion of the
12 workers in the public agency have become totally or
13 partially separated, or are threatened to become to-
14 tally or partially separated;

15 “(2) the public agency has acquired from a for-
16 eign country services like or directly competitive with
17 services which are supplied by such agency; and

18 “(3) the acquisition of services described in
19 paragraph (2) contributed to such workers’ separa-
20 tion or threat of separation.”;

21 (3) in subsection (d) (as redesignated), by add-
22 ing at the end the following:

23 “(5) REFERENCE TO FIRM.—For purposes of
24 subsections (a) and (b), the term ‘firm’ does not in-
25 clude a public agency.”; and

1 (4) in paragraph (2) of subsection (e) (as redese-
2 gnated), by striking “subsection (a) or (b)” and in-
3 serting “subsection (a), (b), or (c)”.

4 **SEC. 123114. EXTENSION OF ADJUSTMENT ASSISTANCE FOR**
5 **WORKERS TO TERRITORIES.**

6 Section 247(7) of the Trade Act of 1974 (19 U.S.C.
7 2319(7)) is amended—

8 (1) by inserting “, Guam, the Virgin Islands of
9 the United States, American Samoa, the Common-
10 wealth of the Northern Mariana Islands,” after
11 “District of Columbia”; and

12 (2) by striking “such Commonwealth.” and in-
13 serting “such territories.”.

14 **SEC. 123115. REQUIREMENTS FOR CERTAIN TERRITORIES.**

15 Section 248 of the Trade Act of 1974 (19 U.S.C.
16 2320) is amended by adding at the end the following:

17 “(c) REQUIREMENTS FOR CERTAIN TERRITORIES.—

18 The Secretary shall establish such requirements as may
19 be necessary and appropriate to modify the requirements
20 of this chapter, including requirements relating to eligi-
21 bility for trade readjustment allowances, to address the
22 particular circumstances of Guam, the Virgin Islands of
23 the United States, American Samoa, and the Common-
24 wealth of the Northern Mariana Islands in implementing
25 and carrying out this chapter.”.

1 **PART 2—TRADE ADJUSTMENT ASSISTANCE FOR**
2 **FIRMS**

3 **SEC. 123201. PETITIONS AND DETERMINATIONS.**

4 Section 251 of the Trade Act of 1974 (19 U.S.C.
5 2341) is amended—

6 (1) in the second sentence of subsection (a), by
7 striking “Upon” and inserting “Not later than 15
8 days after”;

9 (2) by amending subsection (c) to read as fol-
10 lows:

11 “(c)(1) The Secretary shall certify a firm (including
12 any agricultural firm or service sector firm) as eligible to
13 apply for adjustment assistance under this chapter if the
14 Secretary determines—

15 “(A)(i) that a significant number or proportion
16 of the workers in such firm have become totally or
17 partially separated, or are threatened to become to-
18 tally or partially separated, or

19 “(ii) that—

20 “(I) sales or production, or both, of the
21 firm have decreased absolutely or failed to in-
22 crease,

23 “(II) sales or production, or both, of an ar-
24 ticle or service that accounted for not less than
25 25 percent of the total sales or production of
26 the firm during the 12-month period preceding

1 the most recent 12-month period for which data
2 are available have decreased absolutely or failed
3 to increase,

4 “(III) sales or production, or both, of the
5 firm during the most recent 12-month period
6 for which data are available have decreased or
7 failed to increase compared to—

8 “(aa) the average annual sales or pro-
9 duction for the firm during the 24-month
10 period preceding that 12-month period, or

11 “(bb) the average annual sales or pro-
12 duction for the firm during the 36-month
13 period preceding that 12-month period, or

14 “(IV) sales or production, or both, of an
15 article or service that accounted for not less
16 than 25 percent of the total sales or production
17 of the firm during the most recent 12-month
18 period for which data are available have de-
19 creased or failed to increase compared to—

20 “(aa) the average annual sales or pro-
21 duction for the article or service during the
22 24-month period preceding that 12-month
23 period, or

24 “(bb) the average annual sales or pro-
25 duction for the article or service during the

1 36-month period preceding that 12-month
2 period, and

3 “(B)(i) increases of imports of articles or serv-
4 ices like or directly competitive with articles which
5 are produced or services which are supplied by such
6 firm contributed to such total or partial separation,
7 or threat thereof, or to such decline or failure to in-
8 crease in sales or production, or

9 “(ii) decreases in exports of articles produced or
10 services supplied by such firm, or imports of articles
11 or services necessary for the production of articles or
12 services supplied by such firm, contributed to such
13 total or partial separation, or threat thereof, or to
14 such decline in sales or production.

15 “(2) For purposes of paragraph (1)(B):

16 “(A) Any firm which engages in exploration or
17 drilling for oil or natural gas shall be considered to
18 be a firm producing oil or natural gas.

19 “(B) Any firm that engages in exploration or
20 drilling for oil or natural gas, or otherwise produces
21 oil or natural gas, shall be considered to be pro-
22 ducing articles directly competitive with imports of
23 oil and with imports of natural gas.”; and

24 (3) in subsection (d)—

1 (A) by striking “this section,” and insert-
2 ing “this section.”; and

3 (B) by striking “but in any event” and all
4 that follows and inserting the following: “If the
5 Secretary does not make a determination with
6 respect to a petition within 55 days after the
7 date on which an investigation is initiated
8 under subsection (a) with respect to the peti-
9 tion, the Secretary shall be deemed to have cer-
10 tified the firm as eligible to apply for adjust-
11 ment assistance under this chapter.”.

12 **SEC. 123202. APPROVAL OF ADJUSTMENT PROPOSALS.**

13 Section 252 of the Trade Act of 1974 (19 U.S.C.
14 2342) is amended—

15 (1) in the second sentence of subsection (a), by
16 inserting before the period at the end the following:
17 “and an assessment of the potential employment
18 outcomes of such proposal”;

19 (2) in subsection (b)(1)(B), by striking “gives
20 adequate consideration to” and inserting “is in”;

21 (3) by redesignating subsection (c) as sub-
22 section (d); and

23 (4) by inserting after subsection (b) the fol-
24 lowing:

25 “(c) AMOUNT OF ASSISTANCE.—

1 “(1) IN GENERAL.—A firm may receive adjust-
2 ment assistance under this chapter with respect to
3 the firm’s economic adjustment proposal in an
4 amount not to exceed \$300,000, subject to adjust-
5 ment under paragraph (2) and the matching re-
6 quirement under paragraph (3).

7 “(2) ADJUSTMENT OF ASSISTANCE LIMITATION
8 FOR INFLATION.—

9 “(A) IN GENERAL.—The Secretary of
10 Commerce shall adjust the adjustment assist-
11 ance limitation under paragraph (1) on the date
12 that is 30 days after the date of the enactment
13 of this paragraph, and at the beginning of each
14 fiscal year thereafter, to reflect the percentage
15 (if any) of the increase in the average of the
16 Consumer Price Index for the preceding 12-
17 month period compared to the Consumer Price
18 Index for fiscal year 2020.

19 “(B) SPECIAL RULES FOR CALCULATION
20 OF ADJUSTMENT.—In making an adjustment
21 under subparagraph (A), the Secretary—

22 “(i) shall round the amount of any in-
23 crease in the Consumer Price Index to the
24 nearest dollar; and

1 “(ii) may ignore any such increase of
2 less than 1 percent.

3 “(C) CONSUMER PRICE INDEX DEFINED.—
4 For purposes of this paragraph, the term ‘Con-
5 sumer Price Index’ means the Consumer Price
6 Index for All Urban Consumers published by
7 the Bureau of Labor Statistics of the Depart-
8 ment of Labor.

9 “(3) MATCHING REQUIREMENT.—A firm may
10 receive adjustment assistance under this chapter
11 only if the firm provides matching funds in an
12 amount equal to the amount of adjustment assist-
13 ance received under paragraph (1).”.

14 **SEC. 123203. TECHNICAL ASSISTANCE.**

15 Section 253(a)(3) of the Trade Act of 1974 (19
16 U.S.C. 2343(a)(3)) is amended by inserting before the pe-
17 riod at the end the following: “, including assistance to
18 provide skills training programs to employees of the firm”.

19 **SEC. 123204. SUSTAINED OUTREACH TO POTENTIALLY ELI-**
20 **GIBLE FIRMS.**

21 Chapter 3 of title II of the Trade Act of 1974 (19
22 U.S.C. 2341–2355) is amended by adding at the end the
23 following:

1 **“SEC. 263. SUSTAINED OUTREACH TO POTENTIALLY ELIGI-**
2 **BLE FIRMS.**

3 “The Secretary shall provide sustained outreach to
4 firms that may be eligible for adjustment assistance under
5 this chapter, including to such firms—

6 “(1) in industries with increased imports identi-
7 fied in the annual report of the United States Inter-
8 national Trade Commission regarding the operation
9 of the trade agreements program under section
10 163(c);

11 “(2) in the service sector;

12 “(3) that are small businesses;

13 “(4) that are minority- or women-owned firms;

14 and

15 “(5) that employ a majority or a substantial
16 percentage of workers from minority or low-income
17 populations.”.

18 **PART 3—TRADE ADJUSTMENT ASSISTANCE FOR**
19 **COMMUNITIES AND COMMUNITY COLLEGES**

20 **SEC. 123301. TRADE ADJUSTMENT ASSISTANCE FOR COM-**
21 **MUNITIES.**

22 Chapter 4 of title II of the Trade Act of 1974 (19
23 U.S.C. 2371–2372) is amended—

24 (1) by inserting after the chapter heading the
25 following:

1 **“Subchapter B—Trade Adjustment Assistance**
2 **for Community Colleges and Career**
3 **Training”;** and

4 (2) by redesignating sections 271 and 272 as
5 sections 279 and 279A, respectively; and

6 (3) by inserting before subchapter B (as des-
7 ignated by paragraph (1)) the following:

8 **“Subchapter A—Trade Adjustment Assistance**
9 **for Communities**

10 **“SEC. 271. DEFINITIONS.**

11 “In this subchapter:

12 “(1) AGRICULTURAL COMMODITY PRODUCER.—

13 The term ‘agricultural commodity producer’ has the
14 meaning given that term in section 291.

15 “(2) COMMUNITY.—The term ‘community’
16 means—

17 “(A) a city or other political subdivision of
18 a State, including a special purpose unit of a
19 State or local government engaged in economic
20 or infrastructure development activities, or a
21 consortium of political subdivisions;

22 “(B) an Economic Development District
23 designated by the Economic Development Ad-
24 ministration of the Department of Commerce;
25 or

1 “(C) an Indian Tribe.

2 “(3) ELIGIBLE COMMUNITY.—The term ‘eligible
3 community’ means a community that is impacted by
4 trade under section 273(a)(2) and is determined to
5 be eligible for assistance under this subchapter.

6 “(4) ELIGIBLE ENTITY.—The term ‘eligible en-
7 tity’ means—

8 “(A) an eligible community;

9 “(B) an institution of higher education or
10 a consortium of institutions of higher education;
11 or

12 “(C) a public or private nonprofit organi-
13 zation or association acting in cooperation with
14 officials of a political subdivision of a State.

15 “(5) SECRETARY.—The term ‘Secretary’ means
16 the Secretary of Commerce.

17 **“SEC. 272. ESTABLISHMENT OF TRADE ADJUSTMENT AS-**
18 **SISTANCE FOR COMMUNITIES PROGRAM.**

19 “The Secretary, acting through the Assistant Sec-
20 retary for Economic Development, shall, not later than
21 180 days after the date of the enactment of this sub-
22 chapter, establish a program to provide communities im-
23 pacted by trade with assistance in accordance with the re-
24 quirements of this subchapter.

1 **“SEC. 273. ELIGIBILITY.**

2 “(a) IN GENERAL.—A community shall be eligible for
3 assistance under this subchapter if the community is a
4 community impacted by trade under subsection (b).

5 “(b) COMMUNITY IMPACTED BY TRADE.—A commu-
6 nity is impacted by trade if it meets each of the following
7 requirements:

8 “(1) One or more of the following certifications
9 are made with respect to the community:

10 “(A) By the Secretary of Labor, that a
11 group of workers located in the community is
12 eligible to apply for assistance under section
13 223.

14 “(B) By the Secretary of Commerce, that
15 a firm located in the community is eligible to
16 apply for adjustment assistance under section
17 251.

18 “(C) By the Secretary of Agriculture, that
19 a group of agricultural commodity producers lo-
20 cated in the community is eligible to apply for
21 adjustment assistance under section 293.

22 “(2) The community—

23 “(A) applies for assistance not later than
24 180 days after the date on which the most re-
25 cent certification described in paragraph (1) is
26 made; or

1 “(B) in the case of a community with re-
2 spect to which one or more such certifications
3 were made on or after January 1, 1994, and
4 before the date of the enactment of this sub-
5 chapter, applies for assistance not later than
6 September 30, 2024.

7 “(3) The community—

8 “(A) has a per capita income of 80 percent
9 or less of the national average;

10 “(B) has a history of economic distress
11 and long-term unemployment, as determined by
12 the Secretary;

13 “(C) is significantly affected by a loss of,
14 or threat to, the jobs associated with any cer-
15 tification described in paragraph (1); or

16 “(D) is undergoing transition of its eco-
17 nomic base as a result of changing trade pat-
18 terns, as determined by the Secretary.

19 **“SEC. 274. GRANTS TO ELIGIBLE COMMUNITIES.**

20 “(a) IN GENERAL.—The Secretary may—

21 “(1) upon the application of an eligible commu-
22 nity, award a grant under this section to the com-
23 munity to assist in developing or updating a stra-
24 tegic plan that meets the requirements of section
25 275; or

1 “(2) upon the application of an eligible entity,
2 award an implementation grant under this section to
3 the entity to assist in implementing projects included
4 in a strategic plan that meets the requirements of
5 section 275.

6 “(b) SPECIAL PROVISIONS.—

7 “(1) REVOLVING LOAN FUND GRANTS.—

8 “(A) IN GENERAL.—The Secretary shall
9 maintain the proper operation and financial in-
10 tegrity of revolving loan funds established by el-
11 igible entities with assistance under this section.

12 “(B) EFFICIENT ADMINISTRATION.—The
13 Secretary may—

14 “(i) at the request of an eligible enti-
15 ty, amend and consolidate grant agree-
16 ments governing revolving loan funds to
17 provide flexibility with respect to lending
18 areas and borrower criteria; and

19 “(ii) assign or transfer assets of a re-
20 volving loan fund to a third party for the
21 purpose of liquidation, and the third party
22 may retain assets of the fund to defray
23 costs related to liquidation.

24 “(C) TREATMENT OF ACTIONS.—An action
25 taken by the Secretary under this paragraph

1 with respect to a revolving loan fund shall not
2 constitute a new obligation if all grant funds
3 associated with the original grant award have
4 been disbursed to the recipient.

5 “(2) USE OF FUNDS IN PROJECTS CON-
6 STRUCTED UNDER PROJECT COST.—

7 “(A) IN GENERAL.—In the case of a grant
8 for a construction project under this section, if
9 the Secretary determines, before closeout of the
10 project, that the cost of the project, based on
11 the designs and specifications that were the
12 basis of the grant, has decreased because of de-
13 creases in costs, the Secretary may approve the
14 use of the excess funds (or a portion of the ex-
15 cess funds) to improve the project.

16 “(B) OTHER USES OF EXCESS FUNDS.—
17 Any amount of excess funds remaining after ap-
18 plication of subparagraph (A) may be used by
19 the Secretary for providing assistance under
20 this section.

21 “(c) COORDINATION.—If an eligible institution (as
22 such term is defined in section 279) located in an eligible
23 community is seeking a grant under section 279 at the
24 same time the community is seeking an implementation
25 grant under subsection (a)—

1 “(1) the Secretary, upon receipt of such infor-
2 mation from the Secretary of Labor as required
3 under section 279(e), shall notify the community
4 that the institution is seeking a grant under section
5 279; and

6 “(2) the community shall provide to the Sec-
7 retary, in coordination with the institution, a de-
8 scription of how the community will integrate
9 projects included in the strategic plan with the spe-
10 cific project for which the institution submits the
11 grant proposal under section 279.

12 “(d) LIMITATION.—The total amount of grants
13 awarded with respect to an eligible community under this
14 section for fiscal years 2022 through 2025 may not exceed
15 \$25,000,000.

16 “(e) TECHNICAL ASSISTANCE.—The Secretary shall
17 provide technical assistance for communities as appro-
18 priate under this section, including in the course of devel-
19 oping a strategic plan that meets the requirements of sec-
20 tion 275, and to access assistance under other available
21 sources, including State, local, or private sources, to im-
22 plement projects that diversify and strengthen the econ-
23 omy in the community.

1 **“SEC. 275. STRATEGIC PLANS.**

2 “(a) IN GENERAL.—A strategic plan meets the re-
3 quirements of this section if—

4 “(1) the consultation requirements of sub-
5 section (b) are met with respect to the development
6 of the plan;

7 “(2) the plan meets the requirements of sub-
8 section (c); and

9 “(3) the plan is approved in accordance with
10 the requirements of subsection (d).

11 “(b) CONSULTATION.—

12 “(1) IN GENERAL.—To the extent practicable,
13 an eligible community shall consult with the entities
14 described in paragraph (2) in developing the stra-
15 tegic plan.

16 “(2) ENTITIES DESCRIBED.—The entities de-
17 scribed in this paragraph are public and private en-
18 tities located in or serving the eligible community,
19 including—

20 “(A) local, county, or State government
21 agencies;

22 “(B) firms, including small- and medium-
23 sized firms;

24 “(C) local workforce investment boards;

1 “(D) labor organizations, including State
2 labor federations and labor-management initia-
3 tives, representing workers in the community;

4 “(E) educational institutions, local edu-
5 cational agencies, and other training providers;
6 and

7 “(F) local civil rights organizations and
8 community-based organizations, including orga-
9 nizations representing underserved commu-
10 nities.

11 “(c) CONTENTS.—The strategic plan shall contain, as
12 applicable to the community, the following:

13 “(1) An analysis of the economic development
14 challenges and opportunities facing the community,
15 including the impact of trade on the community, the
16 populations facing unemployment, the impact of
17 trade on minority and low-income populations, and
18 the future needs of the community.

19 “(2) A description of the role of the entities de-
20 scribed in subsection (b)(2) in developing the stra-
21 tegic plan.

22 “(3) A description of projects under the stra-
23 tegic plan to facilitate the community’s economic ad-
24 justment to the impact of trade.

1 “(4) An assessment of the anticipated impact of
2 implementing the strategic plan on unemployment,
3 future employment, and minority and low-income
4 communities.

5 “(5) A description of the educational and train-
6 ing programs and the potential employment opportu-
7 nities available to workers in the community, includ-
8 ing for workers under the age of 25, and the future
9 employment needs of the community.

10 “(6) An assessment of—

11 “(A) the cost of implementing the strategic
12 plan;

13 “(B) the timing of funding required by the
14 community to implement the strategic plan; and

15 “(C) the methods of financing to be used
16 to implement the strategic plan.

17 “(d) APPROVAL; CEDS EQUIVALENT.—

18 “(1) APPROVAL.—The Secretary shall approve
19 the strategic plan developed by an eligible commu-
20 nity under this section if the Secretary determines
21 that the strategic plan meets the requirements of
22 this section.

23 “(2) CEDS OR EQUIVALENT.—The Secretary
24 may deem an eligible community’s Comprehensive
25 Economic Development Strategy that substantially

1 meets the requirements of this section to be an ap-
2 proved strategic plan for purposes of this sub-
3 chapter.

4 “(e) ALLOCATION.—Of the funds appropriated to
5 carry out this chapter for each of fiscal years 2022
6 through 2025, the Secretary may make available not more
7 than \$50,000,000 to award grants under section
8 274(a)(1).

9 **“SEC. 276. REGULATIONS.**

10 “The Secretary shall promulgate such regulations as
11 may be necessary to carry out this subchapter, including
12 with respect to—

13 “(1) administering the awarding of grants
14 under section 274, including establishing guidelines
15 for the submission and evaluation of grant applica-
16 tions under such section; and

17 “(2) establishing guidelines for the evaluation
18 of strategic plans developed to meet the require-
19 ments of section 275.”

20 **SEC. 123302. TRADE ADJUSTMENT ASSISTANCE FOR COM-**
21 **MUNITY COLLEGES AND CAREER TRAINING.**

22 Section 279 of the Trade Act of 1974, as redesisg-
23 nated by section 123301(a)(2), is amended—

24 (1) in subsection (a)—

1 (A) in paragraph (1), by striking “eligible
2 institutions” and inserting “eligible entities”;
3 and

4 (B) in paragraph (2)—

5 (i) in the matter preceding subpara-
6 graph (A), by striking “eligible institution”
7 and inserting “eligible entity”; and

8 (ii) in subparagraph (B)—

9 (I) by striking “\$1,000,000” and
10 inserting “\$2,500,000”;

11 (II) by striking “(B)” and insert-
12 ing “(B)(i) in the case of an eligible
13 institution,”;

14 (III) by striking the period at the
15 end and inserting “; or”; and

16 (IV) by adding at the end the fol-
17 lowing:

18 “(ii) in the case of a consortium of eligible
19 institutions, a grant under this section in excess
20 of \$15,000,000.”;

21 (2) in subsection (b), by adding at the end the
22 following:

23 “(3) ELIGIBLE ENTITY.—The term ‘eligible en-
24 tity’ means an eligible institution or a consortium of
25 eligible institutions.”;

1 (3) in subsection (c)—

2 (A) by striking “eligible institution” each
3 place it appears and inserting “eligible entity”;

4 (B) in paragraph (4)(A)—

5 (i) in clause (ii), by striking “and” at
6 the end;

7 (ii) by redesignating clause (iii) as
8 clause (iv); and

9 (iii) by inserting after clause (ii) the
10 following:

11 “(iii) how the eligible entity will effec-
12 tively serve individuals from minority and
13 low-income populations; and”;

14 (C) in paragraph (5)(A)(i)—

15 (i) in subclause (I), by striking “and”
16 at the end; and

17 (ii) by adding at the end the fol-
18 lowing:

19 “(III) any opportunities to sup-
20 port industry or sector partnerships to
21 develop or expand quality academic
22 programs and curricula; and”;

23 (4) in subsection (d), by striking “eligible insti-
24 tution” each place it appears and inserting “eligible
25 entity”; and

1 (5) by redesignating subsection (e) as sub-
2 section (h) and inserting after subsection (d) the fol-
3 lowing:

4 “(e) USE OF FUNDS.—

5 “(1) IN GENERAL.—An eligible entity shall use
6 a grant awarded under this section to establish and
7 scale career training programs, including career and
8 technical education programs, and career pathways
9 and supports for students participating in such pro-
10 grams.

11 “(2) STUDENT SUPPORT.—Not less than 15
12 percent of the amount of a grant awarded to an eli-
13 gible entity under this section shall be used to pro-
14 vide student support services, which may include—

15 “(A) supportive services, including services
16 related to childcare, transportation, health, and
17 housing;

18 “(B) the provision of direct financial as-
19 sistance to students facing financial hardship;

20 “(C) case management services, including
21 outreach to students facing financial hardship;
22 and

23 “(D) access to materials and equipment
24 necessary to participate in a career training
25 program.”.

1 **PART 4—TRADE ADJUSTMENT ASSISTANCE FOR**
2 **FARMERS**

3 **SEC. 123401. GROUP ELIGIBILITY REQUIREMENTS.**

4 Section 292 of the Trade Act of 1974 (19 U.S.C.
5 2401a) is amended—

6 (1) in subsection (c)—

7 (A) in paragraph (1)—

8 (i) by striking “85 percent of” each
9 place it appears; and

10 (ii) in subparagraph (D), by adding
11 “and” at the end;

12 (B) in paragraph (2), by striking “(2)”
13 and inserting “(2)(A)(i)”;

14 (C) by redesignating paragraph (3) as
15 clause (ii) of paragraph (2)(A) (as designated
16 by subparagraph (B));

17 (D) in clause (ii) of paragraph (2)(A) (as
18 redesignated by subparagraph (C))—

19 (i) by striking “importantly”; and

20 (ii) by striking the period at the end
21 and inserting “; or” ; and

22 (E) in paragraph (2), by adding at the end
23 the following:

24 “(B)(i) the volume of exports of the agricultural
25 commodity produced by the group in the marketing
26 year with respect to which the group files the peti-

1 tion decreased compared to the average volume of
2 such exports during the 3 marketing years preceding
3 such marketing year; and

4 “(ii) the decrease in such exports contributed to
5 the decrease in the national average price, quantity
6 of production, or value of production of, or cash re-
7 ceipts for, the agricultural commodity, as described
8 in paragraph (1).”; and

9 (2) in subsection (e)(3), by adding at the end
10 before the period the following: “or exports”.

11 **SEC. 123402. BENEFIT INFORMATION TO AGRICULTURAL**
12 **COMMODITY PRODUCERS.**

13 Section 295(a) of the Trade Act of 1974 (19 U.S.C.
14 2401d(a)) is amended by adding at the end the following:
15 “The Secretary shall conduct targeted sustained outreach
16 and offer assistance to agricultural commodity producers
17 from minority and low-income populations.”.

18 **SEC. 123403. QUALIFYING REQUIREMENTS AND BENEFITS**
19 **FOR AGRICULTURAL COMMODITY PRO-**
20 **DUCERS.**

21 Section 296 of the Trade Act of 1974 (19 U.S.C.
22 2401e) is amended—

23 (1) in subsection (a)(1)(A), by striking “90
24 days” and inserting “120 days”;

25 (2) in subsection (b)—

1 (A) in paragraph (3)(B), by striking
2 “\$4,000” and inserting “\$12,000 (subject to
3 adjustment under subsection (e))”; and

4 (B) in paragraph (4)(C), by striking
5 “\$8,000” and inserting “\$24,000 (subject to
6 adjustment under subsection (e))”;

7 (3) in subsection (c), by striking “\$12,000” and
8 inserting “\$36,000 (subject to adjustment under
9 subsection (e))”; and

10 (4) by adding at the end the following:

11 “(e) ADJUSTMENTS FOR INFLATION.—

12 “(1) IN GENERAL.—The Secretary of Agri-
13 culture shall adjust each dollar amount limitation
14 described in this section on the date that is 30 days
15 after the date of the enactment of this subsection,
16 and at the beginning of each fiscal year thereafter,
17 to reflect the percentage (if any) of the increase in
18 the average of the Consumer Price Index for the
19 preceding 12-month period compared to the Con-
20 sumer Price Index for fiscal year 2020.

21 “(2) SPECIAL RULES FOR CALCULATION OF AD-
22 JUSTMENT.—In making an adjustment under para-
23 graph (1), the Secretary—

1 “(A) shall round the amount of any in-
2 crease in the Consumer Price Index to the near-
3 est dollar; and

4 “(B) may ignore any such increase of less
5 than 1 percent.

6 “(3) CONSUMER PRICE INDEX DEFINED.—For
7 purposes of this subsection, the term ‘Consumer
8 Price Index’ means the Consumer Price Index for
9 All Urban Consumers published by the Bureau of
10 Labor Statistics of the Department of Labor.”.

11 **PART 5—APPROPRIATIONS AND OTHER MATTERS**

12 **SEC. 123501. EXTENSION OF AND APPROPRIATIONS FOR**

13 **TRADE ADJUSTMENT ASSISTANCE PROGRAM.**

14 (a) **EXTENSION OF TERMINATION PROVISIONS.—**

15 Section 285 of the Trade Act of 1974 (19 U.S.C. 2271
16 note) is amended by striking “2021” each place it appears
17 and inserting “2025”.

18 (b) **TRAINING FUNDS.—**Section 236(a)(2)(A) of the
19 Trade Act of 1974 (19 U.S.C. 2296(a)(2)(A)), as amend-
20 ed by section 123110(c)(2)(B), is further amended—

21 (1) by striking “shall not exceed \$450,000,000”
22 and inserting the following: “shall not exceed—

23 “(i) \$450,000,000”;

24 (2) by striking the period at the end and insert-
25 ing “; and”; and

1 (3) by adding at the end the following:

2 “(ii) \$990,000,000 for each of fiscal years 2022
3 through 2025.”.

4 (c) REEMPLOYMENT TRADE ADJUSTMENT ASSIST-
5 ANCE.—Section 246(b)(1) of the Trade Act of 1974 (19
6 U.S.C. 2318(b)(1)) is amended by striking “2021” and
7 inserting “2025”.

8 (d) APPROPRIATIONS.—

9 (1) TRADE ADJUSTMENT ASSISTANCE FOR
10 WORKERS.—In addition to amounts otherwise avail-
11 able, there are appropriated to the Secretary of
12 Labor for each of fiscal years 2022 through 2025,
13 out of any money in the Treasury not otherwise ap-
14 propriated, to remain available until expended—

15 (A) \$990,000,000 to carry out chapter 2
16 of title II of the Trade Act of 1974, as amend-
17 ed by this subtitle; and

18 (B) \$10,000,000 for Federal administra-
19 tion of the program under such chapter (in ad-
20 dition to amounts otherwise available for such
21 purposes), technical assistance, grants for pilots
22 and demonstrations, and the evaluation of ac-
23 tivities carried out under such chapter.

24 (2) TRADE ADJUSTMENT ASSISTANCE FOR
25 FIRMS.—In addition to amounts otherwise available,

1 there are appropriated to the Secretary of Commerce
2 for each of fiscal years 2022 through 2025, out of
3 any money in the Treasury not otherwise appro-
4 priated, to remain available until expended—

5 (A) \$49,500,000 to carry out chapter 3 of
6 title II of the Trade Act of 1974, as amended
7 by this subtitle; and

8 (B) \$500,000 for sustained outreach to po-
9 tentially eligible firms under section 263 of the
10 Trade Act of 1974, as added by section
11 123204.

12 (3) TRADE ADJUSTMENT ASSISTANCE FOR COM-
13 MUNITIES.—In addition to amounts otherwise avail-
14 able, there are appropriated to the Secretary of
15 Commerce for each of fiscal years 2022 through
16 2025, out of any money in the Treasury not other-
17 wise appropriated, to remain available for obligation
18 until September 30, 2026—

19 (A) \$260,000,000 to carry out subchapter
20 A of chapter 4 of title II of the Trade Act of
21 1974, as added by section 123301; and

22 (B) \$40,000,000 for the salaries and ex-
23 penses of personnel administering such sub-
24 chapter.

1 (4) TRADE ADJUSTMENT ASSISTANCE FOR COM-
2 MUNITY COLLEGES AND CAREER TRAINING.—In ad-
3 dition to amounts otherwise available, there are ap-
4 propriated to the Secretary of Labor for each of fis-
5 cal years 2022 through 2025, out of any money in
6 the Treasury not otherwise appropriated, to remain
7 available until expended—

8 (A) \$285,000,000 to carry out subchapter
9 B of chapter 4 of title II of the Trade Act of
10 1974, as designated by section 123301; and

11 (B) \$15,000,000 for administration of the
12 program under such subchapter, including pro-
13 viding technical assistance, sustained outreach
14 to eligible institutions effectively serving minor-
15 ity or low-income populations, grants for pilots
16 and demonstrations, and a third-party evalua-
17 tion of the program.

18 (5) TRADE ADJUSTMENT ASSISTANCE FOR
19 FARMERS.—In addition to amounts otherwise avail-
20 able, there are appropriated to the Secretary of Ag-
21 riculture for each of fiscal years 2022 through 2025,
22 out of any money in the Treasury not otherwise ap-
23 propriated, to remain available until expended—

1 (A) \$9,500,000 to carry out chapter 6 of
2 title II of the Trade Act of 1974, as amended
3 by this subtitle; and

4 (B) \$500,000 for technical assistance, pi-
5 lots and demonstrations, targeted sustained
6 outreach and assistance to agricultural com-
7 modity producers from minority and low-income
8 populations under section 295(a) of the Trade
9 Act of 1974 (as amended by section 123402),
10 and the evaluation of activities carried out
11 under such chapter.

12 **SEC. 123502. APPLICABILITY OF TRADE ADJUSTMENT AS-**
13 **SISTANCE PROVISIONS.**

14 (a) WORKERS CERTIFIED BEFORE DATE OF ENACT-
15 MENT.—

16 (1) IN GENERAL.—Except as provided in para-
17 graphs (2) and (3), a worker certified as eligible for
18 adjustment assistance under section 222 of the
19 Trade Act of 1974 before the date of the enactment
20 of this Act shall be eligible, on and after such date
21 of enactment, to receive benefits only under the pro-
22 visions of chapter 2 of title II of the Trade Act of
23 1974, as in effect on such date of enactment, or as
24 such provisions may be amended after such date of
25 enactment.

1 (2) COMPUTATION OF MAXIMUM BENEFITS.—
2 Benefits received by a worker described in para-
3 graph (1) under chapter 2 of title II of the Trade
4 Act of 1974 before the date of the enactment of this
5 Act shall be included in any determination of the
6 maximum benefits for which the worker is eligible
7 under the provisions of chapter 2 of title II of the
8 Trade Act of 1974, as in effect on the date of the
9 enactment of this Act, or as such provisions may be
10 amended after such date of enactment.

11 (3) AUTHORITY TO MAKE ADJUSTMENTS TO
12 BENEFITS.—For the 90-day period beginning on the
13 date of the enactment of this Act, the Secretary is
14 authorized to make any adjustments to benefits to
15 workers described in paragraph (1) that the Sec-
16 retary determines to be necessary and appropriate in
17 applying and administering the provisions of chapter
18 2 of title II of the Trade Act of 1974, as in effect
19 on the date of the enactment of this Act, or as such
20 provisions may be amended after such date of enact-
21 ment, in a manner that ensures parity of treatment
22 between the benefits of such workers and the bene-
23 fits of workers certified after such date of enact-
24 ment.

1 (b) WORKERS NOT CERTIFIED PURSUANT TO CER-
2 TAIN PETITIONS FILED BEFORE DATE OF ENACT-
3 MENT.—

4 (1) CERTIFICATIONS OF WORKERS NOT CER-
5 TIFIED BEFORE DATE OF ENACTMENT.—

6 (A) CRITERIA IF A DETERMINATION HAS
7 NOT BEEN MADE.—If, as of the date of the en-
8 actment of this Act, the Secretary of Labor has
9 not made a determination with respect to
10 whether to certify a group of workers as eligible
11 to apply for adjustment assistance under sec-
12 tion 222 of the Trade Act of 1974 pursuant to
13 a petition described in subparagraph (C), the
14 Secretary shall make that determination based
15 on the requirements of section 222 of the Trade
16 Act of 1974, as in effect on such date of enact-
17 ment.

18 (B) RECONSIDERATION OF DENIALS OF
19 CERTIFICATIONS.—If, before the date of the en-
20 actment of this Act, the Secretary made a de-
21 termination not to certify a group of workers as
22 eligible to apply for adjustment assistance
23 under section 222 of the Trade Act of 1974
24 pursuant to a petition described in subpara-
25 graph (C), the Secretary shall—

- 1 (i) reconsider that determination; and
2 (ii) if the group of workers meets the
3 requirements of section 222 of the Trade
4 Act of 1974, as in effect on such date of
5 enactment, certify the group of workers as
6 eligible to apply for adjustment assistance.

7 (C) PETITION DESCRIBED.—A petition de-
8 scribed in this subparagraph is a petition for a
9 certification of eligibility for a group of workers
10 filed under section 221 of the Trade Act of
11 1974 on or after January 1, 2021, and before
12 the date of the enactment of this Act.

13 (2) ELIGIBILITY FOR BENEFITS.—

14 (A) IN GENERAL.—Except as provided in
15 subparagraph (B), a worker certified as eligible
16 to apply for adjustment assistance under sec-
17 tion 222 of the Trade Act of 1974 pursuant to
18 a petition described in paragraph (1)(C) shall
19 be eligible, on and after the date of the enact-
20 ment of this Act, to receive benefits only under
21 the provisions of chapter 2 of title II of the
22 Trade Act of 1974, as in effect on such date of
23 enactment, or as such provisions may be
24 amended after such date of enactment.

1 (B) COMPUTATION OF MAXIMUM BENE-
2 FITS.—Benefits received by a worker described
3 in paragraph (1) under chapter 2 of title II of
4 the Trade Act of 1974 before the date of the
5 enactment of this Act shall be included in any
6 determination of the maximum benefits for
7 which the worker is eligible under the provisions
8 of chapter 2 of title II of the Trade Act of
9 1974, as in effect on the date of the enactment
10 of this Act, or as such provisions may be
11 amended after such date of enactment.

12 (c) CONFORMING AMENDMENTS.—

13 (1) TRADE ACT OF 2002.—Section 151 of the
14 Trade Act of 2002 (19 U.S.C. note prec. 2271) is
15 amended by striking subsections (a), (b), and (c).

16 (2) TRADE AND GLOBALIZATION ADJUSTMENT
17 ASSISTANCE ACT OF 2009.—Section 1891 of the
18 Trade and Globalization Adjustment Assistance Act
19 of 2009 (19 U.S.C. 2271 note) is repealed.

20 (3) TRADE ADJUSTMENT ASSISTANCE EXTEN-
21 SION ACT OF 2011.—The Trade Adjustment Assist-
22 ance Extension Act of 2011 is amended—

23 (A) in section 201 (19 U.S.C. note prec.
24 2271), by striking subsections (b) and (c); and

1 (B) in section 231(a) (19 U.S.C. 2271
2 note), by striking paragraphs (1)(B) and (2).

3 (4) TRADE ADJUSTMENT ASSISTANCE REAU-
4 THORIZATION ACT OF 2015.—The Trade Adjustment
5 Assistance Reauthorization Act of 2015 is amend-
6 ed—

7 (A) in section 402 (19 U.S.C. note prec.
8 2271), by striking subsections (b) and (c); and

9 (B) in section 405(a)(1) (19 U.S.C. 2271
10 note), by striking subparagraph (B).

11 (d) TRADE ADJUSTMENT ASSISTANCE FOR FIRMS.—

12 (1) CERTIFICATION OF FIRMS NOT CERTIFIED
13 BEFORE DATE OF ENACTMENT.—

14 (A) CRITERIA IF A DETERMINATION HAS
15 NOT BEEN MADE.—If, as of the date of the en-
16 actment of this Act, the Secretary of Commerce
17 has not made a determination with respect to
18 whether to certify a firm as eligible to apply for
19 adjustment assistance under section 251 of the
20 Trade Act of 1974 pursuant to a petition de-
21 scribed in subparagraph (C), the Secretary shall
22 make that determination based on the require-
23 ments of section 251 of the Trade Act of 1974,
24 as in effect on such date of enactment.

1 (B) RECONSIDERATION OF DENIAL OF
2 CERTAIN PETITIONS.—If, before the date of the
3 enactment of this Act, the Secretary made a de-
4 termination not to certify a firm as eligible to
5 apply for adjustment assistance under section
6 251 of the Trade Act of 1974 pursuant to a pe-
7 tition described in subparagraph (C), the Sec-
8 retary shall—

- 9 (i) reconsider that determination; and
10 (ii) if the firm meets the requirements
11 of section 251 of the Trade Act of 1974,
12 as in effect on such date of enactment, cer-
13 tify the firm as eligible to apply for adjust-
14 ment assistance.

15 (C) PETITION DESCRIBED.—A petition de-
16 scribed in this subparagraph is a petition for a
17 certification of eligibility filed by a firm or its
18 representative under section 251 of the Trade
19 Act of 1974 on or after January 1, 2021, and
20 before the date of the enactment of this Act.

21 (2) CERTIFICATION OF FIRMS THAT DID NOT
22 SUBMIT PETITIONS BETWEEN JANUARY 1, 2021, AND
23 DATE OF ENACTMENT.—

24 (A) IN GENERAL.—The Secretary of Com-
25 merce shall certify a firm described in subpara-

1 graph (B) as eligible to apply for adjustment
2 assistance under section 251 of the Trade Act
3 of 1974, as in effect on the date of the enact-
4 ment of this Act, if the firm or its representa-
5 tive files a petition for a certification of eligi-
6 bility under section 251 of the Trade Act of
7 1974 not later than 90 days after such date of
8 enactment.

9 (B) FIRM DESCRIBED.—A firm described
10 in this subparagraph is a firm that the Sec-
11 retary determines would have been certified as
12 eligible to apply for adjustment assistance if—

13 (i) the firm or its representative had
14 filed a petition for a certification of eligi-
15 bility under section 251 of the Trade Act
16 of 1974 on a date during the period begin-
17 ning on January 1, 2021, and ending on
18 the day before the date of the enactment
19 of this Act; and

20 (ii) the provisions of chapter 3 of title
21 II of the Trade Act of 1974, as in effect
22 on such date of enactment, had been in ef-
23 fect on that date during the period de-
24 scribed in clause (i).

1 **SEC. 123503. SUNSET PROVISIONS.**

2 (a) APPLICATION OF PRIOR LAW.—Subject to sub-
3 section (b), beginning on July 1, 2025, the provisions of
4 chapters 2, 3, 5, and 6 of title II of the Trade Act of
5 1974 (19 U.S.C. 2271–2401g), as in effect on January
6 1, 2014, shall be in effect and apply, except that in apply-
7 ing and administering such chapters—

8 (1) paragraph (1) of section 231(c) of that Act
9 shall be applied and administered as if subpara-
10 graphs (A), (B), and (C) of that paragraph were not
11 in effect;

12 (2) section 233 of that Act shall be applied and
13 administered—

14 (A) in subsection (a)—

15 (i) in paragraph (2), by substituting
16 “104-week period” for “104-week period”
17 and all that follows through “130-week pe-
18 riod)”; and

19 (ii) in paragraph (3)—

20 (I) in the matter preceding sub-
21 paragraph (A), by substituting “65”
22 for “52”; and

23 (II) by substituting “78-week pe-
24 riod” for “52-week period” each place
25 it appears; and

1 (B) by applying and administering sub-
2 section (g) as if it read as follows:

3 “(g) PAYMENT OF TRADE READJUSTMENT ALLOW-
4 ANCES TO COMPLETE TRAINING.—Notwithstanding any
5 other provision of this section, in order to assist an ad-
6 versely affected worker to complete training approved for
7 the worker under section 236 that leads to the completion
8 of a degree or industry-recognized credential, payments
9 may be made as trade readjustment allowances for not
10 more than 13 weeks within such period of eligibility as
11 the Secretary may prescribe to account for a break in
12 training or for justifiable cause that follows the last week
13 for which the worker is otherwise entitled to a trade read-
14 justment allowance under this chapter if—

15 “(1) payment of the trade readjustment allow-
16 ance for not more than 13 weeks is necessary for the
17 worker to complete the training;

18 “(2) the worker participates in training in each
19 such week; and

20 “(3) the worker—

21 “(A) has substantially met the perform-
22 ance benchmarks established as part of the
23 training approved for the worker;

245

1 “(B) is expected to continue to make
2 progress toward the completion of the training;
3 and

4 “(C) will complete the training during that
5 period of eligibility.”;

6 (3) section 245(a) of that Act shall be applied
7 and administered by substituting “June 30, 2026”
8 for “December 31, 2007”;

9 (4) section 246(b)(1) of that Act shall be ap-
10 plied and administered by substituting “June 30,
11 2026” for “the date that is 5 years” and all that fol-
12 lows through “State”;

13 (5) section 256(b) of that Act shall be applied
14 and administered by substituting “the 1-year period
15 beginning on July 1, 2025” for “each of fiscal years
16 2003 through 2007, and \$4,000,000 for the 3-
17 month period beginning on October 1, 2007”;

18 (6) section 298(a) of that Act shall be applied
19 and administered by substituting “the 1-year period
20 beginning on July 1, 2025” for “each of the fiscal
21 years” and all that follows through “October 1,
22 2007”; and

23 (7) section 285 of that Act shall be applied and
24 administered—

1 (A) in subsection (a), by substituting
2 “June 30, 2026” for “December 31, 2007”
3 each place it appears; and

4 (B) by applying and administering sub-
5 section (b) as if it read as follows:

6 “(b) OTHER ASSISTANCE.—

7 “(1) ASSISTANCE FOR FIRMS.—

8 “(A) IN GENERAL.—Except as provided in
9 subparagraph (B), assistance may not be pro-
10 vided under chapter 3 after June 30, 2026.

11 “(B) EXCEPTION.—Notwithstanding sub-
12 paragraph (A), any assistance approved under
13 chapter 3 pursuant to a petition filed under sec-
14 tion 251 on or before June 30, 2026, may be
15 provided—

16 “(i) to the extent funds are available
17 pursuant to such chapter for such purpose;
18 and

19 “(ii) to the extent the recipient of the
20 assistance is otherwise eligible to receive
21 such assistance.

22 “(2) FARMERS.—

23 “(A) IN GENERAL.—Except as provided in
24 subparagraph (B), assistance may not be pro-
25 vided under chapter 6 after June 30, 2026.

1 “(B) EXCEPTION.—Notwithstanding sub-
2 paragraph (A), any assistance approved under
3 chapter 6 on or before June 30, 2026, may be
4 provided—

5 “(i) to the extent funds are available
6 pursuant to such chapter for such purpose;
7 and

8 “(ii) to the extent the recipient of the
9 assistance is otherwise eligible to receive
10 such assistance.”.

11 (b) EXCEPTIONS.—The provisions of chapters 2, 3,
12 5, and 6 of title II of the Trade Act of 1974, as in effect
13 on the date of the enactment of this Act, shall continue
14 to apply on and after July 1, 2025, with respect to—

15 (1) workers certified as eligible for trade adjust-
16 ment assistance benefits under chapter 2 of title II
17 of that Act pursuant to petitions filed under section
18 221 of that Act before July 1, 2025;

19 (2) firms certified as eligible for technical as-
20 sistance or grants under chapter 3 of title II of that
21 Act pursuant to petitions filed under section 251 of
22 that Act before July 1, 2025; and

23 (3) agricultural commodity producers certified
24 as eligible for technical or financial assistance under
25 chapter 6 of title II of that Act pursuant to petitions

1 filed under section 292 of that Act before July 1,
2 2025.

3 **Subtitle D—Career Pathways and**
4 **Social Services**

5 **PART 1—PROVISIONS RELATING TO PATHWAYS**
6 **TO HEALTH CAREERS**

7 **SEC. 124101. PATHWAYS TO HEALTH CAREERS.**

8 Effective October 1, 2021, title XX of the Social Se-
9 curity Act (42 U.S.C. 1397–1397n–13) is amended by
10 adding at the end the following:

11 **“Subtitle D—Career Pathways**
12 **Through Health Profession Op-**
13 **portunity Grants**

14 **“SEC. 2071. CAREER PATHWAYS THROUGH HEALTH PRO-**
15 **FESSION OPPORTUNITY GRANTS.**

16 “(a) APPLICATION REQUIREMENTS.—An eligible en-
17 tity desiring a grant under this section for a project shall
18 submit to the Secretary an application for the grant, that
19 includes the following:

20 “(1) A description of how the applicant will use
21 a career pathways approach to train eligible individ-
22 uals for health professions that will put eligible indi-
23 viduals on a career path to an occupation that pays
24 well, under the project.

1 “(2) A description of the adult basic education
2 and literacy activities, work readiness activities,
3 training activities, case management services, and
4 career coaching, mentoring, or peer support services
5 that the applicant will use to assist eligible individ-
6 uals to gain work experience, connection to employ-
7 ers, and job placement.

8 “(3) A description of how the applicant will as-
9 sess adult basic skill competency and provide any
10 adult basic skills education necessary for lower-
11 skilled eligible individuals to enroll and succeed in
12 the project, including by:

13 “(A) Establishing a network of partners
14 that offer pre-training activities for project par-
15 ticipants who need to improve basic academic
16 skills or English language proficiency before en-
17 tering a health occupational training career
18 pathway program.

19 “(B) Offering resources to enable project
20 participants to continue advancing adult basic
21 skill proficiency while enrolled in a career path-
22 way program.

23 “(C) Embedding adult basic skill mainte-
24 nance as part of ongoing post-graduation career
25 coaching and mentoring.

1 “(4) A plan for providing post-employment sup-
2 port and ongoing training as part of a career path-
3 way under the project.

4 “(5) A description of the support services the
5 applicant will provide under the project, including a
6 description of whether the applicant will provide any
7 of the following support services and how such serv-
8 ices will be provided:

9 “(A) A cash stipend or wage supplement.

10 “(B) A reserve fund for financial assist-
11 ance to project participants in emergency situa-
12 tions.

13 “(C) Tuition, certification exam fees, and
14 training materials such as books, software, uni-
15 forms, shoes, connection to the internet, hair
16 nets, and personal protective equipment.

17 “(D) In-kind resource donations such as
18 interview clothing and conference attendance
19 fees.

20 “(E) Assistance with accessing and com-
21 pleting high school equivalency or adult basic
22 education courses as necessary to achieve suc-
23 cess in the project and make progress toward
24 career goals.

1 “(F) Assistance with programs and activi-
2 ties, including legal assistance, deemed nec-
3 essary to address arrest or conviction records as
4 an employment barrier.

5 “(G) Child care or transportation services
6 in addition to those required under paragraphs
7 (6) and (7).

8 “(6) A description of how the applicant will
9 guarantee that child care is an available and afford-
10 able support service for project participants
11 through—

12 “(A) referral to, and assistance with, en-
13 rollment in a subsidized child care program;

14 “(B) direct payment to a child care pro-
15 vider if a slot in a subsidized child care pro-
16 gram is not available or reasonably accessible;
17 or

18 “(C) payment of co-payments or associated
19 fees for child care.

20 “(7) A description of how the applicant will
21 provide project participants with transportation sup-
22 port through—

23 “(A) referral to, and assistance with enroll-
24 ment in, a subsidized transportation program;
25 or

1 “(B) if a subsidized transportation pro-
2 gram is not reasonably available, direct pay-
3 ments to subsidize transportation costs.

4 “(8) A description of how the project will pre-
5 pare eligible individuals for jobs that are available or
6 are expected to be available in the labor market, in-
7 cluding a description of the availability and rel-
8 evance of recent labor market information and other
9 pertinent evidence of in-demand jobs or worker
10 shortages.

11 “(9) If the project involves providing training
12 for a recognized postsecondary credential (including
13 an industry-recognized credential, and a certificate
14 awarded by a local workforce development board)
15 which is awarded in recognition of attainment of
16 measurable technical or occupational skills necessary
17 to gain employment or advance within an occupa-
18 tion, a description of how the applicant will ensure
19 that the number of hours of training provided to an
20 eligible individual under the project for a such recog-
21 nized postsecondary credential shall be—

22 “(A) not less than the number of hours of
23 training required for certification in that level
24 of skill by the State in which the project is con-
25 ducted; or

1 “(B) if there is no such requirement, such
2 number of hours of training as the Secretary
3 finds is necessary to achieve that skill level.

4 “(10) A demonstration that the applicant is ca-
5 pable of carrying out the project, including:

6 “(A) A demonstration that the applicant
7 has experience working with low-income popu-
8 lations, or a description of the plan of the appli-
9 cant to work with a partner organization that
10 has such experience.

11 “(B) If the applicant previously received a
12 grant under this section or any predecessor to
13 this section, a description of activities con-
14 ducted under the previous grant and outcomes
15 of those activities.

16 “(C) A description of the plan for recruit-
17 ing, hiring, and training staff to carry out the
18 project and to provide the case management,
19 mentoring, and career coaching services under
20 the project directly or through local govern-
21 mental, apprenticeship, educational, or chari-
22 table institutions.

23 “(D) A description of any business and
24 community partners in any of the following cat-
25 egories with whom the applicant will cooperate:

1 “(i) State and local government agen-
2 cies and social service providers, including
3 a State or local entity that administers a
4 State program funded under part A of this
5 title.

6 “(ii) Institutions of higher education,
7 apprenticeship programs, and local work-
8 force development boards.

9 “(iii) Health care employers, health
10 care industry or sector partnerships, labor
11 unions, and labor-management partner-
12 ships.

13 “(b) GRANTS.—

14 “(1) COMPETITIVE GRANTS.—

15 “(A) GRANT AUTHORITY.—

16 “(i) IN GENERAL.—The Secretary
17 shall make a grant in accordance with this
18 paragraph to an eligible entity whose appli-
19 cation for the grant is approved by the
20 Secretary, to conduct a project designed to
21 train low-income individuals for allied
22 health professions, health information tech-
23 nology, physician assistants, nursing as-
24 sistants, registered nurse, advanced prac-
25 tice nurse, and other professions consid-

1 ered part of a health care career pathway
2 model.

3 “(ii) GUARANTEE OF GRANTEES IN
4 EACH STATE AND THE DISTRICT OF CO-
5 LUMBIA.—For each grant cycle, the Sec-
6 retary shall award a grant under this para-
7 graph to at least 2 eligible entities in each
8 State that is not a territory, to the extent
9 there are a sufficient number of applica-
10 tions that have a high likelihood of success
11 and that are submitted by the entities that
12 meet the requirements applicable with re-
13 spect to such a grant. If, for a grant cycle,
14 there are fewer than 2 such eligible entities
15 in a State that have submitted applications
16 with a high likelihood of success, the Sec-
17 retary shall identify qualified eligible appli-
18 cants located elsewhere, that are otherwise
19 approved but un-funded, and issue a Sub-
20 stitution of Grant and tailored technical
21 assistance. In the preceding sentence, the
22 term ‘issue a Substitution of Grant’
23 means, in a case in which an approved
24 grantee does not complete its full project
25 period, or in which there are fewer than 2

1 qualified grantees per State with a high
2 likelihood of success, substitute an appli-
3 cant located in another State that was ap-
4 proved but un-funded during the competi-
5 tion for the award for the award recipient.

6 “(B) GUARANTEE OF GRANTS FOR INDIAN
7 POPULATIONS.—The Secretary shall award a
8 grant under this paragraph to at least 10 eligi-
9 ble entities that are an Indian tribe, an Alaska
10 Native Corporation, a tribal organization, or a
11 tribal college or university, to the extent there
12 are a sufficient number of applications sub-
13 mitted by the entities that meet the require-
14 ments applicable with respect to such a grant.

15 “(C) GUARANTEE OF GRANTEEES IN THE
16 TERRITORIES.—The Secretary shall award a
17 grant under this paragraph to at least 2 eligible
18 entities that are located in a territory, to the
19 extent there are a sufficient number of applica-
20 tions submitted by the entities that meet the re-
21 quirements applicable with respect to such a
22 grant.

23 “(2) GRANT CYCLE.—The grant cycle under
24 this section shall be not less than 5 years, with a
25 planning period of not more than the first 12

1 months of the grant cycle. During the planning pe-
2 riod, the amount of the grant shall be in such lesser
3 amount as the Secretary determines appropriate.

4 “(c) USE OF GRANT.—

5 “(1) IN GENERAL.—An entity to which a grant
6 is made under this section shall use the grant in ac-
7 cordance with the approved application for the
8 grant.

9 “(2) INCLUSION OF TANF RECIPIENTS.—In the
10 case of a project for which a grant is made under
11 this section that is conducted in a State that has a
12 program funded under part A of title IV, at least 10
13 percent of the eligible individuals to whom support
14 is provided under the project shall meet the income
15 eligibility requirements under that State program,
16 without regard to whether the individuals receive
17 benefits or services directly under that State pro-
18 gram.

19 “(3) INCOME LIMITATION.—An entity to which
20 a grant is made under this section shall not use the
21 grant to provide support to a person who is not an
22 eligible individual.

23 “(4) PROHIBITION.—An entity to which a grant
24 is made under this section shall not use the grant
25 for purposes of entertainment, except that case man-

1 agement and career coaching services may include
2 celebrations of specific career-based milestones such
3 as completing a semester, graduation, or job place-
4 ment.

5 “(d) TECHNICAL ASSISTANCE.—

6 “(1) IN GENERAL.—The Secretary shall provide
7 technical assistance—

8 “(A) to assist eligible entities in applying
9 for grants under this section;

10 “(B) that is tailored to meet the needs of
11 grantees at each stage of the administration of
12 projects for which grants are made under this
13 section;

14 “(C) that is tailored to meet the specific
15 needs of Indian tribes, Alaska Native Corpora-
16 tions, tribal organizations, and tribal colleges
17 and universities;

18 “(D) that is tailored to meet the specific
19 needs of the territories; and

20 “(E) to facilitate the exchange of informa-
21 tion among eligible entities regarding best prac-
22 tices and promising practices used in the
23 projects.

24 “(2) CONTINUATION OF PEER TECHNICAL AS-
25 SISTANCE CONFERENCES.—The Secretary shall con-

1 tinue to hold peer technical assistance conferences
2 for entities to which a grant is made under this sec-
3 tion or was made under the immediate predecessor
4 of this section.

5 “(e) DEFINITIONS.—In this section:

6 “(1) ALASKA NATIVE CORPORATION.—The term
7 ‘Alaska Native Corporation’ has the meaning given
8 the term in section 3(m) of the Alaska Native
9 Claims Settlement Act (43 U.S.C. 1602(m)).

10 “(2) ALLIED HEALTH PROFESSION.—The term
11 ‘allied health profession’ has the meaning given the
12 term in section 799B(5) of the Public Health Serv-
13 ice Act.

14 “(3) CAREER PATHWAY.—The term ‘career
15 pathway’ has the meaning given the term in section
16 3(7) of the Workforce Innovation and Opportunity
17 Act.

18 “(4) ELIGIBLE ENTITY.—The term ‘eligible en-
19 tity’ means any of the following entities that dem-
20 onstrates in an application submitted under this sec-
21 tion that the entity has the capacity to fully develop
22 and administer the project described in the applica-
23 tion:

24 “(A) A local workforce development board.

1 “(B) A State or territory, a political sub-
2 division of a State or territory, or an agency of
3 a State, territory, or such a political subdivi-
4 sion, including a State or local entity that ad-
5 ministers a State program funded under part A
6 of this title.

7 “(C) An Indian tribe, an Alaska Native
8 Corporation, a tribal organization, or a tribal
9 college or university.

10 “(D) An institution of higher education (as
11 defined in the Higher Education Act of 1965).

12 “(E) A hospital (as defined in section
13 1861(e)).

14 “(F) A high-quality skilled nursing facility.

15 “(G) A Federally qualified health center
16 (as defined in section 1861(aa)(4)).

17 “(H) A nonprofit organization described in
18 section 501(c)(3) of the Internal Revenue Code
19 of 1986, a labor organization, or an entity with
20 shared labor-management oversight, that has a
21 demonstrated history of providing health profes-
22 sion training to eligible individuals.

23 “(I) An opioid treatment program (as de-
24 fined in section 1861(jjj)(2)), and other high
25 quality comprehensive addiction care providers.

1 “(J) A rural health clinic (as defined in
2 section 1861(aa)(2)).

3 “(5) ELIGIBLE INDIVIDUAL.—The term ‘eligible
4 individual’ means an individual whose family income
5 does not exceed 200 percent of the Federal poverty
6 level.

7 “(6) FEDERAL POVERTY LEVEL.—The term
8 ‘Federal poverty level’ means the poverty line (as de-
9 fined in section 673(2) of the Omnibus Budget Rec-
10 onciliation Act of 1981, including any revision re-
11 quired by such section applicable to a family of the
12 size involved).

13 “(7) INSTITUTION OF HIGHER EDUCATION.—
14 The term ‘institution of higher education’ has the
15 meaning given the term in section 101 or
16 102(a)(1)(B) of the Higher Education Act of 1965.

17 “(8) TERRITORY.—The term ‘territory’ means
18 the Commonwealth of Puerto Rico, the United
19 States Virgin Islands, Guam, the Northern Mariana
20 Islands, and American Samoa.

21 “(9) TRIBAL COLLEGE OR UNIVERSITY.—The
22 term ‘tribal college or university’ has the meaning
23 given the term in section 316(b) of the Higher Edu-
24 cation Act of 1965.

1 “(10) TRIBAL ORGANIZATION.—The term ‘trib-
2 al organization’ means the recognized governing
3 body of any Indian tribe; any legally established or-
4 ganization of Indians which is controlled, sanctioned,
5 or chartered by such governing body or which is
6 democratically elected by the adult members of the
7 Indian community to be served by such organization
8 and which includes the maximum participation of
9 Indians in all phases of its activities.

10 “(f) APPROPRIATION.—Out of any funds in the
11 Treasury not otherwise appropriated, in addition to
12 amounts otherwise available, there is appropriated to the
13 Secretary for fiscal year 2022, to remain available through
14 fiscal year 2026—

15 “(1) \$1,774,199,886 for grants under sub-
16 section (b)(1)(A);

17 “(2) \$94,260,366 for grants under subsection
18 (b)(1)(B);

19 “(3) \$111,388,252 for grants under subsection
20 (b)(1)(C); and

21 “(4) \$222,776,500 for the provision of technical
22 assistance under subsection (d) and the administra-
23 tion and evaluation of this section.”.

1 **PART 2—PROVISIONS RELATING TO ELDER**

2 **JUSTICE**

3 **SEC. 124201. REAUTHORIZATION OF FUNDING FOR PRO-**
 4 **GRAMS TO PREVENT AND INVESTIGATE**
 5 **ELDER ABUSE, NEGLECT, AND EXPLOI-**
 6 **TATION.**

7 (a) LONG-TERM CARE STAFF TRAINING GRANTS.—
 8 Section 2041 of the Social Security Act (42 U.S.C.
 9 1397m) is amended to read as follows:

10 **“SEC. 2041. NURSING HOME WORKER TRAINING GRANTS.**

11 “(a) APPROPRIATION.—Out of any funds in the
 12 Treasury not otherwise appropriated, in addition to
 13 amounts otherwise available, there is appropriated to the
 14 Secretary for fiscal year 2022, to remain available through
 15 fiscal year 2026—

16 “(1) \$1,629,529,888 for grants under sub-
 17 section (b)(1);

18 “(2) \$32,294,680 for grants under subsection
 19 (b)(2); and

20 “(3) \$33,255,712 for administrative costs of
 21 carrying out this section.

22 “(b) GRANTS.—

23 “(1) STATE ENTITLEMENT.—

24 “(A) IN GENERAL.—Each State shall be
 25 entitled to receive from the Secretary for each
 26 of fiscal years 2022 through 2026 a grant in an

1 amount equal to the amount allotted to the
2 State under subparagraph (B).

3 “(B) STATE ALLOTMENTS.—The amount
4 allotted to a State under this subparagraph for
5 a fiscal year shall be—

6 “(i) one-fifth of the amount appro-
7 priated under subsection (a)(1); multiplied
8 by

9 “(ii)(I) the number of State residents
10 who have attained 65 years of age or are
11 individuals with a disability who are under
12 65 years of age, as determined by the Sec-
13 retary using the most recent version of the
14 American Community Survey published by
15 the Bureau of the Census or a successor
16 data set; divided by

17 “(II) the total number of such
18 residents of all States.

19 “(2) GRANTS TO INDIAN TRIBES AND TRIBAL
20 ORGANIZATIONS.—

21 “(A) IN GENERAL.—The Secretary shall
22 make grants in accordance with this section to
23 Indian tribes and tribal organizations who oper-
24 ate at least 1 eligible setting.

1 “(D) provide assistance with transpor-
2 tation, including public transportation, gas
3 money, or transit vouchers;

4 “(E) establish a reserve fund for financial
5 assistance in emergency situations;

6 “(F) provide in-kind resources, such as
7 interview clothing and conference attendance
8 fees; or

9 “(G) administer subgrants in accordance
10 with this section and provide technical assist-
11 ance.

12 “(2) PROVISION OF FUNDS ONLY FOR THE
13 BENEFIT OF ELIGIBLE INDIVIDUALS IN ELIGIBLE
14 SETTINGS.—A State, Indian tribe, or tribal organi-
15 zation to which an amount is paid under subsection
16 (b) may provide the amount only to an eligible indi-
17 vidual or a partner organization serving an eligible
18 individual.

19 “(3) NONSUPPLANTATION.—A State, Indian
20 tribe, or tribal organization to which an amount is
21 paid under subsection (b) shall not use the amount
22 to supplant the expenditure of any State or tribal
23 funds for recruiting or retaining employees in an eli-
24 gible setting.

25 “(d) DEFINITIONS.—In this section:

1 “(1) ELIGIBLE INDIVIDUAL.—The term ‘eligible
2 individual’ means an individual who—

3 “(A)(i) is a qualified home health aide, as
4 defined in section 484.80(a) of title 42, Code of
5 Federal Regulations;

6 “(ii) is a nurse aide approved by the State
7 as meeting the requirements of sections
8 483.150 through 483.154 of such title, and is
9 listed in good standing on the State nurse aide
10 registry;

11 “(iii) is a personal care aide approved by
12 the State, and furnishes personal care services,
13 as defined in section 440.167 of such title;

14 “(iv) is a qualified hospice aide, as defined
15 in section 418.76 of such title;

16 “(v) is a licensed practical nurse or a li-
17 censed or certified social worker; or

18 “(vi) is receiving training to be certified or
19 licensed as such an aide, nurse, or social work-
20 er; and

21 “(B) provides (or, in the case of a trainee,
22 intends to provide) services as such an aide,
23 nurse, or social worker in an eligible setting.

24 “(2) ELIGIBLE SETTING.—The term ‘eligible
25 setting’ means—

1 (II) by inserting “and adults who
2 are under a disability (as defined in
3 section 216(i)(1))” before the semi-
4 colon; and

5 (ii) by striking paragraph (2) and in-
6 serting the following:

7 “(2) APPROPRIATION.—Out of any money in
8 the Treasury not otherwise appropriated, in addition
9 to amounts otherwise available, there are appro-
10 priated to the Secretary to carry out this subsection,
11 \$25,450,800 for fiscal year 2022, to remain avail-
12 able through fiscal year 2025.”;

13 (B) in subsection (b)—

14 (i) in paragraph (2)—

15 (I) in subparagraph (A)—

16 (aa) by striking “the avail-
17 ability of appropriations and”;
18 and

19 (bb) by striking “the
20 amount appropriated for that
21 year to carry out this subsection”
22 and inserting “ $\frac{1}{4}$ of the amount
23 appropriated for grants to States
24 under paragraph (5)(A)”;

25 (II) in subparagraph (B)—

1 (aa) in the heading for
2 clause (i), by inserting “AND THE
3 DISTRICT OF COLUMBIA” after
4 “STATES”;

5 (bb) in clause (i), by striking
6 “0.75 percent of the amount ap-
7 propriated for such year” and in-
8 serting “0.75 percent of $\frac{1}{4}$ of the
9 amount appropriated for grants
10 to States under this paragraph
11 (5)(A)”;

12 (cc) in clause (ii), by insert-
13 ing “or the District of Columbia”
14 after “States”; and

15 (ii) by striking paragraph (5) and in-
16 serting the following:

17 “(5) APPROPRIATION.—Out of any money in
18 the Treasury not otherwise appropriated, in addition
19 to amounts otherwise available, there are appro-
20 priated to the Secretary for fiscal year 2022, to re-
21 main available through fiscal year 2025—

22 “(A) \$1,629,529,888 for grants to States
23 under this subsection;

1 “(B) \$32,294,680 for grants to Indian
2 tribes and tribal organizations under this sub-
3 section; and

4 “(C) \$33,255,712 for administrative costs
5 of carrying out this subsection.”; and

6 (C) in subsection (c)—

7 “(6) APPROPRIATION.—Out of any money in
8 the Treasury not otherwise appropriated, in addition
9 to amounts otherwise available, there are appro-
10 priated to the Secretary \$238,601,250 for fiscal year
11 2022, to remain available through fiscal year 2025,
12 to carry out this subsection.”.

13 (2) STATE ENTITLEMENT; GRANTS TO INDIAN
14 TRIBES AND TRIBAL ORGANIZATIONS.—Section 2042
15 of such Act (42 U.S.C. 1397m–1) is amended—

16 (A) in subsection (a)(1)(A), by striking
17 “State and local” and inserting “State, local,
18 and tribal”;

19 (B) in subsection (b)(1), by striking “the
20 Secretary shall annually award grants to States
21 in the amounts calculated under paragraph (2)”
22 and inserting “each State shall be entitled to
23 annually receive from the Secretary in the
24 amounts calculated under paragraph (2), and
25 the Secretary may annually award to each In-

1 dian tribe and tribal organization in accordance
2 with paragraph (3), grants”;

3 (C) in subsection (b)(2), in the paragraph
4 heading, by inserting “FOR A STATE” after
5 “PAYMENT”;

6 (D) in subsection (b), by redesignating
7 paragraphs (3) through (5) as paragraphs (4)
8 through (6), respectively, and inserting after
9 paragraph (2) the following:

10 “(3) AMOUNT OF PAYMENT TO INDIAN TRIBE
11 OR TRIBAL ORGANIZATION.—The Secretary shall de-
12 termine the amount of any grant to be made to each
13 Indian tribe and tribal organization under this sub-
14 section. Paragraphs (4) and (5) shall apply to grant-
15 ees under this paragraph in the same manner in
16 which the paragraphs apply to States.”;

17 (E) in subsection (c)—

18 (i) in paragraph (1), by striking “to
19 States” and inserting “to States, Indian
20 tribes, and tribal organizations”;

21 (ii) in paragraph (2)—

22 (I) in the matter preceding sub-
23 paragraph (A), by inserting “and In-
24 dian tribes and tribal organizations”
25 after “government”; and

1 (II) in subparagraph (D), by in-
2 serting “or Indian tribe or tribal orga-
3 nization, as the case may be” after
4 “government”;

5 (iii) in paragraph (4), by inserting “or
6 Indian tribe or tribal organization” after
7 “a State” the 1st place it appears; and

8 (iv) in paragraph (5)—

9 (I) by inserting “or Indian tribe
10 or tribal organization” after “Each
11 State”; and

12 (II) by inserting “or Indian tribe
13 or tribal organization, as the case may
14 be” after “the State”; and

15 (F) by adding at the end the following:

16 “(d) DEFINITIONS OF INDIAN TRIBE AND TRIBAL
17 ORGANIZATION.—In this section, the terms ‘Indian tribe’
18 and ‘tribal organization’ have the meanings given the
19 terms in section 419.”.

20 (3) CONFORMING AMENDMENT.—Section
21 2011(2) of such Act (42 U.S.C. 1397j(2)) is amend-
22 ed by striking “such services provided to adults as
23 the Secretary may specify” and inserting “services
24 provided by an entity authorized by or under State

1 law address neglect, abuse, and exploitation of older
2 adults and people with disabilities”.

3 (c) LONG-TERM CARE OMBUDSMAN PROGRAM
4 GRANTS AND TRAINING.—Section 2043 of the Social Se-
5 curity Act (42 U.S.C. 1397m–2) is amended—

6 (1) in subsection (a), by striking paragraph (2)
7 and inserting the following:

8 “(2) APPROPRIATION.—Out of any money in
9 the Treasury not otherwise appropriated, in addition
10 to amounts otherwise available, there are appro-
11 priated to the Secretary to carry out this subsection
12 \$87,487,125 for fiscal year 2022, to remain avail-
13 able through fiscal year 2025.”; and

14 (2) in subsection (b), by striking paragraph (2)
15 and inserting the following:

16 “(2) APPROPRIATION.—Out of any money in
17 the Treasury not otherwise appropriated, in addition
18 to amounts otherwise available, there are appro-
19 priated to the Secretary to carry out this subsection,
20 \$95,440,500 for fiscal year 2022, to remain avail-
21 able through fiscal year 2025.”.

22 **SEC. 124202. APPROPRIATION FOR ASSESSMENTS.**

23 Out of any money in the Treasury not otherwise ap-
24 propriated, in addition to amounts otherwise available,
25 there are appropriated to the Secretary of Health and

1 Human Services \$21,209,000 for fiscal year 2022, to re-
2 main available through fiscal year 2026, to conduct an
3 evaluation of the programs, coordinating bodies, registries,
4 and activities established or authorized under subtitle B
5 of title XX of the Social Security Act or section 6703(b)
6 of the Patient Protection and Affordable Care Act (42
7 U.S.C. 1395i–3a), which shall assess the extent to which
8 such programs, coordinating bodies, registries, and activi-
9 ties have improved access to, and the quality of, resources
10 available to aging Americans and their caregivers to pre-
11 vent, detect, and treat abuse, neglect, and exploitation of
12 aging Americans.

13 **Subtitle E—Infrastructure Financ-**
14 **ing and Community Develop-**
15 **ment**

16 **SEC. 125001. AMENDMENT OF 1986 CODE.**

17 Except as otherwise expressly provided, whenever in
18 this subtitle an amendment or repeal is expressed in terms
19 of an amendment to, or repeal of, a section or other provi-
20 sion, the reference shall be considered to be made to a
21 section or other provision of the Internal Revenue Code
22 of 1986.

1 **PART 1—LOW INCOME HOUSING CREDIT**

2 **SEC. 125101. INCREASES IN STATE ALLOCATIONS.**

3 (a) IN GENERAL.—Section 42(h)(3)(I) is amended to
4 read as follows:

5 “(I) INCREASE IN STATE HOUSING CREDIT
6 CEILING FOR 2022 THROUGH 2025.—In the case
7 of calendar years 2022 through 2025—

8 “(i) subparagraph (H) shall not apply,

9 “(ii) the dollar amounts in effect
10 under subclauses (I) and (II), respectively,
11 of subparagraph (C)(ii) for any such cal-
12 endar year shall be—

13 “(I) in the case of calendar year
14 2022, \$2.93 and \$3,346,875,

15 “(II) in the case of calendar year
16 2023, \$2.98 and \$3,425,625,

17 “(III) in the case of calendar
18 year 2024, \$3.04 and \$3,504,375,
19 and

20 “(IV) in the case of calendar
21 year 2025, \$3.86 and \$4,481,950.”.

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

1 **SEC. 125102. TAX-EXEMPT BOND FINANCING REQUIRE-**
2 **MENT.**

3 (a) IN GENERAL.—Section 42(h)(4)(B) is amended
4 to read as follows:

5 “(B) SPECIAL RULE WHERE A REQUIRED
6 PERCENT OF BUILDINGS IS FINANCED WITH
7 TAX-EXEMPT BONDS SUBJECT TO VOLUME
8 CAP.—For purposes of subparagraph (A), para-
9 graph (1) shall not apply to any portion of the
10 credit allowable under subsection (a) with re-
11 spect to a building if—

12 “(i) 50 percent or more of the aggre-
13 gate basis of any such building and the
14 land on which the building is located is fi-
15 nanced by any obligation described in sub-
16 paragraph (A), or

17 “(ii) 25 percent or more of the aggre-
18 gate basis of such building and the land on
19 which the building is located is financed by
20 any obligation which is described in sub-
21 paragraph (A) and issued in calendar year
22 2022, 2023, 2024, 2025, or 2026.”.

23 (b) EFFECTIVE DATE.—The amendment made by
24 this section shall apply to any building some portion of
25 which, or of the land on which the building is located, is
26 financed by an obligation which is described in section

1 42(h)(4)(A) and which is part of an issue the issue date
2 of which is after December 31, 2021.

3 **SEC. 125103. BUILDINGS DESIGNATED TO SERVE EX-**
4 **TREMELY LOW-INCOME HOUSEHOLDS.**

5 (a) RESERVED STATE ALLOCATION.—

6 (1) IN GENERAL.—Section 42(h) is amended—

7 (A) by redesignating paragraphs (6), (7),
8 and (8) as paragraphs (7), (8), and (9), respec-
9 tively, and

10 (B) by inserting after paragraph (5) the
11 following new paragraph:

12 “(6) PORTION OF STATE CEILING SET-ASIDE
13 FOR PROJECTS DESIGNATED TO SERVE EXTREMELY
14 LOW-INCOME HOUSEHOLDS.—

15 “(A) IN GENERAL.—Not more than 92
16 percent of the portion of the State housing
17 credit ceiling amount described in paragraph
18 (3)(C)(ii) for any State for any calendar year
19 shall be allocated to buildings other than build-
20 ings described in subparagraph (B).

21 “(B) BUILDINGS DESCRIBED.—A building
22 is described in this subparagraph if 20 percent
23 or more of the residential units in such building
24 are rent-restricted (determined as if the im-
25 puted income limitation applicable to such units

1 were 30 percent of area median gross income)
2 and are designated by the taxpayer for occu-
3 pancy by households the aggregate household
4 income of which does not exceed the greater
5 of—

6 “(i) 30 percent of area median gross
7 income, or

8 “(ii) 100 percent of an amount equal
9 to the Federal poverty line (within the
10 meaning of section 36B(d)(3)).

11 “(C) EXCEPTION.—A building shall not be
12 treated as described in subparagraph (B) if
13 such building is a part of a qualified low-income
14 housing project with respect to which the tax-
15 payer elects the requirements of subsection
16 (g)(1)(C).”.

17 (2) CONFORMING AMENDMENT.—Section
18 42(b)(4)(C) is amended by striking “(h)(7)” and in-
19 serting “(h)(8)”.

20 (b) INCREASE IN CREDIT.—Paragraph (5) of section
21 42(d) is amended by adding at the end the following new
22 subparagraph:

23 “(C) INCREASE IN CREDIT FOR BUILDINGS
24 DESIGNATED TO SERVE EXTREMELY LOW-IN-
25 COME HOUSEHOLDS.—

1 “(i) IN GENERAL.—In the case of any
2 building—

3 “(I) which is described in sub-
4 section (h)(6)(B), and

5 “(II) which is designated by the
6 housing credit agency as requiring the
7 increase in credit under this subpara-
8 graph in order for such building to be
9 financially feasible as part of a quali-
10 fied low-income housing project,

11 subparagraph (B) shall not apply to the
12 portion of such building which is comprised
13 of residential units described in subsection
14 (h)(6)(B) (determined in a manner similar
15 to the unit fraction under subsection
16 (c)(1)(C)), and the eligible basis of such
17 portion of the building shall be 150 per-
18 cent of such basis determined without re-
19 gard to this subparagraph.

20 “(ii) ALLOCATION RULES APPLICABLE
21 TO PROJECTS TO WHICH CLAUSE (i) AP-
22 PLIES.—

23 “(I) STATE HOUSING CREDIT
24 CEILING.—For any calendar year, no
25 more than 13 percent of the portion

1 of the State housing credit ceiling de-
2 scribed in subsection (h)(3)(C)(ii)
3 shall be allocated to buildings to
4 which clause (i) applies.

5 “(II) APPLICATION TO PROJECTS
6 FINANCED WITH TAX-EXEMPT
7 BONDS.—In the case of any building
8 which is financed by an obligation de-
9 scribed in subsection (h)(4), clause (i)
10 shall not apply unless—

11 “(aa) the State in which the
12 issuing authority issuing such ob-
13 ligation is located designates
14 such obligation as an obligation
15 to which this subparagraph ap-
16 plies, and

17 “(bb) the aggregate face
18 amount of obligations designated
19 under item (aa) by such State in
20 the calendar year during which
21 such obligation is issued does not
22 exceed 8 percent of the State
23 ceiling of such State under sec-
24 tion 146(d)(1) for such year.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to allocations of housing credit dol-
3 lar amount after December 31, 2021, and to buildings
4 that are described in section 42(h)(4)(B) taking into ac-
5 count only obligations that are part of an issue the issue
6 date of which is after December 31, 2021.

7 **SEC. 125104. REPEAL OF QUALIFIED CONTRACT OPTION.**

8 (a) TERMINATION OF OPTION FOR CERTAIN BUILD-
9 INGS.—

10 (1) IN GENERAL.—Subclause (II) of section
11 42(h)(7)(E)(i), as redesignated by section 125103, is
12 amended by inserting “in the case of a building de-
13 scribed in clause (iii),” before “on the last day”.

14 (2) BUILDINGS DESCRIBED.—Subparagraph
15 (E) of section 42(h)(7), as so redesignated, is
16 amended by adding at the end the following new
17 clause:

18 “(iii) BUILDINGS DESCRIBED.—A
19 building described in this clause is a build-
20 ing—

21 “(I) which received its allocation
22 of housing credit dollar amount before
23 January 1, 2022, or

24 “(II) in the case of a building
25 any portion of which is financed as

1 described in paragraph (4), and which
2 received before January 1, 2022,
3 under the rules of paragraphs (1) and
4 (2) of subsection (m), a determination
5 from the issuer of the tax-exempt
6 bonds or the housing credit agency
7 that the building would be eligible
8 under the qualified allocation plan to
9 receive an allocation of housing credit
10 dollar amount or that the credits to be
11 earned are necessary for financial fea-
12 sibility of the project and its viability
13 as a qualified low-income housing
14 project throughout the credit period.”.

15 (b) RULES RELATING TO EXISTING PROJECTS.—
16 Subparagraph (F) of section 42(h)(7), as redesignated by
17 section 125103, is amended by striking “the nonlow-in-
18 come portion” and all that follows and inserting “the
19 nonlow-income portion and the low-income portion of the
20 building for fair market value (determined by the housing
21 credit agency by taking into account the rent restrictions
22 required for the low-income portion of the building to con-
23 tinue to meet the standards of paragraphs (1) and (2) of
24 subsection (g)). The Secretary shall prescribe such regula-

1 tions as may be necessary or appropriate to carry out this
2 paragraph.”.

3 (c) CONFORMING AMENDMENTS.—

4 (1) Paragraph (7) of section 42(h), as redesignig-
5 nated by section 125103, is amended by striking
6 subparagraph (G) and by redesignating subpara-
7 graphs (H), (I), (J), and (K) as subparagraphs (G),
8 (H), (I), and (J), respectively.

9 (2) Subclause (II) of section 42(h)(7)(E)(i), as
10 so redesignated and as amended by subsection (a),
11 is further amended by striking “subparagraph (I)”
12 and inserting “subparagraph (H)”.

13 (d) EFFECTIVE DATES.—

14 (1) IN GENERAL.—Except as provided in para-
15 graph (2), the amendments made by this section
16 shall take effect on the date of the enactment of this
17 Act.

18 (2) SUBSECTION (b).—The amendments made
19 by subsection (b) shall apply to buildings with re-
20 spect to which a written request described in section
21 42(h)(7)(H) of the Internal Revenue Code of 1986,
22 as redesignated by section 125103 and subsection
23 (c), is submitted after the date of the enactment of
24 this Act.

1 **SEC. 125105. MODIFICATION AND CLARIFICATION OF**
2 **RIGHTS RELATING TO BUILDING PURCHASE.**

3 (a) **MODIFICATION OF RIGHT OF FIRST REFUSAL.—**

4 (1) **IN GENERAL.—**Subparagraph (A) of section
5 42(i)(7) is amended by striking “a right of 1st re-
6 fusal” and inserting “an option”.

7 (2) **CONFORMING AMENDMENT.—**The heading
8 of paragraph (7) of section 42(i) is amended by
9 striking “RIGHT OF 1ST REFUSAL” and inserting
10 “OPTION”.

11 (b) **CLARIFICATION WITH RESPECT TO RIGHT OF**
12 **FIRST REFUSAL AND PURCHASE OPTIONS.—**

13 (1) **PURCHASE OF PARTNERSHIP INTEREST.—**

14 (A) **IN GENERAL.—**Subparagraph (A) of
15 section 42(i)(7), as amended by subsection (a),
16 is amended by striking “the property” and in-
17 serting “the property or all of the partnership
18 interests (other than interests of the person ex-
19 ercising such option or a related party thereto
20 (within the meaning of section 267(b) or
21 707(b)(1))) relating to the property”.

22 (B) **APPLICATION TO S CORPORATIONS**
23 **AND OTHER PASS-THROUGH ENTITIES.—**Sub-
24 paragraph (A) of section 42(i)(7) is amended
25 by adding at the end the following: “Except as
26 provided by the Secretary, the rules of this

1 paragraph shall apply to S corporations and
2 other pass-through entities in the same manner
3 as such rules apply to partnerships.”

4 (C) CONFORMING AMENDMENT.—Subpara-
5 graph (B) of section 42(i)(7) is amended by
6 adding at the end the following: “In the case of
7 a purchase of all of the partnership interests,
8 the minimum purchase price under this sub-
9 paragraph shall be an amount not less than the
10 sum of the interests’ shares of the amount
11 which would be determined with respect to the
12 property under this subparagraph without re-
13 gard to this sentence.”.

14 (2) PROPERTY INCLUDES ASSETS RELATING TO
15 THE BUILDING.—Paragraph (7) of section 42(i) is
16 amended by adding at the end the following new
17 subparagraph:

18 “(C) PROPERTY.—For purposes of sub-
19 paragraph (A), the term ‘property’ may include
20 all or any of the assets held for the develop-
21 ment, operation, or maintenance of a build-
22 ing.”.

23 (3) EXERCISE OF RIGHT OF FIRST REFUSAL
24 AND PURCHASE OPTIONS.—Subparagraph (A) of
25 section 42(i)(7), as amended by subsection (a) and

1 paragraph (1)(A), is amended by adding at the end
2 the following: “For purposes of determining whether
3 an option, including a right of first refusal, to pur-
4 chase property or all of the partnership interests
5 holding (directly or indirectly) such property is de-
6 scribed in the preceding sentence—

7 “(i) such option or right of first re-
8 fusal shall be exercisable with or without
9 the approval of any owner of the project
10 (including any partner, member, or affili-
11 ated organization of such an owner), and

12 “(ii) a right of first refusal shall be
13 exercisable in response to any offer to pur-
14 chase the property or all of the partnership
15 interests, including an offer by a related
16 party.”.

17 (c) OTHER CONFORMING AMENDMENT.—Subpara-
18 graph (B) of section 42(i)(7), as amended by subsection
19 (b), is amended by striking “the sum of” and all that fol-
20 lows through “application of clause (ii).” and inserting the
21 following: “the principal amount of outstanding indebted-
22 ness secured by the building (other than indebtedness in-
23 curred within the 5-year period ending on the date of the
24 sale to the tenants).”.

25 (d) EFFECTIVE DATES.—

1 (1) MODIFICATION OF RIGHT OF FIRST RE-
2 FUSAL.—The amendments made by subsections (a)
3 and (c) shall apply to agreements entered into or
4 amended after the date of the enactment of this Act.

5 (2) CLARIFICATION.—The amendments made
6 by subsection (b) shall apply to agreements among
7 the owners of the project (including partners, mem-
8 bers, and their affiliated organizations) and persons
9 described in section 42(i)(7)(A) of the Internal Rev-
10 enue Code of 1986 entered into before, on, or after
11 the date of the enactment of this Act.

12 (3) NO EFFECT ON AGREEMENTS.—None of the
13 amendments made by this section is intended to su-
14 persede express language in any agreement with re-
15 spect to the terms of a right of first refusal or op-
16 tion permitted by section 42(i)(7) of the Internal
17 Revenue Code of 1986 in effect on the date of the
18 enactment of this Act.

19 **PART 2—NEIGHBORHOOD HOMES INVESTMENT**
20 **ACT**

21 **SEC. 125201. NEIGHBORHOOD HOMES CREDIT.**

22 (a) IN GENERAL.—Subpart D of part IV of sub-
23 chapter A of chapter 1 is amended by inserting after sec-
24 tion 42 the following new section:

1 **“SEC. 42A. NEIGHBORHOOD HOMES CREDIT.**

2 “(a) ALLOWANCE OF CREDIT.—For purposes of sec-
3 tion 38, the neighborhood homes credit determined under
4 this section for the taxable year is, with respect to each
5 qualified residence sold by the taxpayer during such tax-
6 able year in an affordable sale, the lesser of—

7 “(1) either—

8 “(A) the excess (if any) of—

9 “(i) the reasonable development costs
10 paid or incurred by the taxpayer with re-
11 spect to such qualified residence, over

12 “(ii) the sale price of such qualified
13 residence (reduced by any reasonable ex-
14 penses paid or incurred by the taxpayer in
15 connection with such sale), or

16 “(B) if the neighborhood homes credit
17 agency determines it is necessary to ensure fi-
18 nancial feasibility, an amount not to exceed 120
19 percent of the amount under subparagraph (A),
20 or

21 “(2) 35 percent of the lesser of—

22 “(A) the eligible development costs paid or
23 incurred by the taxpayer with respect to such
24 qualified residence, or

25 “(B) 80 percent of the national median
26 sale price for new homes (as determined pursu-

1 ant to the most recent census data available as
2 of the date on which the neighborhood homes
3 credit agency makes an allocation for the quali-
4 fied project).

5 “(b) DEVELOPMENT COSTS.—For purposes of this
6 section—

7 “(1) REASONABLE DEVELOPMENT COSTS.—

8 “(A) IN GENERAL.—The term ‘reasonable
9 development costs’ means amounts paid or in-
10 curred for the acquisition of buildings and land,
11 construction, substantial rehabilitation, demoli-
12 tion of structures, or environmental remedi-
13 ation, to the extent that the neighborhood
14 homes credit agency determines that such
15 amounts meet the standards specified pursuant
16 to subsection (f)(1)(C) (as of the date on which
17 construction or substantial rehabilitation is sub-
18 stantially complete, as determined by such
19 agency) and are necessary to ensure the finan-
20 cial feasibility of such qualified residence.

21 “(B) CONSIDERATIONS IN MAKING DETER-
22 MINATION.—In making the determination under
23 subparagraph (A), the neighborhood homes
24 credit agency shall consider—

1 “(i) the sources and uses of funds and
2 the total financing,

3 “(ii) any proceeds or receipts gen-
4 erated or expected to be generated by rea-
5 son of tax benefits, and

6 “(iii) the reasonableness of the devel-
7 opmental costs and fees.

8 “(2) ELIGIBLE DEVELOPMENT COSTS.—The
9 term ‘eligible development costs’ means the amount
10 which would be reasonable development costs if the
11 amounts taken into account as paid or incurred for
12 the acquisition of buildings and land did not exceed
13 75 percent of such costs determined without regard
14 to any amount paid or incurred for the acquisition
15 of buildings and land.

16 “(3) SUBSTANTIAL REHABILITATION.—The
17 term ‘substantial rehabilitation’ means amounts paid
18 or incurred for rehabilitation of a qualified residence
19 if such amounts exceed the greater of—

20 “(A) \$20,000, or

21 “(B) 20 percent of the amounts paid or in-
22 curred by the taxpayer for the acquisition of
23 buildings and land with respect to such quali-
24 fied residence.

1 “(4) CONSTRUCTION AND REHABILITATION
2 ONLY AFTER ALLOCATION TAKEN INTO ACCOUNT.—

3 “(A) IN GENERAL.—The terms ‘reasonable
4 development costs’ and ‘eligible development
5 costs’ shall not include any amount paid or in-
6 curred before the date on which an allocation is
7 made to the taxpayer under subsection (e) with
8 respect to the qualified project of which the
9 qualified residence is part unless such amount
10 is paid or incurred for the acquisition of build-
11 ings or land.

12 “(B) LAND AND BUILDING ACQUISITION
13 COSTS.—Amounts paid or incurred for the ac-
14 quisition of buildings or land shall be included
15 under paragraph (A) only if paid or incurred
16 not more than 3 years before the date on which
17 the allocation referred to in subparagraph (A)
18 is made. If the taxpayer acquired any building
19 or land from an entity (or any related party to
20 such entity) that holds an ownership interest in
21 the taxpayer, then such entity must also have
22 acquired such property within such 3-year pe-
23 riod, and the acquisition cost included under
24 subparagraph (A) with respect to the taxpayer

1 shall not exceed the amount such entity paid or
2 incurred to acquire such property.

3 “(c) QUALIFIED RESIDENCE.—For purposes of this
4 section—

5 “(1) IN GENERAL.—The term ‘qualified resi-
6 dence’ means a residence that—

7 “(A) is real property affixed on a perma-
8 nent foundation,

9 “(B) is—

10 “(i) a house which is comprised of 4
11 or fewer residential units,

12 “(ii) a condominium unit, or

13 “(iii) a house or an apartment owned
14 by a cooperative housing corporation (as
15 defined in section 216(b)),

16 “(C) is part of a qualified project with re-
17 spect to which the neighborhood homes credit
18 agency has made an allocation under subsection
19 (e), and

20 “(D) is located in a qualified census tract
21 (determined as of the date of such allocation).

22 “(2) QUALIFIED CENSUS TRACT.—

23 “(A) IN GENERAL.—The term ‘qualified
24 census tract’ means a census tract—

25 “(i) which—

1 “(I) has a median family income
2 which does not exceed 80 percent of
3 the median family income for the ap-
4 plicable area,

5 “(II) has a poverty rate that is
6 not less than 130 percent of the pov-
7 erty rate of the applicable area, and

8 “(III) has a median value for
9 owner-occupied homes that does not
10 exceed the median value for owner-oc-
11 cupied homes in the applicable area,
12 “(ii) which—

13 “(I) is located in a city which has
14 a population of not less than 50,000
15 and such city has a poverty rate that
16 is not less than 150 percent of the
17 poverty rate of the applicable area,

18 “(II) has a median family income
19 which does not exceed the median
20 family income for the applicable area,
21 and

22 “(III) has a median value for
23 owner-occupied homes that does not
24 exceed 80 percent of the median value

1 for owner-occupied homes in the ap-
2 plicable area,

3 “(iii) which—

4 “(I) is located in a nonmetropoli-
5 tan county,

6 “(II) has a median family income
7 which does not exceed the median
8 family income for the applicable area,
9 and

10 “(III) has been designated by a
11 neighborhood homes credit agency
12 under this clause, or

13 “(iv) which is not otherwise a quali-
14 fied census tract and is located in a dis-
15 aster area (as defined in section
16 7508A(d)(3)), but only with respect to
17 credits allocated in any period during
18 which the President of the United States
19 has determined that such area warrants in-
20 dividual or individual and public assistance
21 by the Federal Government under the Rob-
22 ert T. Stafford Disaster Relief and Emer-
23 gency Assistance Act.

24 “(B) APPLICABLE AREA.—The term ‘appli-
25 cable area’ means—

1 “(i) in the case of a metropolitan cen-
2 sus tract, the metropolitan area in which
3 such census tract is located, and

4 “(ii) in the case of a census tract
5 other than a census tract described in
6 clause (i), the State.

7 “(d) AFFORDABLE SALE.—For purposes of this sec-
8 tion—

9 “(1) IN GENERAL.—The term ‘affordable sale’
10 means a sale to a qualified homeowner of a qualified
11 residence that the neighborhood homes credit agency
12 certifies as meeting the standards promulgated
13 under subsection (f)(1)(D) for a price that does not
14 exceed—

15 “(A) in the case of any qualified residence
16 not described in subparagraph (B), (C), or (D),
17 the amount equal to the product of 4 multiplied
18 by the median family income for the applicable
19 area (as determined pursuant to the most re-
20 cent census data available as of the date of the
21 contract for such sale),

22 “(B) in the case of a house comprised of
23 2 residential units, 125 percent of the amount
24 described in subparagraph (A),

1 “(C) in the case of a house comprised of
2 3 residential units, 150 percent of the amount
3 described in subparagraph (A), or

4 “(D) in the case of a house comprised of
5 4 residential units, 175 percent of the amount
6 described in subparagraph (A).

7 “(2) QUALIFIED HOMEOWNER.—The term
8 ‘qualified homeowner’ means, with respect to a
9 qualified residence, an individual—

10 “(A) who owns and uses such qualified res-
11 idence as the principal residence of such indi-
12 vidual, and

13 “(B) whose family income (determined as
14 of the date that a binding contract for the af-
15 fordable sale of such residence is entered into)
16 is 140 percent or less of the median family in-
17 come for the applicable area in which the quali-
18 fied residence is located.

19 “(e) CREDIT CEILING AND ALLOCATIONS.—

20 “(1) CREDIT LIMITED BASED ON ALLOCATIONS
21 TO QUALIFIED PROJECTS.—

22 “(A) IN GENERAL.—The credit allowed
23 under subsection (a) to any taxpayer for any
24 taxable year with respect to one or more quali-
25 fied residences which are part of the same

1 qualified project shall not exceed the excess (if
2 any) of—

3 “(i) the amount allocated by the
4 neighborhood homes credit agency under
5 this paragraph to such taxpayer with re-
6 spect to such qualified project, over

7 “(ii) the aggregate amount of credit
8 allowed under subsection (a) to such tax-
9 payer with respect to qualified residences
10 which are a part of such qualified project
11 for all prior taxable years.

12 “(B) DEADLINE FOR COMPLETION.—No
13 credit shall be allowed under subsection (a)
14 with respect to any qualified residence unless
15 the affordable sale of such residence is during
16 the 5-year period beginning on the date of the
17 allocation to the qualified project of which such
18 residence is a part (or, in the case of a qualified
19 residence to which subsection (i) applies, the re-
20 habilitation of such residence is completed dur-
21 ing such 5-year period).

22 “(2) LIMITATIONS ON ALLOCATIONS TO QUALI-
23 FIED PROJECTS.—

24 “(A) ALLOCATIONS LIMITED BY STATE
25 NEIGHBORHOOD HOMES CREDIT CEILING.—The

1 aggregate amount allocated to taxpayers with
2 respect to qualified projects by the neighbor-
3 hood homes credit agency of any State for any
4 calendar year shall not exceed the State neigh-
5 borhood homes credit amount of such State for
6 such calendar year.

7 “(B) SET-ASIDE FOR CERTAIN PROJECTS
8 INVOLVING QUALIFIED NONPROFIT ORGANIZA-
9 TIONS.—Rules similar to the rules of section
10 42(h)(5) shall apply for purposes of this sec-
11 tion.

12 “(3) DETERMINATION OF STATE NEIGHBOR-
13 HOOD HOMES CREDIT CEILING.—

14 “(A) IN GENERAL.—The State neighbor-
15 hood homes credit amount for a State for a cal-
16 endar year is an amount equal to the sum of—

17 “(i) the greater of—

18 “(I) the product of \$3 (\$6 in the
19 case of calendar year 2025), multi-
20 plied by the State population (deter-
21 mined in accordance with section
22 146(j)), or

23 “(II) \$4,000,000 (\$8,000,000 in
24 the case of calendar year 2025), and

1 “(ii) any amount previously allocated
2 to any taxpayer with respect to any quali-
3 fied project by the neighborhood homes
4 credit agency of such State which can no
5 longer be allocated to any qualified resi-
6 dence because the 5-year period described
7 in paragraph (1)(B) expires during cal-
8 endar year.

9 “(B) TERMINATION OF ADDITIONAL
10 AMOUNTS.—The amount determined under sub-
11 paragraph (A)(i) shall be zero with respect to
12 any calendar year beginning after December 31,
13 2025.

14 “(C) 3-YEAR CARRYFORWARD OF UNUSED
15 LIMITATION.—The State neighborhood homes
16 credit amount for a State for a calendar year
17 shall be increased by the excess (if any) of the
18 State neighborhood homes credit amount for
19 such State for the preceding calendar year over
20 the aggregate amount allocated by the neigh-
21 borhood homes credit agency of such State dur-
22 ing such preceding calendar year. Any amount
23 carried forward under the preceding sentence
24 shall not be carried past the third calendar year
25 after the calendar year in which such credit

1 amount originally arose, determined on a first-
2 in, first-out basis.

3 “(f) RESPONSIBILITIES OF NEIGHBORHOOD HOMES
4 CREDIT AGENCIES.—

5 “(1) IN GENERAL.—Notwithstanding subsection
6 (e), the State neighborhood homes credit dollar
7 amount shall be zero for a calendar year unless the
8 neighborhood homes credit agency of the State—

9 “(A) allocates such amount pursuant to a
10 qualified allocation plan of the neighborhood
11 homes credit agency,

12 “(B) allocates not more than 20 percent of
13 amounts allocated in the previous year (or for
14 allocations made in 2022, not more than 20
15 percent of the neighborhood homes credit ceil-
16 ing for such year) to projects with respect to
17 qualified residences which—

18 “(i) are located in census tracts de-
19 scribed in subsection (c)(2)(A)(iii),
20 (c)(2)(A)(iv), (i)(5), or

21 “(ii) are not located in a qualified
22 census tract but meet the requirements of
23 subsection (i)(8),

1 “(C) promulgates standards with respect
2 to reasonable qualified development costs and
3 fees,

4 “(D) promulgates standards with respect
5 to construction quality,

6 “(E) in the case of any neighborhood
7 homes credit agency which makes an allocation
8 to a qualified project which includes any quali-
9 fied residence to which subsection (i) applies,
10 promulgates standards with respect to pro-
11 tecting the owners of such residences, including
12 the capacity of such owners to pay rehabilita-
13 tion costs not covered by the credit provided by
14 this section and providing for the disclosure to
15 such owners of their rights and responsibilities
16 with respect to the rehabilitation of such resi-
17 dences,

18 “(F) submits to the Secretary (at such
19 time and in such manner as the Secretary may
20 prescribe) an annual report specifying—

21 “(i) the amount of the neighborhood
22 homes credits allocated to each qualified
23 project for the previous year,

1 “(ii) with respect to each qualified
2 residence completed in the preceding cal-
3 endar year—

4 “(I) the census tract in which
5 such qualified residence is located,

6 “(II) with respect to the qualified
7 project that includes such qualified
8 residence, the year in which such
9 project received an allocation under
10 this section,

11 “(III) whether such qualified res-
12 idence was new, substantially rehabili-
13 tated and sold to a qualified home-
14 owner, or substantially rehabilitated
15 pursuant to subsection (i),

16 “(IV) the eligible development
17 costs of such qualified residence,

18 “(V) the amount of the neighbor-
19 hood homes credit with respect to
20 such qualified residence,

21 “(VI) the sales price of such
22 qualified residence, if applicable, and

23 “(VII) the family income of the
24 qualified homeowner (expressed as a
25 percentage of the applicable area me-

1 dian family income for the location of
2 the qualified residence), and

3 “(iii) such other information as the
4 Secretary may require, and

5 “(G) makes available to the general public
6 a written explanation for any allocation of a
7 neighborhood homes credit dollar amount which
8 is not made in accordance with established pri-
9 orities and selection criteria of the neighbor-
10 hood homes credit agency.

11 Subparagraph (B) shall be applied by substituting
12 ‘40 percent’ for ‘20 percent’ each place it appears in
13 the case of any State in which at least 45 percent
14 of the State population resides outside metropolitan
15 statistical areas (within the meaning of section
16 143(k)(2)(B)) and less than 20 percent of the cen-
17 sus tracts located in the State are described in sub-
18 section (c)(2)(A)(i).

19 “(2) QUALIFIED ALLOCATION PLAN.—For pur-
20 poses of this subsection, the term ‘qualified alloca-
21 tion plan’ means any plan which—

22 “(A) sets forth the selection criteria to be
23 used to prioritize qualified projects for alloca-
24 tions of State neighborhood homes credit dollar
25 amounts, including—

1 “(i) the need for new or substantially
2 rehabilitated owner-occupied homes in the
3 area addressed by the project,

4 “(ii) the expected contribution of the
5 project to neighborhood stability and revi-
6 talization, including the impact on neigh-
7 borhood residents,

8 “(iii) the capability and prior perform-
9 ance of the project sponsor, and

10 “(iv) the likelihood the project will re-
11 sult in long-term homeownership,

12 “(B) has been made available for public
13 comment, and

14 “(C) provides a procedure that the neigh-
15 borhood homes credit agency (or any agent or
16 contractor of such agency) shall follow for pur-
17 poses of—

18 “(i) identifying noncompliance with
19 any provisions of this section, and

20 “(ii) notifying the Internal Revenue
21 Service of any such noncompliance of
22 which the agency becomes aware.

23 “(g) REPAYMENT.—

24 “(1) IN GENERAL.—

1 “(A) DISPOSED OF DURING 5-YEAR PE-
2 RIOD.—If a qualified residence is disposed of or
3 ceases to be the principal residence of the owner
4 (and, if married, the owner’s spouse) during the
5 5-year period beginning immediately after the
6 affordable sale of such qualified residence re-
7 ferred to in subsection (a), the person so dis-
8 posing of such residence or the owner ceasing
9 to use such residence as a principal residence,
10 whichever is applicable, shall transfer an
11 amount equal to the repayment amount to the
12 relevant neighborhood homes credit agency.

13 “(B) USE OF REPAYMENTS.—A neighbor-
14 hood homes credit agency shall use any amount
15 received pursuant to subparagraph (A) only for
16 purposes of qualified projects.

17 “(2) REPAYMENT AMOUNT.—For purposes of
18 paragraph (1)(A)—

19 “(A) IN GENERAL.—The repayment
20 amount is an amount equal to the applicable
21 percentage of the gain from the sale to which
22 the repayment relates.

23 “(B) APPLICABLE PERCENTAGE.—For
24 purposes of subparagraph (A), the applicable
25 percentage is 50 percent, reduced by 10 per-

1 centage points for each year of the 5-year pe-
2 riod referred to in paragraph (1)(A) which ends
3 before the date of such sale.

4 “(C) DISPOSITIONS OTHER THAN SALE.—

5 In the case of—

6 “(i) any transfer of a qualified resi-
7 dence other than by sale to a person who
8 is not related to the taxpayer (within the
9 meaning of subsection (h)(6)(B)), or

10 “(ii) any qualified residence which
11 ceases to be the principal residence of the
12 owner (and, if married, the owner’s
13 spouse),

14 the repayment amount is the amount of the
15 credit under this section with respect to such
16 residence.

17 “(3) LIEN FOR REPAYMENT AMOUNT.—A

18 neighborhood homes credit agency receiving an allo-
19 cation under this section shall place a lien on each
20 qualified residence that is built or rehabilitated as
21 part of a qualified project for an amount such agen-
22 cy deems necessary to ensure potential repayment
23 pursuant to paragraph (1)(A).

24 “(4) DENIAL OF DEDUCTIONS IF CONVERTED
25 TO RENTAL HOUSING.—If, during the 5-year period

1 beginning immediately after the affordable sale of a
2 qualified residence referred to in subsection (a), an
3 individual who owns a qualified residence (whether
4 or not such individual was the purchaser in such af-
5 fordable sale) fails to use such qualified residence as
6 such individual's principal residence for any period
7 of time, no deduction shall be allowed for expenses
8 paid or incurred by such individual with respect to
9 renting, during such period of time, such qualified
10 residence.

11 “(5) WAIVER.—The neighborhood homes credit
12 agency may waive the repayment required under
13 paragraph (1)(A) if the agency determines that
14 making a repayment would constitute a hardship to
15 the person disposing of the residence.

16 “(6) EXCEPTIONS.—Rules similar to the rules
17 of subparagraphs (A), (B), (C), and (E) of section
18 36(f)(4) shall apply for purposes of this subsection.

19 “(h) OTHER DEFINITIONS AND SPECIAL RULES.—
20 For purposes of this section—

21 “(1) NEIGHBORHOOD HOMES CREDIT AGEN-
22 CY.—The term ‘neighborhood homes credit agency’
23 means the agency designated by the governor of a
24 State as the neighborhood homes credit agency of
25 the State.

1 “(2) QUALIFIED PROJECT.—The term ‘qualified
2 project’ means a project that a neighborhood homes
3 credit agency certifies will build or substantially re-
4 habilitate one or more qualified residences.

5 “(3) DETERMINATIONS OF FAMILY INCOME.—
6 Rules similar to the rules of section 143(f)(2) shall
7 apply for purposes of this section.

8 “(4) POSSESSIONS TREATED AS STATES.—The
9 term ‘State’ includes the District of Columbia and
10 the possessions of the United States.

11 “(5) SPECIAL RULES RELATED TO CONDOMIN-
12 IUMS AND COOPERATIVE HOUSING CORPORATIONS.—

13 “(A) DETERMINATION OF DEVELOPMENT
14 COSTS.—In the case of a qualified residence de-
15 scribed in clause (ii) or (iii) of subsection
16 (c)(1)(A), the reasonable development costs and
17 eligible development costs of such qualified resi-
18 dence shall be an amount equal to such costs,
19 respectively, of the entire condominium or coop-
20 erative housing property in which such qualified
21 residence is located, multiplied by a fraction—

22 “(i) the numerator of which is the
23 total floor space of such qualified resi-
24 dence, and

1 “(ii) the denominator of which is the
2 total floor space of all residences within
3 such property.

4 “(B) TENANT-STOCKHOLDERS OF COOPER-
5 ATIVE HOUSING CORPORATIONS TREATED AS
6 OWNERS.—In the case of a cooperative housing
7 corporation (as such term is defined in section
8 216(b)), a tenant-stockholder shall be treated
9 as owning the house or apartment which such
10 person is entitled to occupy.

11 “(6) RELATED PARTY SALES NOT TREATED AS
12 AFFORDABLE SALES.—

13 “(A) IN GENERAL.—A sale between related
14 persons shall not be treated as an affordable
15 sale.

16 “(B) RELATED PERSONS.—For purposes
17 of this paragraph, a person (in this subpara-
18 graph referred to as the ‘related person’) is re-
19 lated to any person if the related person bears
20 a relationship to such person specified in sec-
21 tion 267(b) or 707(b)(1), or the related person
22 and such person are engaged in trades or busi-
23 nesses under common control (within the mean-
24 ing of subsections (a) and (b) of section 52).
25 For purposes of the preceding sentence, in ap-

1 plying section 267(b) or 707(b)(1), ‘10 percent’
2 shall be substituted for ‘50 percent’.

3 “(7) INFLATION ADJUSTMENT.—

4 “(A) IN GENERAL.—In the case of a cal-
5 endar year after 2022, the dollar amounts in
6 subsections (b)(3)(A), (e)(3)(A)(i)(I),
7 (e)(3)(A)(i)(II), and (i)(2)(C) shall each be in-
8 creased by an amount equal to—

9 “(i) such dollar amount, multiplied by

10 “(ii) the cost-of-living adjustment de-
11 termined under section 1(f)(3) for such
12 calendar year by substituting ‘calendar
13 year 2021’ for ‘calendar year 2016’ in sub-
14 paragraph (A)(ii) thereof.

15 “(B) ROUNDING.—

16 “(i) In the case of the dollar amounts
17 in subsection (b)(3)(A) and (i)(2)(C), any
18 increase under paragraph (1) which is not
19 a multiple of \$1,000 shall be rounded to
20 the nearest multiple of \$1,000.

21 “(ii) In the case of the dollar amount
22 in subsection (e)(3)(A)(i)(I), any increase
23 under paragraph (1) which is not a mul-
24 tiple of \$0.01 shall be rounded to the near-
25 est multiple of \$0.01.

1 “(iii) In the case of the dollar amount
2 in subsection (e)(3)(A)(i)(II), any increase
3 under paragraph (1) which is not a mul-
4 tiple of \$100,000 shall be rounded to the
5 nearest multiple of \$100,000.

6 “(8) REPORT.—

7 “(A) IN GENERAL.—The Secretary shall
8 annually issue a report, to be made available to
9 the public, which contains the information sub-
10 mitted pursuant to subsection (f)(1)(F).

11 “(B) DE-IDENTIFICATION.—The Secretary
12 shall ensure that any information made public
13 pursuant to paragraph (1) excludes any infor-
14 mation that would allow for the identification of
15 qualified homeowners.

16 “(9) LIST OF QUALIFIED CENSUS TRACTS.—
17 The Secretary shall, for each year, make publicly
18 available a list of qualified census tracts under—

19 “(A) on a combined basis, clauses (i) and
20 (ii) of subsection (c)(2)(A),

21 “(B) clause (iii) of such subsection, and

22 “(C) subsection (i)(5)(A).

23 “(i) APPLICATION OF CREDIT WITH RESPECT TO
24 OWNER-OCCUPIED REHABILITATIONS.—

1 “(1) IN GENERAL.—In the case of a qualified
2 rehabilitation by the taxpayer of any qualified resi-
3 dence which is owned (as of the date that the writ-
4 ten binding contract referred to in paragraph (3) is
5 entered into) by a specified homeowner, the rules of
6 paragraphs (2) through (7) shall apply.

7 “(2) ALTERNATIVE CREDIT DETERMINATION.—
8 In the case of any qualified residence described in
9 paragraph (1), the neighborhood homes credit deter-
10 mined under subsection (a) with respect to such res-
11 idence shall (in lieu of any credit otherwise deter-
12 mined under subsection (a) with respect to such res-
13 idence) be allowed in the taxable year during which
14 the qualified rehabilitation is completed (as deter-
15 mined by the neighborhood homes credit agency)
16 and shall be equal to the least of—

17 “(A) the excess (if any) of—

18 “(i) the amounts paid or incurred by
19 the taxpayer for the qualified rehabilitation
20 of the qualified residence to the extent that
21 such amounts are certified by the neigh-
22 borhood homes credit agency (at the time
23 of the completion of such rehabilitation) as
24 meeting the standards specified pursuant
25 to subsection (f)(1)(C), over

1 “(ii) any amounts paid to such tax-
2 payer for such rehabilitation,

3 “(B) 50 percent of the amounts described
4 in subparagraph (A)(i), or

5 “(C) \$50,000.

6 “(3) QUALIFIED REHABILITATION.—

7 “(A) IN GENERAL.—For purposes of this
8 subsection, the term ‘qualified rehabilitation’
9 means a rehabilitation or reconstruction per-
10 formed pursuant to a written binding contract
11 between the taxpayer and the specified home-
12 owner if the amount paid or incurred by the
13 taxpayer in the performance of such rehabilita-
14 tion or reconstruction exceeds the dollar
15 amount in effect under subsection (b)(3)(A).

16 “(B) APPLICATION OF LIMITATION TO EX-
17 PENSES PAID OR INCURRED AFTER ALLOCA-
18 TION.—A rule similar to the rule of section
19 (b)(4) shall apply for purposes of this sub-
20 section.

21 “(4) SPECIFIED HOMEOWNER.—For purposes
22 of this subsection, the term ‘qualified homeowner’
23 means, with respect to a qualified residence, an indi-
24 vidual—

1 “(A) who owns and uses such qualified res-
2 idence as the principal residence of such indi-
3 vidual as of the date that the written binding
4 contract referred to in paragraph (3) is entered
5 into, and

6 “(B) whose family income (determined as
7 of such date) does not exceed the median family
8 income for the applicable area (with respect to
9 the census tract in which the qualified residence
10 is located).

11 “(5) ADDITIONAL CENSUS TRACTS IN WHICH
12 OWNER-OCCUPIED RESIDENCES MAY BE LOCATED.—
13 In the case of any qualified residence described in
14 paragraph (1), the term ‘qualified census tract’ in-
15 cludes any census tract which—

16 “(A) meets the requirements of subsection
17 (c)(2)(A)(i) without regard to subclause (III)
18 thereof, and

19 “(B) is designated by the neighborhood
20 homes credit agency for purposes of this para-
21 graph.

22 “(6) MODIFICATION OF REPAYMENT REQUIRE-
23 MENT.—In the case of any qualified residence de-
24 scribed in paragraph (1), subsection (g) shall be ap-
25 plied by beginning the 5-year period otherwise de-

1 scribed therein on the date on which the qualified re-
2 habilitation is completed.

3 “(7) RELATED PARTIES.—Paragraph (1) shall
4 not apply if the taxpayer is the owner of the quali-
5 fied residence described in paragraph (1) or is re-
6 lated (within the meaning of subsection (h)(6)(B))
7 to such owner.

8 “(8) PYRRHOTITE REMEDIATION.—The require-
9 ment of subsection (c)(1)(C) shall not apply to a
10 qualified rehabilitation under this subsection of a
11 qualified residence that is documented by an engi-
12 neer’s report and core testing to have a foundation
13 that is adversely impacted by pyrrhotite or other
14 iron sulfide minerals.

15 “(j) REGULATIONS.—The Secretary shall prescribe
16 such regulations as may be necessary or appropriate to
17 carry out the purposes of this section, including regula-
18 tions that prevent avoidance of the rules, and abuse of
19 the purposes, of this section.”.

20 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-
21 NESS CREDIT.—Section 38(b) is amended by striking
22 “plus” at the end of paragraph (32), by striking the period
23 at the end of paragraph (33) and inserting “, plus”, and
24 by adding at the end the following new paragraph:

1 “(34) the neighborhood homes credit deter-
2 mined under section 42A(a),”.

3 (c) CREDIT ALLOWED AGAINST ALTERNATIVE MIN-
4 IMUM TAX.—Section 38(c)(4)(B) is amended by
5 redesignating clauses (iv) through (xii) as clauses (v)
6 through (xiii), respectively, and by inserting after clause
7 (iii) the following new clause:

8 “(iv) the credit determined under sec-
9 tion 42A,”.

10 (d) CONFORMING AMENDMENTS.—

11 (1) Subsections (i)(3)(C), (i)(6)(B)(i), and
12 (k)(1) of section 469 are each amended by inserting
13 “or 42A” after “section 42”.

14 (2) The table of sections for subpart D of part
15 IV of subchapter A of chapter 1 is amended by in-
16 serting after the item relating to section 42 the fol-
17 lowing new item:

 “Sec. 42A. Neighborhood homes credit.”.

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

1 **PART 3—INVESTMENTS IN TRIBAL**
2 **INFRASTRUCTURE**
3 **SEC. 125301. TREATMENT OF INDIAN TRIBES AS STATES**
4 **WITH RESPECT TO BOND ISSUANCE.**

5 (a) IN GENERAL.—Section 7871(c) is amended to
6 read as follows:

7 “(c) SPECIAL RULES FOR TAX-EXEMPT BONDS.—

8 “(1) IN GENERAL.—In applying section 146 to
9 bonds issued by Indian Tribal Governments the Sec-
10 retary shall annually—

11 “(A) establish a national bond volume cap
12 based on the greater of—

13 “(i) the State population formula ap-
14 proach in section 146(d)(1)(A) (using na-
15 tional Tribal population estimates supplied
16 annually by the Department of the Interior
17 in consultation with the Census Bureau),
18 and

19 “(ii) the minimum State ceiling
20 amount in section 146(d)(1)(B) (as ad-
21 justed in accordance with the cost of living
22 provision in section 146(d)(2)), and

23 “(B) allocate such national bond volume
24 cap among all Indian Tribal Governments seek-
25 ing such an allocation in a particular year
26 under regulations prescribed by the Secretary.

1 “(2) APPLICATION OF GEOGRAPHIC RESTRIC-
2 TION.—In the case of national bond volume cap allo-
3 cated under paragraph (1), section 146(k)(1) shall
4 not apply to the extent that such cap is used with
5 respect to financing for a facility located on qualified
6 Indian lands.

7 “(3) RESTRICTION ON FINANCING OF CERTAIN
8 GAMING FACILITIES.—No portion of the volume cap
9 allocated under this subsection may be used with re-
10 spect to the financing of any portion of a building
11 in which class II or class III gaming (as defined in
12 section 4 of the Indian Gaming Regulatory Act) is
13 conducted or housed or any property actually used
14 in the conduct of such gaming.

15 “(4) DEFINITIONS AND SPECIAL RULES.—For
16 purposes of this subsection—

17 “(A) INDIAN TRIBAL GOVERNMENT.—The
18 term ‘Indian Tribal Government’ means the
19 governing body of an Indian Tribe, band, na-
20 tion, or other organized group or community, or
21 of Alaska Natives, which is recognized as eligi-
22 ble for the special programs and services pro-
23 vided by the United States to Indians because
24 of their status as Indians, and also includes any

1 agencies, instrumentalities or political subdivi-
2 sions thereof.

3 “(B) INTERTRIBAL CONSORTIUMS, ETC.—

4 In any case in which an Indian Tribal Govern-
5 ment has authorized an intertribal consortium,
6 a Tribal organization, or an Alaska Native re-
7 gional or village corporation, as defined in, or
8 established pursuant to, the Alaska Native
9 Claims Settlement Act, to plan for, coordinate
10 or otherwise administer services, finances, func-
11 tions, or activities on its behalf under this sub-
12 section, the authorized entity shall have the
13 rights and responsibilities of the authorizing In-
14 dian Tribal Government only to the extent pro-
15 vided in the Authorizing resolution.

16 “(C) QUALIFIED INDIAN LANDS.—The
17 term ‘qualified Indian lands’ shall mean an In-
18 dian reservation as defined in section 3(d) of
19 the Indian Financing Act of 1974 (25 U.S.C.
20 1452(d)), including lands which are within the
21 jurisdictional area of an Oklahoma Indian Tribe
22 (as determined by the Secretary of the Interior)
23 and shall include lands outside a reservation
24 where the facility is to be placed in service in
25 connection with—

1 “(i) the active conduct of a trade or
2 business by an Indian Tribe on, contiguous
3 to, within reasonable proximity of, or with
4 a substantial connection to, an Indian res-
5 ervation or Alaska Native village, or

6 “(ii) infrastructure (including roads,
7 power lines, water systems, railroad spurs,
8 and communication facilities) serving an
9 Indian reservation or Alaska Native vil-
10 lage.”.

11 (b) CONFORMING AMENDMENT.—Subparagraph (B)
12 of section 45(c)(9) is amended to read as follows:

13 “(B) INDIAN TRIBE.—For purposes of this
14 paragraph, the term ‘Indian tribe’ has the
15 meaning given the term ‘Indian Tribal Govern-
16 ment’ by section 7871(c)(3)(A).”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to obligations issued in calendar
19 years beginning after the date of the enactment of this
20 Act.

21 **SEC. 125302. NEW MARKETS TAX CREDIT FOR TRIBAL STA-**
22 **TISTICAL AREAS.**

23 (a) ADDITIONAL ALLOCATIONS FOR TRIBAL STATIS-
24 TICAL AREAS.—Section 45D(f) is amended by adding at
25 the end the following new paragraph:

1 “(5) ADDITIONAL ALLOCATIONS FOR TRIBAL
2 STATISTICAL AREAS.—

3 “(A) IN GENERAL.—In the case of cal-
4 endar years 2022 through 2025, there is (in ad-
5 dition to any limitation under any other para-
6 graph of this subsection) a new markets tax
7 credit limitation of \$175,000,000 which shall be
8 allocated by the Secretary as provided in para-
9 graph (2) except that such limitation may only
10 be allocated with respect to Tribal Statistical
11 Areas.

12 “(B) CARRYOVER OF UNUSED TRIBAL STA-
13 TISTICAL AREA LIMITATION.—

14 “(i) IN GENERAL.—If the credit limi-
15 tation under subparagraph (A) for any cal-
16 endar year exceeds the amount of such
17 limitation allocated by the Secretary for
18 such calendar year, such limitation for the
19 succeeding calendar year shall be increased
20 by the amount of such excess.

21 “(ii) LIMITATION ON CARRYOVER.—
22 No amount of credit limitation may be car-
23 ried under clause (i) past the 5th calendar
24 year following the calendar year in which
25 such amount of credit limitation arose.

1 (b) ELIGIBILITY OF CERTAIN PROJECTS SERVING
2 TRIBAL MEMBERS.—Section 45D(e)(1) is amended to
3 read as follows:

4 “(1) IN GENERAL.—The term ‘low-income com-
5 munity’ means any area—

6 “(A) comprising a population census tract
7 if—

8 “(i) the poverty rate for such tract is
9 at least 20 percent, or

10 “(ii)(I) in the case of a tract not lo-
11 cated within a metropolitan area, the me-
12 dian family income for such tract does not
13 exceed 80 percent of statewide median
14 family income, or

15 “(II) in the case of a tract located
16 within a metropolitan area, the median
17 family income for such tract does not ex-
18 ceed 80 percent of the greater of statewide
19 median family income or the metropolitan
20 area median family income,

21 “(B) which is used for a qualified active
22 low-income community business which—

23 “(i) services a significant population
24 of Tribal or Alaska Native Village mem-
25 bers who are residents of a low-income

1 community described in subsection
2 (f)(5)(C)(i), and

3 “(ii) obtains a written statement from
4 the relevant Indian Tribal Government
5 (within the meaning of section 7871(e))
6 that documents the eligibility such project
7 with respect to the requirement of clause
8 (i).

9 Subparagraph (A)(ii) shall be applied using posses-
10 sion wide median family income in the case of cen-
11 sus tracts located within a possession of the United
12 States.”.

13 (c) COORDINATION WITH EXISTING CARRYOVER.—
14 Section 45D(f)(3) is amended—

15 (1) is amended by inserting “under paragraph
16 (1)” after “new markets tax credit limitation”, and

17 (2) by striking “the aggregate amount allo-
18 cated” and inserting “the amount of such limitation
19 allocated by the Secretary”.

20 (d) REGULATORY AUTHORITY.—Section 45D(i) is
21 amended by striking “and” at the end of paragraph (5),
22 by striking the period at the end of paragraph (6) and
23 inserting “, and”, and by adding at the end the following
24 new paragraph:

1 “(7) which provide documentation requirements
2 for the written statement required under subsection
3 (e)(1)(B)(ii), and

4 “(8) which provide procedures for determining
5 which projects under subsection (e)(1)(B) are quali-
6 fied active low-income community businesses with re-
7 spect to the populations described in such sub-
8 section. Such procedures shall take into account the
9 location needs of such projects, especially with re-
10 spect to projects that serve multiple tribal or Alaska
11 Native Village communities.”.

12 (e) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to new markets tax credit limita-
14 tion determined for calendar years after December 31,
15 2021.

16 **SEC. 125303. INCLUSION OF INDIAN AREAS AS DIFFICULT**
17 **DEVELOPMENT AREAS FOR PURPOSES OF**
18 **CERTAIN BUILDINGS.**

19 (a) IN GENERAL.—Subclause (I) of section
20 42(d)(5)(B)(iii) is amended by inserting “, or any Indian
21 area” before the period at the end.

22 (b) INDIAN AREA.—Clause (iii) of section
23 42(d)(5)(B) is amended by redesignating subclause (II)
24 as subclause (IV) and by inserting after subclause (I) the
25 following new subclauses:

1 “(II) INDIAN AREA.—For pur-
2 poses of subclause (I), the term ‘In-
3 dian area’ means any Indian area (as
4 defined in section 4(11) of the Native
5 American Housing Assistance and
6 Self Determination Act of 1996 (25
7 U.S.C. 4103(11))).

8 “(III) SPECIAL RULE FOR
9 BUILDINGS IN INDIAN AREAS.—In the
10 case of an area which is a difficult de-
11 velopment area solely because it is an
12 Indian area, a building shall not be
13 treated as located in such area unless
14 such building is assisted or financed
15 under the Native American Housing
16 Assistance and Self Determination
17 Act of 1996 (25 U.S.C. 4101 et seq.)
18 or the project sponsor is an Indian
19 tribe (as defined in section
20 45A(c)(6)), a tribally designated hous-
21 ing entity (as defined in section 4(22)
22 of such Act (25 U.S.C. 4103(22))), or
23 wholly owned or controlled by such an
24 Indian tribe or tribally designated
25 housing entity.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to buildings placed in service after
3 December 31, 2021.

4 **PART 4—OTHER PROVISIONS**

5 **SEC. 125401. POSSESSIONS ECONOMIC ACTIVITY CREDIT.**

6 (a) IN GENERAL.—Subpart D of part IV of sub-
7 chapter A of chapter 1 is amended by adding at the end
8 the following new section:

9 **“SEC. 45U. POSSESSIONS ECONOMIC ACTIVITY CREDIT.**

10 “(a) ALLOWANCE OF CREDIT.—For purposes of sec-
11 tion 38, in the case of a qualified domestic corporation
12 the possessions economic activity credit determined under
13 this section for a taxable year is an amount equal to 20
14 percent of the sum of the qualified possession wages and
15 allocable employee fringe benefit expenses paid or incurred
16 by the taxpayer for the taxable year.

17 “(b) QUALIFIED DOMESTIC CORPORATION; QUALI-
18 FIED CORPORATION.—For purposes of this section—

19 “(1) IN GENERAL.—The term ‘qualified domes-
20 tic corporation’ means any domestic corporation
21 which is—

22 “(A) a qualified corporation, or

23 “(B) a United States shareholder of a for-
24 eign corporation which—

25 “(i) is a qualified corporation, and

1 “(ii) is wholly owned by the United
2 States shareholder together with any cor-
3 porations which are members of the same
4 affiliated group (within the meaning of sec-
5 tion 1504(a)) as such United States share-
6 holder.

7 “(2) QUALIFIED CORPORATION.—The term
8 ‘qualified corporation’ means any corporation if such
9 corporation meets the following requirements:

10 “(A) SOURCE QUALIFICATION.—80 percent
11 or more of the gross income of the corporation
12 for the 3-year period immediately preceding the
13 close of the taxable year (or for such part of
14 such period immediately preceding the close of
15 such taxable year as may be applicable) was de-
16 rived from sources within a possession of the
17 United States (determined without regard to
18 section 904(f)).

19 “(B) TRADE OR BUSINESS QUALIFICA-
20 TION.—75 percent or more of the gross income
21 of the corporation for such period or such part
22 thereof was derived from the active conduct of
23 a trade or business within a possession of the
24 United States.

1 “(3) SPECIAL RULE FOR SEPARATE AND
2 CLEARLY IDENTIFIED UNITS OF FOREIGN CORPORA-
3 TIONS.—

4 “(A) IN GENERAL.—In the case of a
5 United States shareholder of a foreign corpora-
6 tion which—

7 “(i) is not a qualified corporation but
8 with respect to which the ownership re-
9 quirements of paragraph (1)(B)(ii) are
10 met, and

11 “(ii) has an eligible foreign business
12 unit which, if such unit were a corporation,
13 would be a qualified corporation with re-
14 spect to which such ownership require-
15 ments would be met,

16 then, for purposes of this section, the United
17 States shareholder may elect to treat such unit
18 as a separate foreign corporation which meets
19 the requirements of paragraph (1)(B) and with
20 respect to which such shareholder is a United
21 States shareholder.

22 “(B) ELIGIBLE FOREIGN BUSINESS
23 UNIT.—For purposes of this paragraph, the
24 term ‘eligible foreign business unit’ means a
25 separate and clearly identified foreign unit of a

1 trade or business, including a partnership or an
2 entity treated as disregarded as a separate enti-
3 ty from its owner (under section 7701 or other
4 provision under this title), which maintains sep-
5 arate books and records.

6 “(C) SPECIAL ELECTION FOR AFFILIATED
7 GROUPS.—In the case of an affiliated group de-
8 scribed in paragraph (1)(B)(ii), the election
9 under subparagraph (A) with respect to any eli-
10 gible foreign business unit shall be made by the
11 common parent of such group and shall apply
12 uniformly to all members of such group which
13 are United States shareholders with respect to
14 the foreign corporation which has such unit.

15 “(c) QUALIFIED POSSESSION WAGES.—For purposes
16 of this section—

17 “(1) IN GENERAL.—The term ‘qualified posses-
18 sion wages’ means wages paid or incurred by the
19 qualified corporation during the taxable year in con-
20 nection with the active conduct of a trade or busi-
21 ness within a possession of the United States to any
22 employee for services performed in such possession,
23 but only if such services are performed while the
24 principal place of employment of such employee is
25 within such possession.

1 “(2) LIMITATION ON AMOUNT OF WAGES
2 TAKEN INTO ACCOUNT.—

3 “(A) IN GENERAL.—The amount of wages
4 which may be taken into account under para-
5 graph (1) with respect to any employee for any
6 taxable year shall not exceed \$50,000.

7 “(B) TREATMENT OF PART-TIME EMPLOY-
8 EES, ETC.—If—

9 “(i) any employee is not employed by
10 the qualified corporation on a substantially
11 full-time basis at all times during the tax-
12 able year, or

13 “(ii) the principal place of employ-
14 ment of any employee with the qualified
15 corporation is not within a possession at
16 all times during the taxable year,

17 the limitation applicable under paragraph (1)
18 with respect to such employee shall be the ap-
19 propriate portion (as determined by the Sec-
20 retary) of the limitation which would otherwise
21 be in effect under paragraph (1).

22 “(C) WAGES.—

23 “(i) IN GENERAL.—Except as pro-
24 vided in clause (ii), the term ‘wages’ has
25 the meaning given to such term by sub-

1 section (b) of section 3306 (determined
2 without regard to any dollar limitation
3 contained in such section). For purposes of
4 the preceding sentence, such subsection (b)
5 shall be applied as if the term ‘United
6 States’ included all possessions of the
7 United States.

8 “(ii) SPECIAL RULE FOR AGRICUL-
9 TURAL LABOR AND RAILWAY LABOR.—In
10 any case to which subparagraph (A) or (B)
11 of paragraph (1) of section 51(h) applies,
12 the term ‘wages’ has the meaning given to
13 such term by section 51(h)(2).

14 “(3) ALLOCABLE EMPLOYEE FRINGE BENEFIT
15 EXPENSES.—

16 “(A) IN GENERAL.—The allocable em-
17 ployee fringe benefit expenses of any qualified
18 corporation for any taxable year is an amount
19 which bears the same ratio to the amount de-
20 termined under subparagraph (B) for such tax-
21 able year as—

22 “(i) the aggregate amount of the
23 qualified corporation’s qualified possession
24 wages for such taxable year, bears to

1 “(ii) the aggregate amount of the
2 wages paid or incurred by such qualified
3 corporation during such taxable year.

4 In no event shall the amount determined under
5 the preceding sentence exceed 15 percent of the
6 amount referred to in clause (i).

7 “(B) EXPENSES TAKEN INTO ACCOUNT.—
8 For purposes of subparagraph (A), the amount
9 determined under this subparagraph for any
10 taxable year is the aggregate amount allowable
11 (or, in the case of a foreign corporation, which
12 would be allowable if such foreign corporation
13 were a domestic corporation) as a deduction
14 under this chapter to the qualified corporation
15 for such taxable year with respect to—

16 “(i) employer contributions under a
17 stock bonus, pension, profit-sharing, or an-
18 nuity plan,

19 “(ii) employer-provided coverage
20 under any accident or health plan for em-
21 ployees, and

22 “(iii) the cost of life or disability in-
23 surance provided to employees.

1 Any amount treated as wages under paragraph
2 (2)(C) shall not be taken into account under
3 this subparagraph.

4 “(d) SPECIAL RULE FOR QUALIFIED SMALL DOMES-
5 TIC CORPORATION.—For purposes of this section—

6 “(1) INCREASED CREDIT PERCENTAGE.—In the
7 case of a qualified small domestic corporation, sub-
8 section (a) shall be applied by substituting ‘50 per-
9 cent’ for ‘20 percent’.

10 “(2) QUALIFIED SMALL DOMESTIC CORPORA-
11 TION.—

12 “(A) IN GENERAL.—The term ‘qualified
13 small domestic corporation’ means a qualified
14 domestic corporation that meets the require-
15 ments of subparagraphs (B) and (C).

16 “(B) FULL-TIME EMPLOYMENT.—A quali-
17 fied domestic corporation meets the require-
18 ments of this subparagraph if the qualified cor-
19 poration which is the qualified domestic cor-
20 poration under subsection (b)(1)(A) or the for-
21 eign corporation under subsection
22 (b)(1)(B)(i)—

23 “(i) has at least 5 full-time employees
24 in a possession of the United States for
25 each year in the 3-year period immediately

1 preceding the close of the taxable year (or
2 for such part of such period immediately
3 preceding the close of such taxable year as
4 may be applicable), and

5 “(ii) has not more than a total of 30
6 full-time employees for each year in such
7 3-year period.

8 “(C) GROSS RECEIPTS.—A qualified do-
9 mestic corporation meets the requirements of
10 this subparagraph if the annual gross receipts
11 of the qualified domestic corporation (and all
12 persons related thereto) for each year in such
13 3-year period is not more than \$50,000,000.

14 “(3) RELATED PERSONS.—In determining
15 whether the limitations under subparagraphs (B)(ii)
16 and (C) of paragraph (2) are met, all persons who
17 are treated as a single employer for purposes of sub-
18 section (a) or (b) of section 52 shall be taken into
19 account.

20 “(4) AMOUNT OF WAGES TAKEN INTO AC-
21 COUNT.—Subsection (c)(2)(A) shall be applied by
22 substituting ‘\$142,800’ for ‘\$50,000’.

23 “(e) POSSESSION OF THE UNITED STATES.—

24 “(1) IN GENERAL.—The term ‘possession of the
25 United States’ means American Samoa, the Com-

1 monwealth of the Northern Mariana Islands, the
2 Commonwealth of Puerto Rico, Guam, and the Vir-
3 gin Islands.

4 “(2) MIRROR CODE POSSESSIONS.—In the case
5 of any possession of the United States with a mirror
6 code tax system (as defined in section 24(k)), this
7 section shall not be treated as part of the income tax
8 laws of the United States for purposes of deter-
9 mining the income tax law of such possession unless
10 such possession elects to have this section be so
11 treated.

12 “(f) SEPARATE APPLICATION TO EACH POSSES-
13 SION.—For purposes of determining the amount of the
14 credit allowed under this section, this section shall be ap-
15 plied separately with respect to each possession of the
16 United States.

17 “(g) TERMINATION.—No credit shall be allowed
18 under this section for any taxable year beginning after De-
19 cember 31, 2031.”.

20 (b) CREDIT MADE PART OF GENERAL BUSINESS
21 CREDIT.—Section 38(b), as amended by the preceding
22 provisions of this Act, is amended by striking “plus” at
23 the end of paragraph (33), by striking the period at the
24 end of paragraph (34) and inserting “, plus”, and by add-
25 ing at the end the following new paragraph:

1 “(35) the possessions economic activity credit
2 determined under section 45U.”.

3 (c) CLERICAL AMENDMENT.—The table of sections
4 for subpart B of part IV of subchapter A of chapter 1
5 is amended by adding at the end the following:

“Sec. 45U. Possessions economic activity credit.”.

6 (d) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to taxable years beginning after
8 the date of the enactment of this Act, and in the case
9 of a qualified corporation that is a foreign corporation,
10 to taxable years beginning after the date of enactment and
11 to taxable years of United States shareholders in which
12 or with which such taxable years of foreign corporations
13 end.

14 **SEC. 125402. TAX TREATMENT OF CERTAIN ASSISTANCE TO**
15 **FARMERS, ETC.**

16 For purposes of the Internal Revenue Code of 1986,
17 in the case of any payment described in section 1005(b)
18 or 1006(e) of the American Rescue Plan Act of 2021 (as
19 amended by this Act)—

20 (1) such payment shall not be included in the
21 gross income of the person on whose behalf, or to
22 whom, such payment is made,

23 (2) no deduction shall be denied, no tax at-
24 tribute shall be reduced, and no basis increase shall

1 be denied, by reason of the exclusion from gross in-
2 come provided by paragraph (1), and

3 (3) in the case of a partnership or S corpora-
4 tion on whose behalf, or to whom, such a payment
5 is made—

6 (A) any amount excluded from income by
7 reason of paragraph (1) shall be treated as tax
8 exempt income for purposes of sections 705 and
9 1366 of such Code, and

10 (B) except as provided by the Secretary of
11 the Treasury (or the Secretary's delegate), any
12 increase in the adjusted basis of a partner's in-
13 terest in a partnership under section 705 of
14 such Code with respect to any amount described
15 in subparagraph (A) shall equal the partner's
16 distributive share of deductions resulting from
17 interest that is part of such payment and the
18 partner's share, as determined under section
19 752 of such Code, of principal that is part of
20 such payment.

1 **SEC. 125403. EXCLUSION OF AMOUNTS RECEIVED FROM**
2 **STATE-BASED CATASTROPHE LOSS MITIGA-**
3 **TION PROGRAMS.**

4 (a) IN GENERAL.—Section 139 is amended by redес-
5 ignating subsection (h) as subsection (i) and by inserting
6 after subsection (g) the following new subsection:

7 “(h) STATE-BASED CATASTROPHE LOSS MITIGATION
8 PROGRAMS.—

9 “(1) IN GENERAL.—Gross income shall not in-
10 clude any amount received by an individual as a
11 qualified catastrophe mitigation payment under a
12 program established by—

13 “(A) a State, or a political subdivision or
14 instrumentality thereof,

15 “(B) a joint powers authority, or

16 “(C) an entity created under State law to
17 ensure the availability of an adequate market of
18 last resort for essential property insurance, over
19 which a State agency or State department of
20 insurance has regulatory oversight.

21 “(2) QUALIFIED CATASTROPHE MITIGATION
22 PAYMENT.—For purposes of this section, the term
23 ‘qualified catastrophe mitigation payment’ means
24 any amount which is received by an individual to
25 make improvements to such individual’s residence
26 for the sole purpose of reducing the damage that

1 would be done to such residence by a windstorm,
2 earthquake, or wildfire.

3 “(3) NO INCREASE IN BASIS.—Rules similar to
4 the rules of subsection (g)(3) shall apply in the case
5 of this subsection.”.

6 (b) CONFORMING AMENDMENTS.—

7 (1) Section 139(d) is amended by striking “and
8 qualified” and inserting “, qualified catastrophe
9 mitigation payments, and qualified”.

10 (2) Section 139(i) (as redesignated by sub-
11 section (a)) is amended by striking “or qualified”
12 and inserting “, qualified catastrophe mitigation
13 payment, or qualified”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to taxable years beginning after
16 December 31, 2020.

17 **Subtitle F—Green Energy**

18 **SEC. 126001. AMENDMENT OF 1986 CODE.**

19 Except as otherwise expressly provided, whenever in
20 this subtitle an amendment or repeal is expressed in terms
21 of an amendment to, or repeal of, a section or other provi-
22 sion, the reference shall be considered to be made to a
23 section or other provision of the Internal Revenue Code
24 of 1986.

1 **PART 1—RENEWABLE ELECTRICITY AND**
2 **REDUCING CARBON EMISSIONS**
3 **SEC. 126101. EXTENSION AND MODIFICATION OF CREDIT**
4 **FOR ELECTRICITY PRODUCED FROM CER-**
5 **TAIN RENEWABLE RESOURCES.**

6 (a) IN GENERAL.—The following provisions of sec-
7 tion 45(d) are each amended by striking “January 1,
8 2022” each place it appears and inserting “January 1,
9 2027”:

10 (1) Paragraph (2)(A).

11 (2) Paragraph (3)(A).

12 (3) Paragraph (4)(B).

13 (4) Paragraph (6).

14 (5) Paragraph (7).

15 (6) Paragraph (9).

16 (7) Paragraph (11)(B).

17 (b) BASE CREDIT AMOUNT.—Section 45 is amend-
18 ed—

19 (1) in subsection (a)(1), by striking “1.5 cents”
20 and inserting “0.3 cents”, and

21 (2) in subsection (b)(2), by striking “1.5 cent”
22 and inserting “0.3 cent”.

23 (c) APPLICATION OF EXTENSION TO SOLAR.—Sec-
24 tion 45(d)(4)(A) is amended by striking “is placed in serv-
25 ice before January 1, 2006” and inserting “the construc-
26 tion of which begins before January 1, 2027”.

1 (d) EXTENSION OF ELECTION TO TREAT QUALIFIED
2 FACILITIES AS ENERGY PROPERTY.—Section
3 48(a)(5)(C)(ii) is amended by striking “January 1, 2022”
4 and inserting “January 1, 2027”.

5 (e) APPLICATION OF EXTENSION TO WIND FACILI-
6 TIES.—

7 (1) IN GENERAL.—Section 45(d)(1) is amended
8 by striking “January 1, 2022” and inserting “Janu-
9 ary 1, 2027”.

10 (2) APPLICATION OF PHASEOUT PERCENT-
11 AGE.—

12 (A) RENEWABLE ELECTRICITY PRODUC-
13 TION CREDIT.—Section 45(b)(5) is amended by
14 inserting “which is placed in service before Jan-
15 uary 1, 2022” after “using wind to produce
16 electricity”.

17 (B) ENERGY CREDIT.—Section
18 48(a)(5)(E) is amended by inserting “placed in
19 service before January 1, 2022, and” before
20 “treated as energy property”.

21 (3) QUALIFIED OFFSHORE WIND FACILITIES
22 UNDER ENERGY CREDIT.—Section 48(a)(5)(F)(i) is
23 amended by striking “offshore wind facility” and all
24 that follows and inserting the following: “offshore
25 wind facility, subparagraph (E) shall not apply.”.

1 (f) WAGE AND APPRENTICESHIP REQUIREMENTS.—
2 Section 45(b) is amended by adding at the end the fol-
3 lowing new paragraphs:

4 “(6) INCREASED CREDIT AMOUNT FOR QUALI-
5 FIED FACILITIES.—

6 “(A) IN GENERAL.—In the case of any
7 qualified facility which satisfies the require-
8 ments of subparagraph (B), the amount of the
9 credit determined under subsection (a) (deter-
10 mined after the application of paragraphs (1)
11 through (5) and without regard to this para-
12 graph) shall be equal to such amount multiplied
13 by 5.

14 “(B) QUALIFIED FACILITY REQUIRE-
15 MENTS.—A qualified facility meets the require-
16 ments of this subparagraph if it is one of the
17 following:

18 “(i) A facility with a maximum net
19 output of less than 1 megawatt.

20 “(ii) A facility the construction of
21 which begins prior to the date that is 60
22 days after the Secretary publishes guid-
23 ance with respect to the requirements of
24 paragraphs (7)(A) and (8).

1 “(iii) A facility which satisfies the re-
2 quirements of paragraphs (7)(A) and (8).

3 “(7) PREVAILING WAGE REQUIREMENTS.—

4 “(A) IN GENERAL.—The requirements de-
5 scribed in this subparagraph with respect to
6 any qualified facility are that the taxpayer shall
7 ensure that any laborers and mechanics em-
8 ployed by contractors and subcontractors in—

9 “(i) the construction of such facility,
10 and

11 “(ii) with respect to any taxable year,
12 for any portion of such taxable year which
13 is within the period described in subsection
14 (a)(2)(A)(ii), the alteration or repair of
15 such facility,

16 shall be paid wages at rates not less than the
17 prevailing rates for construction, alteration, or
18 repair of a similar character in the locality as
19 most recently determined by the Secretary of
20 Labor, in accordance with subchapter IV of
21 chapter 31 of title 40, United States Code. For
22 purposes of determining an increased credit
23 amount under paragraph (6)(A) for a taxable
24 year, the requirement under clause (ii) is ap-

1 plied to such taxable year in which the alter-
2 ation or repair of the qualified facility occurs.”

3 “(B) CORRECTION AND PENALTY RELATED
4 TO FAILURE TO SATISFY WAGE REQUIRE-
5 MENTS.—

6 “(i) IN GENERAL.—In the case of any
7 taxpayer which fails to satisfy the require-
8 ment under subparagraph (A) with respect
9 to the construction of any qualified facility
10 or with respect to the alteration or repair
11 of a facility in any year during the period
12 described in subparagraph (A)(ii), such
13 taxpayer shall be deemed to have satisfied
14 such requirement under such subparagraph
15 with respect to such facility for any year if,
16 with respect to any laborer or mechanic
17 who was paid wages at a rate below the
18 rate described in such subparagraph for
19 any period during such year, such tax-
20 payer—

21 “(I) makes payment to such la-
22 borer or mechanic in an amount equal
23 to the sum of—

24 “(aa) an amount equal to
25 the difference between—

1 “(AA) the amount of
2 wages paid to such laborer
3 or mechanic during such pe-
4 riod, and

5 “(BB) the amount of
6 wages required to be paid to
7 such laborer or mechanic
8 pursuant to such subpara-
9 graph during such period,
10 plus

11 “(bb) interest on the
12 amount determined under item
13 (aa) at the underpayment rate
14 established under section 6621
15 (determined by substituting ‘6
16 percentage points’ for ‘3 percent-
17 age points’ in subsection (a)(2)
18 of such section) for the period
19 described in such item, and

20 “(II) makes payment to the Sec-
21 retary of a penalty in an amount
22 equal to the product of—

23 “(aa) \$5,000, multiplied by

24 “(bb) the total number of la-
25 borers and mechanics who were

1 final determination by the Secretary with
2 respect to any failure by the taxpayer to
3 satisfy the requirement under subpara-
4 graph (A), subparagraph (B)(i) shall not
5 apply unless the payments described in
6 subclauses (I) and (II) of such clause are
7 made by the taxpayer on or before the date
8 which is 180 days after the date of such
9 determination.

10 “(8) APPRENTICESHIP REQUIREMENTS.—The
11 requirements described in this paragraph with re-
12 spect to the construction of any qualified facility are
13 as follows:

14 “(A) LABOR HOURS.—

15 “(i) PERCENTAGE OF TOTAL LABOR
16 HOURS.—Taxpayers shall ensure that, with
17 respect to the construction of any qualified
18 facility, not less than the applicable per-
19 centage of the total labor hours of the con-
20 struction, alteration, or repair work (in-
21 cluding such work performed by any con-
22 tractor or subcontractor) on such facility
23 shall, subject to subparagraph (B), be per-
24 formed by qualified apprentices.

1 “(ii) APPLICABLE PERCENTAGE.—For
2 purposes of clause (i), the applicable per-
3 centage shall be—

4 “(I) in the case of a qualified fa-
5 cility the construction of which begins
6 before January 1, 2023, 10 percent,

7 “(II) in the case of a qualified fa-
8 cility the construction of which begins
9 after December 31, 2022, and before
10 January 1, 2024, 12.5 percent, and

11 “(III) in the case of a qualified
12 facility the construction of which be-
13 gins after December 31, 2023, 15 per-
14 cent.

15 “(B) APPRENTICE TO JOURNEYWORKER
16 RATIO.—The requirement under subparagraph
17 (A)(i) shall be subject to any applicable require-
18 ments for apprentice-to-journeyworker ratios of
19 the Department of Labor or the applicable
20 State apprenticeship agency.

21 “(C) PARTICIPATION.—Each contractor
22 and subcontractor who employs 4 or more indi-
23 viduals to perform construction, alteration, or
24 repair work with respect to the construction of

1 a qualified facility shall employ 1 or more quali-
2 fied apprentices to perform such work.

3 “(D) EXCEPTION.—

4 “(i) IN GENERAL.—A taxpayer shall
5 not be treated as failing to satisfy the re-
6 quirements of this paragraph if such tax-
7 payer—

8 “(I) makes a good faith effort to
9 comply with the requirements of this
10 paragraph, or

11 “(II) subject to clause (iii), in the
12 case of any failure by the taxpayer to
13 satisfy the requirement under sub-
14 paragraphs (A) and (C) with respect
15 to the construction, alteration, or re-
16 pair work on any qualified facility to
17 which subclause (I) does not apply,
18 makes payment to the Secretary of a
19 penalty in an amount equal to the
20 product of—

21 “(aa) \$50, multiplied by

22 “(bb) the total labor hours
23 for which the requirement de-
24 scribed in such subparagraph was
25 not satisfied with respect to the

1 construction, alteration, or repair
2 work on such qualified facility.

3 “(ii) GOOD FAITH EFFORT.—For pur-
4 poses of clause (i), a taxpayer shall be
5 deemed to have satisfied the requirements
6 under this paragraph with respect to a
7 qualified facility if such taxpayer has re-
8 quested qualified apprentices from a reg-
9 istered apprenticeship program, as defined
10 in section 3131(e)(3)(B), and—

11 “(I) such request has been de-
12 nied, provided that such denial is not
13 the result of a refusal by the contrac-
14 tors or subcontractors engaged in the
15 performance of construction, alter-
16 ation, or repair work on such qualified
17 facility to comply with the established
18 standards and requirements of the
19 registered apprenticeship program, or

20 “(II) the registered apprentice-
21 ship program fails to respond to such
22 request within 5 business days after
23 the date on which such registered ap-
24 prenticeship program received such
25 request.

1 “(iii) INTENTIONAL DISREGARD.—If
2 the Secretary determines that any failure
3 described in subclause (i)(II) is due to in-
4 tentional disregard of the requirements
5 under subparagraphs (A) and (C), sub-
6 clause (i)(II) shall be applied by sub-
7 stituting ‘\$500’ for ‘\$50’ in item (aa)
8 thereof.

9 “(E) DEFINITIONS.—For purposes of this
10 paragraph—

11 “(i) LABOR HOURS.—The term ‘labor
12 hours’—

13 “(I) means the total number of
14 hours devoted to the performance of
15 construction, alteration, or repair
16 work by employees of the taxpayer
17 (including construction, alteration, or
18 repair work by any contractor or sub-
19 contractor), and

20 “(II) excludes any hours worked
21 by—

22 “(aa) foremen,

23 “(bb) superintendents,

24 “(cc) owners, or

1 “(dd) persons employed in a
2 bona fide executive, administra-
3 tive, or professional capacity
4 (within the meaning of those
5 terms in part 541 of title 29,
6 Code of Federal Regulations).

7 “(ii) QUALIFIED APPRENTICE.—The
8 term ‘qualified apprentice’ means an indi-
9 vidual who is an employee of the con-
10 tractor or subcontractor and who is par-
11 ticipating in a registered apprenticeship
12 program, as defined in section
13 3131(e)(3)(B).

14 “(9) DOMESTIC CONTENT BONUS CREDIT
15 AMOUNT.—

16 “(A) IN GENERAL.—In the case of any
17 qualified facility which satisfies the requirement
18 under subparagraph (B)(i), the amount of the
19 credit determined under subsection (a) (deter-
20 mined after the application of paragraphs (1)
21 through (8)) shall be increased by an amount
22 equal to 10 percent of the amount otherwise in
23 effect under such subsection.

24 “(B) REQUIREMENT.—

1 “(i) IN GENERAL.—The requirement
2 described in this subclause with respect to
3 any qualified facility is satisfied if the tax-
4 payer certifies to the Secretary (at such
5 time, and in such form and manner, as the
6 Secretary may prescribe) that any steel,
7 iron, or manufactured product which is a
8 component of such facility (upon comple-
9 tion of construction) was produced in the
10 United States.

11 “(ii) STEEL AND IRON.—In the case
12 of steel or iron, clause (i) shall be applied
13 in a manner consistent with section 661.5
14 of title 49, Code of Federal Regulations.

15 “(iii) MANUFACTURED PRODUCT.—
16 For purposes of clause (i), the manufac-
17 tured products which are components of a
18 qualified facility upon completion of con-
19 struction shall be deemed to have been pro-
20 duced in the United States if not less than
21 the adjusted percentage of the total costs
22 across all such manufactured products of
23 such facility are attributable to manufac-
24 tured products (including components)

1 which are mined, produced, or manufac-
2 tured in the United States.

3 “(C) ADJUSTED PERCENTAGE.—

4 “(i) IN GENERAL.—Subject to sub-
5 clause (ii), for purposes of subparagraph
6 (B)(iii), the adjusted percentage shall be—

7 “(I) in the case of a facility the
8 construction of which begins before
9 January 1, 2025, 40 percent,

10 “(II) in the case of a facility the
11 construction of which begins after De-
12 cember 31, 2024, and before January
13 1, 2026, 45 percent,

14 “(III) in the case of a facility the
15 construction of which begins after De-
16 cember 31, 2025, and before January
17 1, 2027, 50 percent, and

18 “(IV) in the case of a facility the
19 construction of which begins after De-
20 cember 31, 2026, 55 percent.

21 “(ii) OFFSHORE WIND FACILITY.—
22 For purposes of subparagraph (B)(iii), in
23 the case of a qualified facility which is an
24 offshore wind facility, the adjusted per-
25 centage shall be—

357

1 “(I) in the case of a facility the
2 construction of which begins before
3 January 1, 2025, 20 percent,

4 “(II) in the case of a facility the
5 construction of which begins after De-
6 cember 31, 2024, and before January
7 1, 2026, 27.5 percent,

8 “(III) in the case of a facility the
9 construction of which begins after De-
10 cember 31, 2025, and before January
11 1, 2027, 35 percent,

12 “(IV) in the case of a facility the
13 construction of which begins after De-
14 cember 31, 2026, and before January
15 1, 2028, 45 percent, and

16 “(V) in the case of a facility the
17 construction of which begins after De-
18 cember 31, 2027, 55 percent.

19 “(10) PHASEOUT FOR ELECTIVE PAYMENT.—

20 “(A) IN GENERAL.—In the case of a tax-
21 payer making an election under section 6417
22 with respect to a credit under this section, the
23 amount of such credit shall be replaced with—

1 “(iii) if construction of such facility
2 began in calendar year 2025, 85 percent,
3 and

4 “(iv) if construction of such facility
5 began after December 31, 2025, 0 percent.

6 “(D) EXCEPTION.—

7 “(i) IN GENERAL.—For purposes of
8 this paragraph, the Secretary shall provide
9 appropriate exceptions to the requirements
10 under this paragraph for the construction
11 of qualified facilities if—

12 “(I) the inclusion of steel, iron,
13 or manufactured products which are
14 produced in the United States in-
15 creases the overall costs of construc-
16 tion of qualified facilities by more
17 than 25 percent, or

18 “(II) relevant steel, iron, or man-
19 ufactured products are not produced
20 in the United States in sufficient and
21 reasonably available quantities or of a
22 satisfactory quality.

23 “(ii) APPLICABLE PERCENTAGE.—In
24 any case in which the Secretary provides

1 an exception pursuant to clause (i), the ap-
2 plicable percentage shall be 100 percent.

3 “(11) SPECIAL RULE FOR QUALIFIED FACILITY
4 LOCATED IN ENERGY COMMUNITY.—

5 “(A) IN GENERAL.—In the case of a quali-
6 fied facility which is located in an energy com-
7 munity, the credit determined under subsection
8 (a) shall be increased by an amount equal to 10
9 percent of the amount otherwise in effect under
10 such subsection (without application of para-
11 graph (9)).

12 “(B) ENERGY COMMUNITY.—

13 “(i) IN GENERAL.—For purposes of
14 this paragraph, the term ‘energy commu-
15 nity’ means—

16 “(I) a brownfield site (as defined
17 in subparagraphs (A) and (B) of sec-
18 tion 101(39) of the Comprehensive
19 Environmental Response, Compensa-
20 tion, and Liability Act of 1980 (42
21 U.S.C. 9601(39))),

22 “(II) a census tract—

23 “(aa) in which—

24 “(AA) for the calendar
25 year prior to the calendar

1 year in which construction
2 of the qualified facility be-
3 gins, not less than 5 percent
4 of the employment in such
5 tract is within the oil and
6 gas sector,

7 “(BB) after December
8 31, 1999, a coal mine has
9 closed, or

10 “(CC) after December
11 31, 2009, a coal-fired elec-
12 tric generating unit has been
13 retired, or

14 “(bb) which is directly ad-
15 joining to any census tract de-
16 scribed in item (aa).

17 “(ii) EXCEPTION.—

18 “(I) IN GENERAL.—A qualified
19 facility shall be deemed to not be lo-
20 cated in an energy community if such
21 qualified facility is located in an area
22 described in subclause (II).

23 “(II) FORESTED LAND.—The
24 area described in this subclause is
25 land—

1 “(aa) as of the date of the
2 enactment of this paragraph, at
3 least 10 percent of which is
4 stocked with trees of any size,
5 and

6 “(bb) which is located within
7 a designated Forest Legacy Area,
8 as established under section 7 of
9 the Cooperative Forestry Assist-
10 ance Act of 1978 (16 U.S.C.
11 2103e).

12 “(12) REGULATIONS AND GUIDANCE.—The
13 Secretary shall issue such regulations or other guid-
14 ance as the Secretary determines necessary or ap-
15 propriate to carry out the purposes of this sub-
16 section, including regulations or other guidance
17 which provides for requirements for recordkeeping or
18 information reporting for purposes of administering
19 the requirements of this subsection.”.

20 (g) CREDIT REDUCED FOR TAX-EXEMPT BONDS.—
21 Section 45(b)(3) is amended to read as follows:

22 “(3) CREDIT REDUCED FOR TAX-EXEMPT
23 BONDS.—The amount of the credit determined
24 under subsection (a) with respect to any facility for
25 any taxable year (determined after the application of

1 paragraphs (1) and (2)) shall be reduced by the
2 amount which is the product of the amount so deter-
3 mined for such year and the lesser of 15 percent or
4 a fraction—

5 “(A) the numerator of which is the sum,
6 for the taxable year and all prior taxable years,
7 of proceeds of an issue of any obligations the
8 interest on which is exempt from tax under sec-
9 tion 103 and which is used to provide financing
10 for the qualified facility, and

11 “(B) the denominator of which is the ag-
12 gregate amount of additions to the capital ac-
13 count for the qualified facility for the taxable
14 year and all prior taxable years.

15 The amounts under the preceding sentence for any
16 taxable year shall be determined as of the close of
17 the taxable year.”.

18 (h) ROUNDING ADJUSTMENT.—

19 (1) IN GENERAL.—Section 45(b)(2) is amended
20 by striking the second sentence and inserting the fol-
21 lowing: “If the 0.3 cent amount as increased under
22 the preceding sentence is not a multiple of 0.05 cent,
23 such amount shall be rounded to the nearest mul-
24 tiple of 0.05 cent. In any other case, if an amount
25 as increased under this paragraph is not a multiple

1 of 0.1 cent, such amount shall be rounded to the
2 nearest multiple of 0.1 cent.”.

3 (2) CONFORMING AMENDMENT.—Section
4 45(b)(4)(A) is amended by striking “last sentence”
5 and inserting “last two sentences”.

6 (i) HYDROPOWER.—

7 (1) ELIMINATION OF CREDIT RATE REDUCTION
8 FOR QUALIFIED HYDROELECTRIC PRODUCTION AND
9 MARINE AND HYDROKINETIC RENEWABLE EN-
10 ERGY.—Section 45(b)(4)(A), as amended by the pre-
11 ceding provisions of this section, is amended by
12 striking “(7), (9), or (11)” and inserting “or (7)”.

13 (2) MARINE AND HYDROKINETIC RENEWABLE
14 ENERGY.—Section 45(c)(10)(A) is amended—

15 (A) in clause (iii), by striking “or”,

16 (B) in clause (iv), by striking the period at
17 the end and inserting “, or” and

18 (C) by adding at the end the following:

19 “(v) pressurized water used in a pipe-
20 line (or similar man-made water convey-
21 ance) which is operated—

22 “(I) for the distribution of water
23 for agricultural, municipal, or indus-
24 trial consumption, and

1 “(II) not primarily for the gen-
2 eration of electricity.”.

3 (j) EFFECTIVE DATES.—

4 (1) IN GENERAL.—Except as provided in para-
5 graph (2), the amendments made by this section
6 shall apply to facilities placed in service after De-
7 cember 31, 2021.

8 (2) CREDIT REDUCED FOR TAX-EXEMPT
9 BONDS.—The amendment made by subsection (g)
10 shall apply to facilities the construction of which be-
11 gins after December 31, 2021.

12 **SEC. 126102. EXTENSION AND MODIFICATION OF ENERGY**
13 **CREDIT.**

14 (a) EXTENSION OF CREDIT.—The following provi-
15 sions of section 48 are each amended by striking “January
16 1, 2024” each place it appears and inserting “January
17 1, 2027”:

18 (1) Subsection (a)(2)(A)(i)(II).

19 (2) Subsection (a)(3)(A)(ii).

20 (3) Subsection (c)(1)(D).

21 (4) Subsection (c)(2)(D).

22 (5) Subsection (c)(3)(A)(iv).

23 (6) Subsection (c)(4)(C).

24 (7) Subsection (c)(5)(D).

1 (b) FURTHER EXTENSION FOR CERTAIN ENERGY
2 PROPERTY.—Section 48(a)(3)(A)(vii) is amended by
3 striking “January 1, 2024” and inserting “January 1,
4 2034”.

5 (c) PHASEOUT OF CREDIT.—Section 48(a) is amend-
6 ed by striking paragraphs (6) and (7) and inserting the
7 following new paragraph:

8 “(6) PHASEOUT FOR CERTAIN ENERGY PROP-
9 erty.—In the case of any qualified fuel cell prop-
10 erty, qualified small wind property, or energy prop-
11 erty described in clause (i) or clause (ii) of para-
12 graph (3)(A) the construction of which begins after
13 December 31, 2019, and which is placed in service
14 before January 1, 2022, the energy percentage de-
15 termined under paragraph (2) shall be equal to 26
16 percent.”.

17 (d) BASE ENERGY PERCENTAGE AMOUNT.—Section
18 48(a) is amended—

19 (1) in paragraph (2)(A)—

20 (A) in clause (i), by striking “30 percent”
21 and inserting “6 percent”, and

22 (B) in clause (ii), by striking “10 percent”
23 and inserting “2 percent”, and

24 (2) in paragraph (5)(A)(ii), by striking “30 per-
25 cent” and inserting “6 percent”.

1 (e) 6 PERCENT CREDIT FOR GEOTHERMAL.—Section
2 48(a)(2)(A)(i)(II) is amended by striking “paragraph
3 (3)(A)(i)” and inserting “clause (i) or (iii) of paragraph
4 (3)(A)”.

5 (f) ENERGY STORAGE TECHNOLOGIES; QUALIFIED
6 BIOGAS PROPERTY; MICROGRID CONTROLLERS; HYDRO-
7 POWER ENVIRONMENTAL IMPROVEMENT PROPERTY; EX-
8 TENSION OF OTHER PROPERTY.—

9 (1) IN GENERAL.—Section 48(a)(3)(A) is
10 amended by striking “or” at the end of clause (vii),
11 and by adding at the end the following new clauses:

12 “(ix) energy storage technology,
13 “(x) qualified biogas property,
14 “(xi) microgrid controllers, or
15 “(xii) hydropower environmental im-
16 provement property,”.

17 (2) APPLICATION OF 6 PERCENT CREDIT.—Sec-
18 tion 48(a)(2)(A)(i) is amended by striking “and” at
19 the end of subclauses (IV) and (V) and adding at
20 the end the following new subclauses:

21 “(VI) energy storage technology,
22 “(VII) qualified biogas property,
23 “(VIII) microgrid controllers,
24 “(IX) hydropower environmental
25 improvement property, and

1 “(X) energy property described
2 in clauses (v) and (vii) of paragraph
3 (3)(A), and”.

4 (3) DEFINITIONS.—Section 48(c) is amended
5 by adding at the end the following new paragraphs:

6 “(6) ENERGY STORAGE TECHNOLOGY.—

7 “(A) IN GENERAL.—The term ‘energy
8 storage technology’ means property (other than
9 property primarily used in the transportation of
10 goods or individuals and not for the production
11 of electricity) which receives, stores, and deliv-
12 ers energy for conversion to electricity (or, in
13 the case of hydrogen, which stores energy), and
14 has a nameplate capacity of not less than 5 kil-
15 owatt hours.

16 “(B) MODIFICATIONS OF CERTAIN PROP-
17 PERTY.—In the case of any equipment which ei-
18 ther—

19 “(i) would be described in subpara-
20 graph (A) except that such equipment has
21 a capacity of less than 5 kilowatt hours
22 and is modified such that such equipment
23 (after such modification) has a nameplate
24 capacity of not less than 5 kilowatt hours,
25 or

1 “(ii) is described in subparagraph (A)
2 and which has a capacity of not less than
3 5 kilowatt hours and is modified such that
4 such equipment (after such modification)
5 has an increased nameplate capacity,
6 such equipment shall be treated as described in
7 subparagraph (A) except that the basis of any
8 property which was part of such equipment be-
9 fore such modification shall not be taken into
10 account for purposes of this section. In the case
11 of any property to which this subparagraph ap-
12 plies, subparagraph (C) shall be applied by sub-
13 stituting ‘modification’ for ‘construction’.

14 “(C) TERMINATION.—The term ‘energy
15 storage technology’ shall not include any prop-
16 erty the construction of which begins after De-
17 cember 31, 2026.

18 “(7) QUALIFIED BIOGAS PROPERTY.—

19 “(A) IN GENERAL.—The term ‘qualified
20 biogas property’ means property comprising a
21 system which—

22 “(i) converts biomass (as defined in
23 section 45K(e)(3), as in effect on the date
24 of enactment of this paragraph) into a gas
25 which—

1 “(I) consists of not less than 52
2 percent methane by volume, or

3 “(II) is concentrated by such sys-
4 tem into a gas which consists of not
5 less than 52 percent methane, and

6 “(ii) captures such gas for sale or pro-
7 ductive use, and not for disposal via com-
8 bustion.

9 “(B) INCLUSION OF CLEANING AND CON-
10 DITIONING PROPERTY.—The term ‘qualified
11 biogas property’ includes any property which is
12 part of such system which cleans or conditions
13 such gas.

14 “(C) TERMINATION.—The term ‘qualified
15 biogas property’ shall not include any property
16 the construction of which begins after Decem-
17 ber 31, 2026.

18 “(8) MICROGRID CONTROLLER.—

19 “(A) IN GENERAL.—The term ‘microgrid
20 controller’ means equipment which is—

21 “(i) part of a qualified microgrid, and

22 “(ii) designed and used to monitor
23 and control the energy resources and loads
24 on such microgrid.

1 “(B) QUALIFIED MICROGRID.—The term
2 ‘qualified microgrid’ means an electrical system
3 which—

4 “(i) includes equipment which is capa-
5 ble of generating not less than 4 kilowatts
6 and not greater than 20 megawatts of elec-
7 tricity,

8 “(ii) is capable of operating—

9 “(I) in connection with the elec-
10 trical grid and as a single controllable
11 entity with respect to such grid, and

12 “(II) independently (and discon-
13 nected) from such grid, and

14 “(iii) is not part of a bulk-power sys-
15 tem (as defined in section 215 of the Fed-
16 eral Power Act (16 U.S.C. 24o)).

17 “(C) TERMINATION.—The term ‘microgrid
18 controller’ shall not include any property the
19 construction of which begins after December
20 31, 2026.

21 “(9) HYDROPOWER ENVIRONMENTAL IMPROVE-
22 MENT PROPERTY.—

23 “(A) IN GENERAL.—The term ‘hydropower
24 environmental improvement property’ means
25 property the purpose of which is to—

1 “(i) add or improve safe and effective
2 fish passage, including new or upgraded
3 turbine technology, fish ladders, fishways,
4 or other fish passage technology with re-
5 spect to a qualified dam,

6 “(ii) maintain or improve the quality
7 of the water retained or released by a
8 qualified dam, or

9 “(iii) promote downstream sediment
10 transport processes and habitat mainte-
11 nance with respect to a qualified dam.

12 “(B) QUALIFIED DAM.—For purposes of
13 this paragraph, the term ‘qualified dam’
14 means—

15 “(i) a hydroelectric dam which—

16 “(I) is licensed by the Federal
17 Energy Regulatory Commission or le-
18 gally operating without such a license,
19 and

20 “(II) was placed in service before
21 the date of the enactment of this
22 paragraph, or

23 “(ii) any dam which—

24 “(I) is a qualified nonpowered
25 dam (as defined in section 34(e)(3) of

1 the Federal Power Act (16 U.S.C. §
2 823e(e)(3)), and

3 “(II) was placed in service before
4 the date of the enactment of this
5 paragraph.

6 “(C) TERMINATION.—The term ‘hydro-
7 power environmental improvement property’
8 shall not include any property the construction
9 of which begins after December 31, 2026.”.

10 (4) DENIAL OF DOUBLE BENEFIT FOR QUALI-
11 FIED BIOGAS PROPERTY.—Section 45(e) is amended
12 by adding at the end the following new paragraph:

13 “(12) COORDINATION WITH ENERGY CREDIT
14 FOR QUALIFIED BIOGAS PROPERTY.—The term
15 ‘qualified facility’ shall not include any facility which
16 produces electricity from gas produced by qualified
17 biogas property (as defined in section 48(c)(7)) if a
18 credit is allowed under section 48 with respect to
19 such property for the taxable year or any prior tax-
20 able year.”.

21 (5) PHASEOUT OF CERTAIN ENERGY PROP-
22 erty.—Section 48(a), as amended by the preceding
23 provisions of this Act, is amended by adding at the
24 end the following new paragraph:

1 (ii) by inserting “(1 kilowatt in the
2 case of a fuel cell power plant with a linear
3 generator assembly)” after “0.5 kilowatt”,
4 and

5 (B) in subparagraph (C)—

6 (i) by inserting “, or linear generator
7 assembly,” after “a fuel cell stack assem-
8 bly”, and

9 (ii) by inserting “or
10 electromechanical” after “electrochemical”.

11 (2) LINEAR GENERATOR ASSEMBLY LIMITA-
12 TION.—Section 48(c)(1) is amended by redesign-
13 ating subparagraph (D) as subparagraph (E) and
14 by inserting after subparagraph (C) the following
15 new subparagraph:

16 “(D) LINEAR GENERATOR ASSEMBLY.—
17 The term ‘linear generator assembly’ does not
18 include any assembly which contains rotating
19 parts.”.

20 (h) DYNAMIC GLASS.—Section 48(a)(3)(A)(ii) is
21 amended by inserting “, or electrochromic glass which
22 uses electricity to change its light transmittance properties
23 in order to heat or cool a structure,” after “sunlight”.

1 (i) COORDINATION WITH LOW INCOME HOUSING
2 TAX CREDIT.—Paragraph (3) of section 50(c) is amend-
3 ed—

4 (1) by striking “and” at the end of subpara-
5 graph (A),

6 (2) by striking the period at the end of sub-
7 paragraph (B) and inserting “, and”, and

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

10 “(C) paragraph (1) shall not apply for pur-
11 poses of determining eligible basis under section
12 42.”.

13 (j) INTERCONNECTION PROPERTY; WAGE AND AP-
14 PRENTICESHIP REQUIREMENTS.—Section 48(a), as
15 amended by the preceding provisions of this Act, is amend-
16 ed by adding at the end the following new paragraphs:

17 “(8) INTERCONNECTION PROPERTY.—

18 “(A) IN GENERAL.—For purposes of deter-
19 mining the credit under subsection (a), energy
20 property shall include amounts paid or incurred
21 by the taxpayer for qualified interconnection
22 property in connection with the installation of
23 energy property (as defined in paragraph (3))
24 which has a maximum net output of not greater
25 than 5 megawatts, to provide for the trans-

1 mission or distribution of the electricity pro-
2 duced or stored by such property, and which
3 are properly chargeable to the capital account
4 of the taxpayer.

5 “(B) QUALIFIED INTERCONNECTION PROP-
6 ERTY.—The term ‘qualified interconnection
7 property’ means, with respect to an energy
8 project which is not a microgrid controller, any
9 tangible property—

10 “(i) which is part of an addition,
11 modification, or upgrade to a transmission
12 or distribution system which is required at
13 or beyond the point at which the energy
14 project interconnects to such transmission
15 or distribution system in order to accom-
16 modate such interconnection,

17 “(ii) either—

18 “(I) which is constructed, recon-
19 structed, or erected by the taxpayer,
20 or

21 “(II) for which the cost with re-
22 spect to the construction, reconstruc-
23 tion, or erection of such property is
24 paid or incurred by such taxpayer,
25 and

1 “(iii) the original use of which, pursu-
2 ant to an interconnection agreement, com-
3 mences with a utility.

4 “(C) INTERCONNECTION AGREEMENT.—
5 The term ‘interconnection agreement’ means an
6 agreement with a utility for the purposes of
7 interconnecting the energy property owned by
8 such taxpayer to the transmission or distribu-
9 tion system of such utility.

10 “(D) UTILITY.—For purposes of this para-
11 graph, the term ‘utility’ means the owner or op-
12 erator of an electrical transmission or distribu-
13 tion system which is subject to the regulatory
14 authority of a State or political subdivision
15 thereof, any agency or instrumentality of the
16 United States, a public service or public utility
17 commission or other similar body of any State
18 or political subdivision thereof, or the governing
19 or ratemaking body of an electric cooperative.

20 “(E) SPECIAL RULE FOR INTERCONNEC-
21 TION PROPERTY.—In the case of expenses paid
22 or incurred for interconnection property,
23 amounts otherwise chargeable to capital ac-
24 count with respect to such expenses shall be re-

1 duced under rules similar to the rules of section
2 50(c).

3 “(9) INCREASED CREDIT AMOUNT FOR ENERGY
4 PROJECTS.—

5 “(A) IN GENERAL.—

6 “(i) RULE.—In the case of any energy
7 project which satisfies the requirements of
8 subparagraph (B), the amount of the cred-
9 it determined under this subsection (deter-
10 mined after the application of paragraphs
11 (1) through (8) and without regard to this
12 clause) shall be equal to such amount mul-
13 tiplied by 5.

14 “(ii) ENERGY PROJECT DEFINED.—
15 For purposes of this subsection, the term
16 ‘energy project’ means a project consisting
17 of one or more energy properties that are
18 part of a single project.

19 “(B) PROJECT REQUIREMENTS.—A project
20 meets the requirements of this subparagraph if
21 it is one of the following:

22 “(i) A project with a maximum net
23 output of less than 1 megawatt of elec-
24 trical or thermal energy.

1 “(ii) A project the construction of
2 which begins before the date that is 60
3 days after the Secretary publishes guid-
4 ance with respect to the requirements of
5 paragraphs (10)(A) and (11).

6 “(iii) A project which satisfies the re-
7 quirements of paragraphs (10)(A) and
8 (11).

9 “(10) PREVAILING WAGE REQUIREMENTS.—

10 “(A) IN GENERAL.—The requirements de-
11 scribed in this subparagraph with respect to
12 any energy project are that the taxpayer shall
13 ensure that any laborers and mechanics em-
14 ployed by contractors and subcontractors in—

15 “(i) the construction of such energy
16 project, and

17 “(ii) for the 5-year period beginning
18 on the date such project is originally
19 placed in service, the alteration or repair of
20 such project,

21 shall be paid wages at rates not less than the
22 prevailing rates for construction, alteration, or
23 repair of a similar character in the locality as
24 most recently determined by the Secretary of
25 Labor, in accordance with subchapter IV of

1 chapter 31 of title 40, United States Code.
2 Subject to subparagraph (C), for purposes of
3 any determination under paragraph (9)(A)(i)
4 for the taxable year in which the energy project
5 is placed in service, the taxpayer shall be
6 deemed to satisfy the requirement under clause
7 (ii) at the time such project is placed in service.

8 “(B) CORRECTION AND PENALTY RELATED
9 TO FAILURE TO SATISFY WAGE REQUIRE-
10 MENTS.—Rules similar to the rules of section
11 45(b)(7)(B) shall apply.

12 “(C) RECAPTURE.—The Secretary shall,
13 by regulations or other guidance, provide for re-
14 capturing the benefit of any increase in the
15 credit allowed under this subsection by reason
16 of this paragraph with respect to any project
17 which does not satisfy the requirements under
18 subparagraph (A) (after application of subpara-
19 graph (B)) for the period described in clause
20 (ii) of subparagraph (A) (but which does not
21 cease to be investment credit property within
22 the meaning of section 50(a)). The period and
23 percentage of such recapture shall be deter-
24 mined under rules similar to the rules of section
25 50(a).

1 “(11) APPRENTICESHIP REQUIREMENTS.—
2 Rules similar to the rules of section 45(b)(8) shall
3 apply.

4 “(12) DOMESTIC CONTENT BONUS CREDIT
5 AMOUNT.—

6 “(A) IN GENERAL.—In the case of any en-
7 ergy project which satisfies the requirement
8 under subparagraph (B), for purposes of apply-
9 ing paragraph (2) with respect to such prop-
10 erty, the energy percentage shall be increased
11 by the applicable credit rate increase.

12 “(B) REQUIREMENT.—Rules similar to the
13 rules of section 45(b)(9)(B) shall apply.

14 “(C) APPLICABLE CREDIT RATE IN-
15 CREASE.—For purposes of subparagraph (A),
16 the applicable credit rate increase shall be—

17 “(i) in the case of an energy project
18 that does not satisfy the requirements of
19 paragraph (9)(B), 2 percentage points, and

20 “(ii) in the case of an energy project
21 that satisfies the requirements of para-
22 graph (9)(B), 10 percentage points.

23 “(13) PHASEOUT FOR ELECTIVE PAYMENT.—In
24 the case of a taxpayer making an election under sec-
25 tion 6417 with respect to a credit under this section,

1 rules similar to the rules of section 45(b)(10) shall
2 apply.

3 “(14) REGULATIONS AND GUIDANCE.—The
4 Secretary shall issue such regulations or other guid-
5 ance as the Secretary determines necessary or ap-
6 propriate to carry out the purposes of this sub-
7 section, including regulations or other guidance
8 which provides for requirements for recordkeeping or
9 information reporting for purposes of administering
10 the requirements of this subsection.”.

11 (k) SPECIAL RULE FOR PROPERTY FINANCED BY
12 TAX-EXEMPT BONDS.—Section 48(a)(4) is amended to
13 read as follows:

14 “(4) SPECIAL RULE FOR PROPERTY FINANCED
15 BY TAX-EXEMPT BONDS.—Rules similar to the rule
16 under section 45(b)(3) shall apply for purposes of
17 this section.”.

18 (l) TREATMENT OF CERTAIN CONTRACTS INVOLVING
19 ENERGY STORAGE.—Section 7701(e) is amended—

20 (1) in paragraph (3)—

21 (A) in subparagraph (A)(i), by striking
22 “or” at the end of subclause (II), by striking
23 “and” at the end of subclause (III) and insert-
24 ing “or”, and by adding at the end the fol-
25 lowing new subclause:

1 “(IV) the operation of a storage
2 facility, and”, and

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

5 “(F) STORAGE FACILITY.—For purposes
6 of subparagraph (A), the term ‘storage facility’
7 means a facility which uses energy storage tech-
8 nology within the meaning of section 48(c)(6).”,
9 and

10 (2) in paragraph (4), by striking “or water
11 treatment works facility” and inserting “water treat-
12 ment works facility, or storage facility”.

13 (m) INCREASE IN CREDIT RATE FOR ENERGY COM-
14 MUNITIES.—Section 48(a), as amended by the preceding
15 provisions of this Act, is amended—

16 (1) by redesignating paragraph (14) as para-
17 graph (15), and

18 (2) by inserting after paragraph (13) the fol-
19 lowing new paragraph:

20 “(14) INCREASE IN CREDIT RATE FOR ENERGY
21 COMMUNITIES.—

22 “(A) IN GENERAL.—In the case of any en-
23 ergy project that is placed in service within an
24 energy community (as defined in section
25 45(b)(11)(B), as applied by substituting ‘energy

1 project' for 'qualified facility' each place it ap-
2 pears), for purposes of applying paragraph (2)
3 with respect to energy property which is part of
4 such project, the energy percentage shall be in-
5 creased by the applicable credit rate increase.

6 “(B) APPLICABLE CREDIT RATE IN-
7 CREASE.—For purposes of subparagraph (A),
8 the applicable credit rate increase shall be equal
9 to—

10 “(i) in the case of any energy project
11 that does not satisfy the requirements of
12 paragraph (9)(B), 2 percentage points, and

13 “(ii) in the case of any energy project
14 that satisfies the requirements of para-
15 graph (9)(B), 10 percentage points.”.

16 (n) EFFECTIVE DATES.—

17 (1) IN GENERAL.—Except as provided in para-
18 graphs (2) and (3), the amendments made by this
19 section shall apply to property placed in service after
20 December 31, 2021.

21 (2) OTHER PROPERTY.—The amendments
22 made by subsections (f), (g), and (h) shall apply to
23 property placed in service after December 31, 2021,
24 and, for any property the construction of which be-
25 gins prior to January 1, 2022, only to the extent of

1 the basis thereof attributable to the construction, re-
2 construction, or erection after December 31, 2021.

3 (3) SPECIAL RULE FOR PROPERTY FINANCED
4 BY TAX-EXEMPT BONDS.—The amendments made by
5 subsection (k) shall apply to property the construc-
6 tion of which begins after December 31, 2021.

7 **SEC. 126103. INCREASE IN ENERGY CREDIT FOR SOLAR AND**
8 **WIND FACILITIES PLACED IN SERVICE IN**
9 **CONNECTION WITH LOW-INCOME COMMU-**
10 **NITIES.**

11 (a) IN GENERAL.—Section 48 is amended by adding
12 at the end the following new subsection:

13 “(e) SPECIAL RULES FOR CERTAIN SOLAR AND
14 WIND FACILITIES PLACED IN SERVICE IN CONNECTION
15 WITH LOW-INCOME COMMUNITIES.—

16 “(1) IN GENERAL.—In the case of any qualified
17 solar and wind facility with respect to which the Sec-
18 retary makes an allocation of environmental justice
19 solar and wind capacity limitation under paragraph
20 (4)—

21 “(A) the energy percentage otherwise de-
22 termined under subsection (a)(2) with respect
23 to any eligible property which is part of such
24 facility shall be increased by—

1 “(i) in the case of a facility described
2 in subclause (I) of paragraph (2)(A)(iii)
3 and not described in subclause (II) of such
4 paragraph, 10 percentage points, and

5 “(ii) in the case of a facility described
6 in subclause (II) of paragraph (2)(A)(iii),
7 20 percentage points, and

8 “(B) the increase in the credit determined
9 under subsection (a) by reason of this sub-
10 section for any taxable year with respect to all
11 property which is part of such facility shall not
12 exceed the amount which bears the same ratio
13 to the amount of such increase (determined
14 without regard to this subparagraph) as—

15 “(i) the environmental justice solar
16 and wind capacity limitation allocated to
17 such facility, bears to

18 “(ii) the total megawatt nameplate ca-
19 pacity of such facility, as measured in di-
20 rect current.

21 “(2) QUALIFIED SOLAR AND WIND FACILITY.—

22 For purposes of this subsection—

23 “(A) IN GENERAL.—The term ‘qualified
24 solar and wind facility’ means any facility—

1 “(i) which generates electricity solely
2 from property described in section 45(d)(1)
3 or in clause (i) or (vi) of subsection
4 (a)(3)(A),

5 “(ii) which has a maximum net output
6 of less than 5 megawatts, and

7 “(iii) which—

8 “(I) is located in a low-income
9 community (as defined in section
10 45D(e)) or on Indian land (as defined
11 in section 2601(2) of the Energy Pol-
12 icy Act of 1992 (25 U.S.C. 3501(2))),
13 or

14 “(II) is part of a qualified low-in-
15 come residential building project or a
16 qualified low-income economic benefit
17 project.

18 “(B) QUALIFIED LOW-INCOME RESIDEN-
19 TIAL BUILDING PROJECT.—A facility shall be
20 treated as part of a qualified low-income resi-
21 dential building project if—

22 “(i) such facility is installed on a resi-
23 dential rental building which participates
24 in a covered housing program (as defined
25 in section 41411(a) of the Violence Against

1 Women Act of 1994 (34 U.S.C.
2 12491(a)(3)), a housing assistance pro-
3 gram administered by the Department of
4 Agriculture under title V of the Housing
5 Act of 1949, a housing program adminis-
6 tered by a tribally designated housing enti-
7 ty (as defined in section 4(22) of the Na-
8 tive American Housing Assistance and
9 Self-Determination Act of 1996 (25 U.S.C.
10 4103(22))) or such other affordable hous-
11 ing programs as the Secretary may pro-
12 vide, and

13 “(ii) the financial benefits of the elec-
14 tricity produced by such facility are allo-
15 cated equitably among the occupants of the
16 dwelling units of such building.

17 “(C) QUALIFIED LOW-INCOME ECONOMIC
18 BENEFIT PROJECT.—A facility shall be treated
19 as part of a qualified low-income economic ben-
20 efit project if at least 50 percent of the finan-
21 cial benefits of the electricity produced by such
22 facility are provided to households with income
23 of—

1 “(i) less than 200 percent of the pov-
2 erty line applicable to a family of the size
3 involved, or

4 “(ii) less than 80 percent of area me-
5 dian gross income (as determined under
6 section 142(d)(2)(B)).

7 “(D) FINANCIAL BENEFIT.—For purposes
8 of subparagraphs (B) and (C), electricity ac-
9 quired at a below-market rate shall not fail to
10 be taken into account as a financial benefit.

11 “(3) ELIGIBLE PROPERTY.—For purposes of
12 this section, the term ‘eligible property’ means en-
13 ergy property which is part of a facility described in
14 section 45(d)(1) or in clause (i) or (vi) of subsection
15 (a)(3)(A), including energy storage technology (de-
16 scribed in subsection (a)(3)(A)(ix)) installed in con-
17 nection with such energy property.

18 “(4) ALLOCATIONS.—

19 “(A) IN GENERAL.—Not later than 270
20 days after the date of enactment of this sub-
21 section, the Secretary shall establish a program
22 to allocate amounts of environmental justice
23 solar and wind capacity limitation to qualified
24 solar and wind facilities.

1 “(B) LIMITATION.—The amount of envi-
2 ronmental justice solar and wind capacity limi-
3 tation allocated by the Secretary under sub-
4 paragraph (A) during any calendar year shall
5 not exceed the annual capacity limitation with
6 respect to such year.

7 “(C) ANNUAL CAPACITY LIMITATION.—For
8 purposes of this paragraph, the term ‘annual
9 capacity limitation’ means 1.8 gigawatts of di-
10 rect current capacity for each of calendar years
11 2022 through 2026, and zero thereafter.

12 “(D) CARRYOVER OF UNUSED LIMITA-
13 TION.—If the annual capacity limitation for any
14 calendar year exceeds the aggregate amount al-
15 located for such year under this paragraph,
16 such limitation for the succeeding calendar year
17 shall be increased by the amount of such excess.
18 No amount may be carried under the preceding
19 sentence to any calendar year after 2026 except
20 as provided in section 48F(i)(4)(D)(ii).

21 “(E) PLACED IN SERVICE DEADLINE.—

22 “(i) IN GENERAL.—Paragraph (1)
23 shall not apply with respect to any prop-
24 erty which is placed in service after the
25 date that is 4 years after the date of the

1 allocation with respect to the facility of
2 which such property is a part.

3 “(ii) APPLICATION OF CARRYOVER.—

4 Any amount of environmental justice solar
5 and wind capacity limitation which expires
6 under clause (i) during any calendar year
7 shall be taken into account as an excess
8 described in subparagraph (D) (or as an
9 increase in such excess) for such calendar
10 year, subject to the limitation imposed by
11 the last sentence of such subparagraph.

12 “(5) RECAPTURE.—The Secretary shall, by reg-
13 ulations or other guidance, provide for recapturing
14 the benefit of any increase in the credit allowed
15 under subsection (a) by reason of this subsection
16 with respect to any property which ceases to be
17 property eligible for such increase (but which does
18 not cease to be investment credit property within the
19 meaning of section 50(a)). The period and percent-
20 age of such recapture shall be determined under
21 rules similar to the rules of section 50(a). To the ex-
22 tent provided by the Secretary, such recapture may
23 not apply with respect to any property if, within 12
24 months after the date the taxpayer becomes aware
25 (or reasonably should have become aware) of such

1 property ceasing to be property eligible for such in-
2 crease, the eligibility of such property for such in-
3 crease is restored. The preceding sentence shall not
4 apply more than once with respect to any facility.”.

5 (b) EFFECTIVE DATE.—The amendments made by
6 this section shall take effect on January 1, 2022.

7 **SEC. 126104. ELECTIVE PAYMENT FOR ENERGY PROPERTY**
8 **AND ELECTRICITY PRODUCED FROM CER-**
9 **TAIN RENEWABLE RESOURCES, ETC.**

10 (a) IN GENERAL.—Subchapter B of chapter 65 is
11 amended by inserting after section 6416 the following new
12 section:

13 **“SEC. 6417. ELECTIVE PAYMENT OF APPLICABLE CREDITS.**

14 “(a) IN GENERAL.—In the case of a taxpayer making
15 an election (at such time and in such manner as the Sec-
16 retary may provide) under this section with respect to any
17 applicable credit determined with respect to such taxpayer,
18 such taxpayer shall be treated as making a payment
19 against the tax imposed by subtitle A (for the taxable year
20 with respect to which such credit was determined) equal
21 to the amount of such credit.

22 “(b) APPLICABLE CREDIT.—The term ‘applicable
23 credit’ means each of the following:

24 “(1) So much of the renewable electricity pro-
25 duction credit determined under section 45 as is at-

1 tributable to qualified facilities which are originally
2 placed in service after December 31, 2021, and with
3 respect to which an election is made under sub-
4 section (c)(3).

5 “(2) The energy credit determined under sec-
6 tion 48.

7 “(3) So much of the credit for carbon oxide se-
8 questration determined under section 45Q as is at-
9 tributable to carbon capture equipment which is
10 originally placed in service after December 31, 2021,
11 and with respect to which an election is made under
12 subsection (c)(3).

13 “(4) The credit for alternative fuel vehicle re-
14 fueling property allowed under section 30C.

15 “(5) The qualifying advanced energy project
16 credit determined under section 48C.

17 “(c) SPECIAL RULES.—For purposes of this sec-
18 tion—

19 “(1) APPLICATION TO TAX-EXEMPT AND GOV-
20 ERNMENTAL ENTITIES.—In the case of any organi-
21 zation exempt from the tax imposed by subtitle A,
22 any State or local government (or political subdivi-
23 sion thereof), the Tennessee Valley Authority, an In-
24 dian tribal government (as defined in section
25 48(e)(4)(F)(ii)), or any Alaska Native Corporation

1 (as defined in section 3 of the Alaska Native Claims
2 Settlement Act (43 U.S.C. 1602(m)) which makes
3 the election described in subsection (a), any applica-
4 ble credit shall be determined—

5 “(A) without regard to paragraphs (3) and
6 (4)(A)(i) of section 50(b), and

7 “(B) by treating any property with respect
8 to which such credit is determined as used in
9 a trade or business of the taxpayer.

10 “(2) APPLICATION TO PARTNERSHIPS AND S
11 CORPORATIONS.—

12 “(A) IN GENERAL.—In the case of any ap-
13 plicable credit determined with respect to any
14 facility or property held directly by a partner-
15 ship or S corporation, if such partnership or S
16 corporation makes an election under subsection
17 (a) (in such manner as the Secretary may pro-
18 vide) with respect to such credit—

19 “(i) the Secretary shall make a pay-
20 ment to such partnership or S corporation
21 equal to the amount of such credit,

22 “(ii) subsection (d) shall be applied
23 with respect to such credit before deter-
24 mining any partner’s distributive share, or

1 shareholder's pro rata share, of such cred-
2 it,

3 “(iii) any amount with respect to
4 which the election in subsection (a) is
5 made shall be treated as tax exempt in-
6 come for purposes of sections 705 and
7 1366, and

8 “(iv) a partner's distributive share of
9 such tax exempt income shall be based on
10 such partner's distributive share of the
11 otherwise applicable credit for each taxable
12 year.

13 “(B) COORDINATION WITH APPLICATION
14 AT PARTNER OR SHAREHOLDER LEVEL.—In the
15 case of any partnership or S corporation, sub-
16 section (a) shall be applied at the partner or
17 shareholder level after application of subpara-
18 graph (A)(ii).

19 “(3) ELECTIONS.—

20 “(A) IN GENERAL.—Any election under
21 subsection (a) shall be made not later than the
22 due date (including extensions of time) for the
23 return of tax for the taxable year for which the
24 election is made, but in no event earlier than
25 270 days after the date of the enactment of this

1 section. Any such election, once made, shall be
2 irrevocable. Except as otherwise provided in this
3 paragraph, any election under subsection (a)
4 shall apply with respect to any credit for the
5 taxable year for which the election is made.

6 “(B) RENEWABLE ELECTRICITY PRODUC-
7 TION CREDIT.—In the case of the credit de-
8 scribed in subsection (b)(1), any election under
9 this subsection shall—

10 “(i) apply separately with respect to
11 each qualified facility,

12 “(ii) be made for the taxable year in
13 which such qualified facility is originally
14 placed in service, and

15 “(iii) shall apply to such taxable year
16 and to any subsequent taxable year which
17 is within the period described in subsection
18 (a)(2)(A)(ii) of section 45 with respect to
19 such qualified facility.

20 “(C) CREDIT FOR CARBON OXIDE SEQUES-
21 TRATION.—In the case of the credit described
22 in subsection (b)(3), any election under this
23 subsection shall—

24 “(i) apply separately with respect to
25 the carbon capture equipment originally

1 placed in service by the taxpayer during a
2 taxable year, and

3 “(ii) shall apply to such taxable year
4 and to any subsequent taxable year which
5 is within the period described in paragraph
6 (3)(A) or (4)(A) of section 45Q(a) with re-
7 spect to such equipment.

8 “(4) TIMING.—The payment described in sub-
9 section (a) shall be treated as made on—

10 “(A) in the case of any government, or po-
11 litical subdivision, described in paragraph (1)
12 and for which no return is required under sec-
13 tion 6011 or 6033(a), the later of the date that
14 a return would be due under section 6033(a) if
15 such government or subdivision were described
16 in that section or the date on which such gov-
17 ernment or subdivision submits a claim for
18 credit or refund (at such time and in such man-
19 ner as the Secretary shall provide), and

20 “(B) in any other case, the later of the due
21 date (determined without regard to extensions)
22 of the return of tax for the taxable year or the
23 date on which such return is filed.

24 “(5) TREATMENT OF PAYMENTS TO PARTNER-
25 SHIPS AND S CORPORATIONS.—For purposes of sec-

1 tion 1324 of title 31, United States Code, the pay-
2 ments under paragraph (2)(A)(i) shall be treated in
3 the same manner as a refund due from a credit pro-
4 vision referred to in subsection (b)(2) of such sec-
5 tion.

6 “(6) ADDITIONAL INFORMATION.—As a condi-
7 tion of, and prior to, a payment under this section,
8 the Secretary may require such information or reg-
9 istration as the Secretary deems necessary or appro-
10 priate for purposes of preventing duplication, fraud,
11 improper payments, or excessive payments under
12 this section.

13 “(7) EXCESSIVE PAYMENT.—

14 “(A) IN GENERAL.—In the case of a pay-
15 ment made to a taxpayer under this subsection
16 or any amount treated as a payment which is
17 made by the taxpayer under subsection (a)
18 which the Secretary determines constitutes an
19 excessive payment, the tax imposed on such tax-
20 payer by chapter 1 for the taxable year in
21 which such determination is made shall be in-
22 creased by an amount equal to the sum of—

23 “(i) the amount of such excessive pay-
24 ment, plus

400

1 “(ii) an amount equal to 20 percent of
2 such excessive payment.

3 “(B) REASONABLE CAUSE.—Subparagraph
4 (A)(ii) shall not apply if the taxpayer dem-
5 onstrates to the satisfaction of the Secretary
6 that the excessive payment resulted from rea-
7 sonable cause.

8 “(C) EXCESSIVE PAYMENT DEFINED.—For
9 purposes of this paragraph, the term ‘excessive
10 payment’ means, with respect to a facility or
11 property for which an election is made under
12 this section for any taxable year, an amount
13 equal to the excess of—

14 “(i) the amount of the payment made
15 to the taxpayer under this subsection or
16 any amount treated as a payment which is
17 made by the taxpayer under subsection (a)
18 with respect to such facility or property for
19 such taxable year, over

20 “(ii) the amount of the credit which,
21 without application of this subsection,
22 would be otherwise allowable (determined
23 without regard to section 38(c)) under this
24 section with respect to such facility or
25 property for such taxable year.

1 “(d) DENIAL OF DOUBLE BENEFIT.—In the case of
2 a taxpayer making an election under this section with re-
3 spect to an applicable credit, such credit shall be reduced
4 to zero and shall, for any other purposes under this title,
5 be deemed to have been allowed to the taxpayer for such
6 taxable year.

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

14 “(f) BASIS REDUCTION AND RECAPTURE.—Except
15 as otherwise provided in subsection (c)(1)(A), rules similar
16 to the rules of section 50 shall apply for purposes of this
17 section.

18 “(g) REGULATIONS.—The Secretary shall issue such
19 regulations or other guidance as may be necessary or ap-
20 propriate to carry out the purposes of this section, includ-
21 ing—

22 “(1) regulations or other guidance providing
23 rules for determining a partner’s distributive share
24 of the tax exempt income described in subsection
25 (c)(2)(A)(iii), and

1 “(2) guidance to ensure that the amount of the
2 payment or deemed payment made under this sec-
3 tion is commensurate with the amount of the credit
4 that would be otherwise allowable (determined with-
5 out regard to section 38(c)).”.

6 (b) APPLICATION WITH RESPECT TO REAL ESTATE
7 INVESTMENT TRUSTS.—Section 50(d) is amended by add-
8 ing at the end the following: “In the case of a real estate
9 investment trust making an election under section 6417,
10 paragraphs (1)(B) and (2)(B) of the section 46(e) referred
11 to in paragraph (1) of this subsection shall not apply to
12 any qualified investment credit property of a real estate
13 investment trust.”.

14 (c) GROSS-UP OF DIRECT SPENDING.—Beginning in
15 fiscal year 2023 and each fiscal year thereafter, the por-
16 tion of any payment made to a taxpayer pursuant to an
17 election under section 6417 of the Internal Revenue Code
18 of 1986, or any amount treated as a payment which is
19 made by the taxpayer under subsection (a) of such section,
20 that is direct spending shall be increased by 6.0445 per-
21 cent.

22 (d) CLERICAL AMENDMENT.—The table of sections
23 for subchapter B of chapter 65 is amended by inserting
24 after the item relating to section 6416 the following new
25 item:

“Sec. 6417. Elective payment of applicable credits.”.

1 (e) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to facilities and property placed
3 in service after December 31, 2021.

4 **SEC. 126105. INVESTMENT CREDIT FOR ELECTRIC TRANS-**
5 **MISSION PROPERTY.**

6 (a) IN GENERAL.—Subpart E of part IV of sub-
7 chapter A of chapter 1 is amended by inserting after sec-
8 tion 48C the following new section:

9 **“SEC. 48D. QUALIFYING ELECTRIC TRANSMISSION PROP-**
10 **ERTY.**

11 “(a) ALLOWANCE OF CREDIT.—For purposes of sec-
12 tion 46, the qualifying electric transmission property cred-
13 it for any taxable year is an amount equal to 6 percent
14 of the basis of qualifying electric transmission property
15 placed in service by the taxpayer during such taxable year.

16 “(b) QUALIFYING ELECTRIC TRANSMISSION PROP-
17 ERTY.—For purposes of this section—

18 “(1) IN GENERAL.—The term ‘qualifying elec-
19 tric transmission property’ means tangible prop-
20 erty—

21 “(A) which is a qualifying electric trans-
22 mission line or related transmission property,

23 “(B)(i) the construction, reconstruction, or
24 erection of which is completed by the taxpayer,

25 or

1 “(ii) which is acquired by the taxpayer if
2 the original use of such property commences
3 with the taxpayer, and

4 “(C) with respect to which depreciation (or
5 amortization in lieu of depreciation) is allow-
6 able.

7 “(2) QUALIFYING ELECTRIC TRANSMISSION
8 LINE.—

9 “(A) IN GENERAL.—The term ‘qualifying
10 electric transmission line’ means an electric
11 transmission line which—

12 “(i) is capable of transmitting elec-
13 tricity at a voltage of not less than 275
14 kilovolts or is a superconducting line, and

15 “(ii) has a transmission capacity of
16 not less than 500 megawatts.

17 “(B) SUPERCONDUCTING LINE.—For pur-
18 poses of subparagraph (A), the term ‘super-
19 conducting line’ means a transmission line that
20 conducts all of its current over a super-
21 conducting material.

22 “(C) REPLACEMENT SYSTEMS.—In the
23 case of any electric transmission line which re-
24 places an existing electric transmission line,
25 subparagraph (A)(ii) shall be applied by in-

1 creasing the 500 megawatt amount specified in
2 such subparagraph by the transmission capacity
3 of such existing electric transmission line.

4 “(3) RELATED TRANSMISSION PROPERTY.—

5 “(A) IN GENERAL.—The term ‘related
6 transmission property’ means, with respect to
7 any qualifying electric transmission line, any
8 property which—

9 “(i) is listed as a ‘transmission plant’
10 in the Uniform System of Accounts for the
11 Federal Energy Regulatory Commission
12 under part 101 of subchapter C of chapter
13 I of title 18, Code of Federal Regulations,
14 and

15 “(ii) is—

16 “(I) necessary for the operation
17 of such electric transmission line, or

18 “(II) conversion equipment along
19 such electric transmission line.

20 “(B) CREDIT NOT ALLOWED SEPARATELY
21 WITH RESPECT TO RELATED PROPERTY.—No
22 credit shall be allowed to any taxpayer under
23 this section with respect to any related trans-
24 mission property unless such taxpayer is al-
25 lowed a credit under this section with respect to

1 the qualifying electric transmission line to
2 which such related transmission property re-
3 lates.

4 “(c) APPLICATION TO REPLACEMENT AND UP-
5 GRADED SYSTEMS.—

6 “(1) IN GENERAL.—In the case of any quali-
7 fying electric transmission line which replaces any
8 existing electric transmission line, in no event shall
9 the basis of such existing electric transmission line
10 (or related transmission property with respect to
11 such existing electric transmission line) be taken
12 into account in determining the credit allowed under
13 this section.

14 “(2) UPGRADES TREATED AS REPLACE-
15 MENTS.—For purposes of this section, any upgrade
16 of an existing electric transmission line shall be
17 treated as a replacement of such line.

18 “(d) EXCEPTION FOR CERTAIN PROPERTY AND
19 PROJECTS ALREADY IN PROCESS.—

20 “(1) IN GENERAL.—No credit shall be allowed
21 under this section with respect to—

22 “(A) any property that is selected for cost
23 allocation in a regional transmission plan ap-
24 proved by a transmission planning region that

1 was approved by the Federal Energy Regu-
2 latory Commission prior to January 1, 2022, or

3 “(B) any property if—

4 “(i) construction of such property be-
5 gins before January 1, 2022, or

6 “(ii) construction of any portion of
7 the qualifying electric transmission line to
8 which such property relates begins before
9 such date.

10 “(2) WHEN CONSTRUCTION BEGINS.—For pur-
11 poses of subparagraph (B) of paragraph (1), con-
12 struction of property begins when the taxpayer has
13 begun on-site physical work of a significant nature
14 with respect to such property.

15 “(e) CERTAIN QUALIFIED PROGRESS EXPENDITURES
16 RULES MADE APPLICABLE.—Rules similar to the rules of
17 subsections (c)(4) and (d) of section 46 (as in effect on
18 the day before the enactment of the Revenue Reconcili-
19 ation Act of 1990) shall apply for purposes of this section.

20 “(f) CREDIT ADJUSTMENTS; WAGE AND APPREN-
21 TICESHIP REQUIREMENTS.—

22 “(1) INCREASED CREDIT AMOUNT FOR APPLI-
23 CABLE FACILITIES.—

24 “(A) IN GENERAL.—

1 “(i) RULE.—In the case of any appli-
2 cable facility which satisfies the require-
3 ments of subparagraph (B), the amount of
4 the credit determined under subsection (a)
5 shall be such amount (determined without
6 regard to this sentence) multiplied by 5.

7 “(ii) APPLICABLE FACILITY DE-
8 FINED.—For purposes of this subsection,
9 the term ‘applicable facility’ means a quali-
10 fying electric transmission line and related
11 transmission property to which such quali-
12 fying electric transmission line relates.

13 “(B) APPLICABLE FACILITY REQUIRE-
14 MENTS.—An applicable facility meets the re-
15 quirements of this subparagraph if it is one of
16 the following:

17 “(i) An applicable facility the con-
18 struction of which begins prior to the date
19 that is 60 days after the Secretary pub-
20 lishes guidance with respect to the require-
21 ments of paragraphs (2) and (3).

22 “(ii) An applicable facility which satis-
23 fies the requirements of paragraphs (2)
24 and (3).

1 “(2) PREVAILING WAGE REQUIREMENTS.—
2 Rules similar to the rules of section 48(a)(10) shall
3 apply.

4 “(3) APPRENTICESHIP REQUIREMENTS.—Rules
5 similar to the rules of section 45(b)(8) shall apply.

6 “(4) DOMESTIC CONTENT BONUS CREDIT
7 AMOUNT.—Rules similar to the rules of section
8 48(a)(12) shall apply.

9 “(5) PHASEOUT FOR ELECTIVE PAYMENT.—
10 Rules similar to the rules of section 48(a)(13) shall
11 apply.

12 “(g) TERMINATION.—This section shall not apply to
13 any qualifying electric transmission property the construc-
14 tion of which begins after December 31, 2031.

15 “(h) REGULATIONS AND GUIDANCE.—The Secretary
16 shall issue such regulations or other guidance as the Sec-
17 retary determines necessary or appropriate to carry out
18 the purposes of this section, including regulations or other
19 guidance which provides for requirements for record-
20 keeping or information reporting for purposes of admin-
21 istering the requirements of this section.”.

22 (b) ELECTIVE PAYMENT OF CREDIT.—Subsection (b)
23 of section 6417, as added by section 126104, is amended
24 by adding at the end the following new paragraph:

1 “(6) The qualifying electric transmission prop-
2 erty credit determined under section 48D.”.

3 (c) SPECIAL RULE FOR PROPERTY FINANCED BY
4 TAX-EXEMPT BONDS.—Section 48D, as added by sub-
5 section (a), is amended—

6 (1) by redesignating subsections (g) and (h) as
7 subsections (h) and (i), respectively, and

8 (2) by inserting after subsection (f) the fol-
9 lowing new subsection:

10 “(g) SPECIAL RULE FOR PROPERTY FINANCED BY
11 TAX-EXEMPT BONDS.—Rules similar to the rules of sec-
12 tion 45(b)(3) shall apply.”.

13 (d) CONFORMING AMENDMENTS.—

14 (1) Paragraph (6) of section 46 is amended to
15 read as follows:

16 “(6) the qualifying electric transmission prop-
17 erty credit.”.

18 (2) Section 49(a)(1)(C) is amended—

19 (A) by striking “and” at the end of clause
20 (iv),

21 (B) by striking the period at the end of
22 clause (v) and inserting “, and”, and

23 (C) by adding at the end the following new
24 clause:

411

1 “(vi) the basis of any qualifying elec-
2 tric transmission property under section
3 48D.”.

4 (3) Section 50(a)(2)(E) is amended by striking
5 “or 48C(b)(2)” and inserting “48C(b)(2), or
6 48D(e)”.

7 (4) The table of sections for subpart E of part
8 IV of subchapter A of chapter 1 of such Code is
9 amended by inserting after the item relating to sec-
10 tion 48C the following new item:

“Sec. 48D. Qualifying electric transmission property.”.

11 (e) EFFECTIVE DATE.—

12 (1) IN GENERAL.—The amendments made by
13 subsections (a), (b), and (d) of this section shall
14 apply to property placed in service after December
15 31, 2021.

16 (2) TAX-EXEMPT BONDS.—The amendment
17 made by subsection (c) shall apply to property the
18 construction of which begins after December 31,
19 2021.

20 (3) EXCEPTION FOR CERTAIN PROPERTY AND
21 PROJECTS ALREADY IN PROCESS.—For exclusion of
22 certain property and projects already in process, see
23 section 48D(d) of the Internal Revenue Code of
24 1986 (as added by this section).

1 **SEC. 126106. EXTENSION AND MODIFICATION OF CREDIT**
2 **FOR CARBON OXIDE SEQUESTRATION.**

3 (a) MODIFICATION OF CARBON OXIDE CAPTURE RE-
4 QUIREMENTS.—Section 45Q(d) is amended to read as fol-
5 lows:

6 “(d) QUALIFIED FACILITY.—For purposes of this
7 section, the term ‘qualified facility’ means any industrial
8 facility or direct air capture facility—

9 “(1) the construction of which begins before
10 January 1, 2032, and either—

11 “(A) construction of carbon capture equip-
12 ment begins before such date, or

13 “(B) the original planning and design for
14 such facility includes installation of carbon cap-
15 ture equipment, and

16 “(2) which captures—

17 “(A) in the case of a direct air capture fa-
18 cility, not less than 1,000 metric tons of quali-
19 fied carbon oxide during the taxable year,

20 “(B) in the case of an electricity gener-
21 ating facility, not less than 18,750 metric tons
22 of qualified carbon oxide during the taxable
23 year and not less than 75 percent by mass of
24 the carbon oxide that would otherwise be re-
25 leased into the atmosphere by such facility dur-
26 ing such taxable year, and

1 “(C) in the case of any other facility, not
2 less than 12,500 metric tons of qualified carbon
3 oxide during the taxable year.”.

4 (b) MODIFIED APPLICABLE DOLLAR AMOUNT.—Sec-
5 tion 45Q(b)(1)(A) is amended—

6 (1) in clause (i)—

7 (A) in subclause (I), by striking “the dollar
8 amount” and all that follows through “such pe-
9 riod” and inserting “\$17”, and

10 (B) in subclause (II), by striking “the dol-
11 lar amount” and all that follows through “such
12 period” and inserting “\$12”, and

13 (2) in clause (ii)—

14 (A) in subclause (I), by striking “\$50” and
15 inserting “\$17”, and

16 (B) in subclause (II), by striking “\$35”
17 and inserting “\$12”.

18 (c) DETERMINATION OF APPLICABLE DOLLAR
19 AMOUNT.—

20 (1) IN GENERAL.—Section 45Q(b)(1), as
21 amended by the preceding provisions of this Act, is
22 amended—

23 (A) by redesignating subparagraph (B) as
24 subparagraph (D), and

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

3 “(B) SPECIAL RULE FOR DIRECT AIR CAP-
4 TURE FACILITIES.—In the case of any qualified
5 facility described in subsection (d)(2)(A) the
6 construction of which begins after December
7 31, 2021, the applicable dollar amount shall be
8 an amount equal to the applicable dollar
9 amount otherwise determined with respect to
10 such qualified facility under subparagraph (A),
11 except that such subparagraph shall be ap-
12 plied—

13 “(i) by substituting ‘\$36’ for ‘\$17’
14 each place it appears, and

15 “(ii) by substituting ‘\$26’ for ‘\$12’
16 each place it appears.

17 “(C) APPLICABLE DOLLAR AMOUNT FOR
18 ADDITIONAL CARBON CAPTURE EQUIPMENT.—
19 In the case of any qualified facility the con-
20 struction of which begins before January 1,
21 2022, if any additional carbon capture equip-
22 ment is installed at such facility and construc-
23 tion of such equipment begins after December
24 31, 2021, the applicable dollar amount shall be
25 an amount equal to the applicable dollar

1 amount otherwise determined under this para-
2 graph, except that subparagraph (B) shall be
3 applied—

4 “(i) by substituting ‘before January 1,
5 2022’ for ‘after December 31, 2021’, and

6 “(ii) by substituting ‘the additional
7 carbon capture equipment installed at such
8 qualified facility’ for ‘such qualified facil-
9 ity.’”.

10 (2) CONFORMING AMENDMENTS.—

11 (A) Section 45Q(b)(1)(A) is amended by
12 striking “The applicable dollar amount” and in-
13 serting “Except as provided in subparagraph
14 (B) or (C), the applicable dollar amount”.

15 (B) Section 45Q(b)(1)(D), as redesignated
16 by paragraph (1)(A), is amended by striking
17 “subparagraph (A)” and inserting “subpara-
18 graph (A), (B), or (C)”.

19 (d) INSTALLATION OF ADDITIONAL CARBON CAP-
20 TURE EQUIPMENT ON CERTAIN FACILITIES.—

21 (1) IN GENERAL.—Section 45Q(b) is amended
22 by redesignating paragraph (3) as paragraph (4)
23 and by inserting after paragraph (2) the following
24 new paragraph:

1 “(3) INSTALLATION OF ADDITIONAL CARBON
2 CAPTURE EQUIPMENT ON CERTAIN FACILITIES.—In
3 the case of a qualified facility described in para-
4 graph (1)(C), for purposes of determining the
5 amount of qualified carbon oxide which is captured
6 by the taxpayer, rules similar to rules of paragraph
7 (2) shall apply for purposes of subsection (a).”.

8 (2) CONFORMING AMENDMENT.—Section
9 45Q(b)(2) is amended by striking “In the case” and
10 inserting “Subject to paragraph (3), in the case”.

11 (e) WAGE AND APPRENTICESHIP REQUIREMENTS.—
12 Section 45Q is amended by redesignating subsection (h)
13 as subsection (i) and inserting after subsection (g) fol-
14 lowing new subsection:

15 “(h) INCREASED CREDIT AMOUNT FOR QUALIFIED
16 FACILITIES AND CARBON CAPTURE EQUIPMENT.—

17 “(1) IN GENERAL.—In the case of any qualified
18 facility and any carbon capture equipment which
19 satisfy the requirements of paragraph (2), the
20 amount of the credit determined under subsection
21 (a) shall be equal to such amount (determined with-
22 out regard to this sentence) multiplied by 5.

23 “(2) REQUIREMENTS.—The requirements de-
24 scribed in this paragraph are that—

1 “(A) with respect to any qualified facility
2 the construction of which begins on or after the
3 date that is 60 days after the Secretary pub-
4 lishes guidance with respect to the requirements
5 of paragraphs (3)(A) and (4), as well as any
6 carbon capture equipment placed in service at
7 such facility—

8 “(i) subject to subparagraph (B) of
9 paragraph (3), the taxpayer satisfies the
10 requirements under subparagraph (A) of
11 such paragraph with respect to such facil-
12 ity and equipment, and

13 “(ii) the taxpayer satisfies the re-
14 quirements under paragraph (4) with re-
15 spect to the construction of such facility
16 and equipment,

17 “(B) with respect to any carbon capture
18 equipment the construction of which begins
19 after the date that is 60 days after the Sec-
20 retary publishes guidance with respect to the
21 requirements of paragraphs (3)(A) and (4), and
22 which is installed at a qualified facility the con-
23 struction of which began prior to such date—

24 “(i) subject to subparagraph (B) of
25 paragraph (3), the taxpayer satisfies the

1 requirements under subparagraph (A) of
2 such paragraph with respect to such equip-
3 ment, and

4 “(ii) the taxpayer satisfies the re-
5 quirements under paragraph (4) with re-
6 spect to the construction of such equip-
7 ment, or

8 “(C) the construction of carbon capture
9 equipment begins prior to the date that is 60
10 days after the Secretary publishes guidance
11 with respect to the requirements of paragraphs
12 (3)(A) and (4), and such equipment is installed
13 at a qualified facility the construction of which
14 begins prior to such date.

15 “(3) PREVAILING WAGE REQUIREMENTS.—

16 “(A) IN GENERAL.—The requirements de-
17 scribed in this subparagraph with respect to
18 any qualified facility and any carbon capture
19 equipment placed in service at such facility are
20 that the taxpayer shall ensure that any laborers
21 and mechanics employed by contractors and
22 subcontractors in—

23 “(i) the construction of such facility
24 or equipment, and

1 “(ii) with respect to any taxable year,
2 for any portion of such taxable year which
3 is within the period described in paragraph
4 (3)(A) or (4)(A) of subsection (a), the al-
5 teration or repair of such facility or such
6 equipment,

7 shall be paid wages at rates not less than the
8 prevailing rates for construction, alteration, or
9 repair of a similar character in the locality as
10 most recently determined by the Secretary of
11 Labor, in accordance with subchapter IV of
12 chapter 31 of title 40, United States Code. For
13 purposes of determining an increased credit
14 amount under paragraph (1) for a taxable year,
15 the requirement under clause (ii) of this sub-
16 paragraph is applied to such taxable year in
17 which the alteration or repair of qualified facil-
18 ity occurs.

19 “(B) CORRECTION AND PENALTY RELATED
20 TO FAILURE TO SATISFY WAGE REQUIRE-
21 MENTS.—Rules similar to the rules of section
22 45(b)(7)(B) shall apply.

23 “(4) APPRENTICESHIP REQUIREMENTS.—Rules
24 similar to the rules of section 45(b)(8) shall apply.

1 “(5) REGULATIONS AND GUIDANCE.—The Sec-
2 retary shall issue such regulations or other guidance
3 as the Secretary determines necessary or appropriate
4 to carry out the purposes of this subsection, includ-
5 ing regulations or other guidance which provides for
6 requirements for recordkeeping or information re-
7 porting for purposes of administering the require-
8 ments of this subsection.”.

9 (f) CREDIT REDUCED FOR TAX-EXEMPT BONDS.—
10 Section 45Q(f) is amended—

11 (1) by striking the second paragraph (3), as
12 added at the end of such section by section 80402(e)
13 of the Infrastructure Investment and Jobs Act (Pub-
14 lic Law 117-58), and

15 (2) by adding at the end the following new
16 paragraph:

17 “(8) CREDIT REDUCED FOR TAX-EXEMPT
18 BONDS.—Rules similar to the rule under section
19 45(b)(3) shall apply for purposes of this section.”.

20 (g) APPLICATION OF SECTION FOR CERTAIN CARBON
21 CAPTURE EQUIPMENT.—Section 45Q(g) is amended by
22 inserting “the earlier of January 1, 2023, and” before
23 “the end of the calendar year”.

1 (h) ELECTION.—Section 45Q(f), as amended by sub-
2 section (f), is amended by adding at the end the following
3 new paragraph:

4 “(9) ELECTION.—For purposes of paragraphs
5 (3) and (4) of subsection (a), a person described in
6 paragraph (3)(A)(ii) may elect, at such time and in
7 such manner as the Secretary may prescribe, to have
8 the 12–year period begin on the first day of the first
9 taxable year in which a credit under this section is
10 claimed with respect to carbon capture equipment
11 which is originally placed in service at a qualified fa-
12 cility on or after the date of the enactment of the
13 Bipartisan Budget Act of 2018 (after application of
14 subsection (f)(6), where applicable) if—

15 “(A) no taxpayer claimed a credit under
16 this section with respect to such carbon capture
17 equipment for any prior taxable year,

18 “(B) the qualified facility at which such
19 carbon capture equipment is placed in service is
20 located in an area affected by a federally-de-
21 clared disaster (as defined by section
22 165(i)(5)(A)) after the carbon capture equip-
23 ment is originally placed in service, and

24 “(C) such federally-declared disaster re-
25 sults in a cessation of the operation of the

1 qualified facility after the carbon capture equip-
2 ment is originally placed in service.”.

3 (i) EFFECTIVE DATES.—

4 (1) The amendments made by subsections (a),
5 (b), (c), (d), (e), (f), and (g) shall apply to facilities
6 or equipment the construction of which begins after
7 December 31, 2021.

8 (2) The amendments made by subsection (h)
9 shall apply to carbon oxide captured and disposed of
10 after December 31, 2021.

11 **SEC. 126107. GREEN ENERGY PUBLICLY TRADED PARTNER-**
12 **SHIPS.**

13 (a) IN GENERAL.—Section 7704(d)(1)(E) is amend-
14 ed—

15 (1) by striking “income and gains derived from
16 the exploration” and inserting “income and gains
17 derived from—

18 “(i) the exploration”,

19 (2) by inserting “or” before “industrial
20 source”, and

21 (3) by striking “, or the transportation or stor-
22 age” and all that follows and inserting the following:

23 “(ii) the generation of electric power
24 or thermal energy exclusively using any

1 qualified energy resource (as defined in
2 section 45(c)(1)),

3 “(iii) the operation of energy property
4 (as defined in section 48(a)(3), determined
5 without regard to any date by which the
6 construction of the property is required to
7 begin),

8 “(iv) in the case of a facility described
9 in paragraph (3) or (7) of section 45(d)
10 (determined without regard to any placed
11 in service date or date by which construc-
12 tion of the facility is required to begin),
13 the accepting or processing of open-loop
14 biomass or municipal solid waste,

15 “(v) the transportation or storage of
16 any fuel described in subsection (b), (c),
17 (d), or (e) of section 6426,

18 “(vi) the conversion of renewable bio-
19 mass (as defined in subparagraph (I) of
20 section 211(o)(1) of the Clean Air Act (as
21 in effect on the date of the enactment of
22 this clause)) into renewable fuel (as de-
23 fined in subparagraph (J) of such section
24 as so in effect), or the storage or transpor-
25 tation of such fuel,

1 “(vii) the production, storage, or
2 transportation of any fuel which—

3 “(I) uses as its primary feedstock
4 carbon oxides captured from an an-
5 thropogenic source or the atmosphere,

6 “(II) does not use as its primary
7 feedstock carbon oxide which is delib-
8 erately released from naturally occur-
9 ring subsurface springs, and

10 “(III) is determined by the Sec-
11 retary to achieve a reduction of not
12 less than a 60 percent in lifecycle
13 greenhouse gas emissions (as defined
14 in section 211(o)(1)(H) of the Clean
15 Air Act, as in effect on the date of the
16 enactment of this clause) compared to
17 baseline lifecycle greenhouse gas emis-
18 sions (as defined in section
19 211(o)(1)(C) of such Act, as so in ef-
20 fect), or

21 “(viii) a qualified facility (as defined
22 in section 45Q(d), without regard to any
23 date by which construction of the facility is
24 required to begin).”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section apply to taxable years beginning after Decem-
3 ber 31, 2021.

4 **SEC. 126108. ZERO-EMISSION NUCLEAR POWER PRODUC-**
5 **TION CREDIT.**

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

10 **“SEC. 45V. ZERO-EMISSION NUCLEAR POWER PRODUCTION**
11 **CREDIT.**

12 “(a) AMOUNT OF CREDIT.—For purposes of section
13 38, the zero-emission nuclear power production credit for
14 any taxable year is an amount equal to the amount by
15 which—

16 “(1) the product of—

17 “(A) 0.3 cents, multiplied by

18 “(B) the kilowatt hours of electricity—

19 “(i) produced by the taxpayer at a
20 qualified nuclear power facility, and

21 “(ii) sold by the taxpayer to an unre-
22 lated person during the taxable year, ex-
23 ceeds

24 “(2) the reduction amount for such taxable
25 year.

1 “(b) DEFINITIONS.—

2 “(1) QUALIFIED NUCLEAR POWER FACILITY.—

3 For purposes of this section, the term ‘qualified nu-
4 clear power facility’ means any nuclear facility—

5 “(A) which is owned by the taxpayer and
6 which uses nuclear energy to produce elec-
7 tricity,

8 “(B) which is not an advanced nuclear
9 power facility as defined in subsection (d)(1) of
10 section 45J, and

11 “(C) which is placed in service before the
12 date of the enactment of this section.

13 “(2) REDUCTION AMOUNT.—

14 “(A) IN GENERAL.—For purposes of this
15 section, the term ‘reduction amount’ means,
16 with respect to any qualified nuclear power fa-
17 cility for any taxable year, the amount equal to
18 the lesser of—

19 “(i) the amount determined under
20 subsection (a)(1), or

21 “(ii) the amount equal to 16 percent
22 of the excess of—

23 “(I) subject to subparagraph (B),
24 the gross receipts from any electricity
25 produced by such facility (including

1 any electricity services or products
2 provided in conjunction with the elec-
3 tricity produced by such facility) and
4 sold to an unrelated person during
5 such taxable year, over

6 “(II) the amount equal to the
7 product of—

8 “(aa) 2.5 cents, multiplied
9 by

10 “(bb) the amount deter-
11 mined under subsection
12 (a)(1)(B).

13 “(B) TREATMENT OF CERTAIN RE-
14 CEIPTS.—

15 “(i) IN GENERAL.—The amount de-
16 termined under subparagraph (A)(ii)(I)
17 shall include any amount received by the
18 taxpayer during the taxable year with re-
19 spect to the qualified nuclear power facility
20 from a zero-emission credit program unless
21 the amount received by the taxpayer is
22 subject to reduction—

23 “(I) by the full amount of the
24 credit determined under this section,
25 or

1 “(II) by any lesser amount if
2 such amount entirely offsets the
3 amount received from a zero-emission
4 credit program.

5 “(ii) ZERO-EMISSION CREDIT PRO-
6 GRAM.—For purposes of this subpara-
7 graph, the term ‘zero-emission credit pro-
8 gram’ means any payments to a qualified
9 nuclear power facility as a result of any
10 Federal, State or local government pro-
11 gram for, in whole or in part, the zero-
12 emission, zero-carbon, or air quality at-
13 tributes of any portion of the electricity
14 produced by such facility.

15 “(3) ELECTRICITY.—For purposes of this sec-
16 tion, the term ‘electricity’ means the energy pro-
17 duced by a qualified nuclear power facility from the
18 conversion of nuclear fuel into electric power.

19 “(c) OTHER RULES.—

20 “(1) INFLATION ADJUSTMENT.—The 0.3 cent
21 amount in subsection (a)(1)(A) and the 2.5 cent
22 amount in subsection (b)(2)(A)(ii)(II)(aa) shall each
23 be adjusted by multiplying such amount by the infla-
24 tion adjustment factor (as determined under section
25 45(e)(2), as applied by substituting ‘calendar year

1 2022’ for ‘calendar year 1992’ in subparagraph (B)
2 thereof) for the calendar year in which the sale oc-
3 curs. If the 0.3 cent amount as increased under this
4 paragraph is not a multiple of 0.05 cent, such
5 amount shall be rounded to the nearest multiple of
6 0.05 cent. If the 2.5 cent amount as increased under
7 this paragraph is not a multiple of 0.1 cent, such
8 amount shall be rounded to the nearest multiple of
9 0.1 cent.

10 “(2) SPECIAL RULES.—Rules similar to the
11 rules of paragraphs (1), (3), (4), and (5) of section
12 45(e) shall apply for purposes of this section.

13 “(d) WAGE REQUIREMENTS.—

14 “(1) INCREASED CREDIT AMOUNT AND REDUC-
15 TION AMOUNT FOR QUALIFIED NUCLEAR POWER FA-
16 CILITIES.—In the case of any qualified nuclear
17 power facility which satisfies the requirements of
18 paragraph (2)(A)—

19 “(A) the amount of the credit determined
20 under subsection (a), and

21 “(B) the percentage described in sub-
22 section (b)(2)(A)(ii),

23 shall each be equal to such amount (determined
24 without regard to this sentence) or percentage multi-
25 plied by 5.

1 “(2) PREVAILING WAGE REQUIREMENTS.—

2 “(A) IN GENERAL.—The requirements de-
3 scribed in this subparagraph with respect to
4 any qualified nuclear power facility are that the
5 taxpayer shall ensure that any laborers and me-
6 chanics employed by contractors and sub-
7 contractors in the alteration or repair of such
8 facility shall be paid wages at rates not less
9 than the prevailing rates for alteration or repair
10 of a similar character in the locality as most re-
11 cently determined by the Secretary of Labor, in
12 accordance with subchapter IV of chapter 31 of
13 title 40, United States Code.

14 “(B) CORRECTION AND PENALTY RELATED
15 TO FAILURE TO SATISFY WAGE REQUIRE-
16 MENTS.—Rules similar to the rules of section
17 45(b)(7)(B) shall apply.

18 “(3) REGULATIONS AND GUIDANCE.—The Sec-
19 retary shall issue such regulations or other guidance
20 as the Secretary determines necessary or appropriate
21 to carry out the purposes of this subsection, includ-
22 ing regulations or other guidance which provides for
23 requirements for recordkeeping or information re-
24 porting for purposes of administering the require-
25 ments of this subsection.

1 “(e) TERMINATION.—This section shall not apply to
2 taxable years beginning after December 31, 2027.”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) Section 38(b), as amended by the preceding
5 provisions of this Act, is amended—

6 (A) in paragraph (34), by striking “plus”
7 at the end,

8 (B) in paragraph (35), by striking the pe-
9 riod at the end and inserting “, plus”, and

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

12 “(36) the zero-emission nuclear power produc-
13 tion credit determined under section 45V(a).”.

14 (2) The table of sections for subpart D of part
15 IV of subchapter A of chapter 1, as amended by the
16 preceding provisions of this Act, is amended by add-
17 ing at the end the following new item:

“Sec. 45V. Zero-emission nuclear power production credit.”.

18 (c) ELECTIVE PAYMENT OF CREDIT.—Section
19 6417(b), as amended by the preceding provisions of this
20 Act, is amended by adding at the end the following new
21 paragraph:

22 “(7) The zero-emission nuclear power produc-
23 tion credit determined under section 45V.”.

1 (d) EFFECTIVE DATE.—This section shall apply to
2 electricity produced and sold after December 31, 2021, in
3 taxable years beginning after such date.

4 **PART 2—RENEWABLE FUELS**

5 **SEC. 126201. EXTENSION OF INCENTIVES FOR BIODIESEL,**
6 **RENEWABLE DIESEL AND ALTERNATIVE**
7 **FUELS.**

8 (a) BIODIESEL AND RENEWABLE DIESEL CREDIT.—
9 Section 40A(g) is amended by striking “December 31,
10 2022” and inserting “December 31, 2026”.

11 (b) BIODIESEL MIXTURE CREDIT.—

12 (1) IN GENERAL.—Section 6426(c)(6) is
13 amended by striking “December 31, 2022” and in-
14 serting “December 31, 2026”.

15 (2) FUELS NOT USED FOR TAXABLE PUR-
16 POSES.—Section 6427(e)(6)(B) is amended by strik-
17 ing “December 31, 2022” and inserting “December
18 31, 2026”.

19 (c) ALTERNATIVE FUEL CREDIT.—Section
20 6426(d)(5) is amended by striking “December 31, 2021”
21 and inserting “December 31, 2026”.

22 (d) ALTERNATIVE FUEL MIXTURE CREDIT.—Section
23 6426(e)(3) is amended by striking “December 31, 2021”
24 and inserting “December 31, 2026”.

1 (e) PAYMENTS FOR ALTERNATIVE FUELS.—Section
2 6427(e)(6)(C) is amended by striking “December 31,
3 2021” and inserting “December 31, 2026”.

4 (f) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to fuel sold or used after December
6 31, 2021.

7 **SEC. 126202. EXTENSION OF SECOND GENERATION**
8 **BIOFUEL INCENTIVES.**

9 (a) IN GENERAL.—Section 40(b)(6)(J)(i) is amended
10 by striking “2022” and inserting “2027”.

11 (b) EFFECTIVE DATE.—The amendment made by
12 subsection (a) shall apply to qualified second generation
13 biofuel production after December 31, 2021.

14 **SEC. 126203. SUSTAINABLE AVIATION FUEL CREDIT.**

15 (a) IN GENERAL.—Subpart D of part IV of sub-
16 chapter A of chapter 1 is amended by inserting after sec-
17 tion 40A the following new section:

18 **“SEC. 40B. SUSTAINABLE AVIATION FUEL CREDIT.**

19 “(a) IN GENERAL.—For purposes of section 38, the
20 sustainable aviation fuel credit determined under this sec-
21 tion for the taxable year is, with respect to any sale or
22 use of a qualified mixture which occurs during such tax-
23 able year, an amount equal to the product of—

24 “(1) the number of gallons of sustainable avia-
25 tion fuel in such mixture, multiplied by

1 “(2) the sum of—

2 “(A) \$1.25, plus

3 “(B) the applicable supplementary amount
4 with respect to such sustainable aviation fuel.

5 “(b) APPLICABLE SUPPLEMENTARY AMOUNT.—For
6 purposes of this section, the term ‘applicable supple-
7 mentary amount’ means, with respect to any sustainable
8 aviation fuel, an amount equal to \$0.01 for each percent-
9 age point by which the lifecycle greenhouse gas emissions
10 reduction percentage with respect to such fuel exceeds 50
11 percent. In no event shall the applicable supplementary
12 amount determined under this subsection exceed \$0.50.

13 “(c) QUALIFIED MIXTURE.—For purposes of this
14 section, the term ‘qualified mixture’ means a mixture of
15 sustainable aviation fuel and kerosene if—

16 “(1) such mixture is produced by the taxpayer
17 in the United States,

18 “(2) such mixture is used by the taxpayer (or
19 sold by the taxpayer for use) in an aircraft,

20 “(3) such sale or use is in the ordinary course
21 of a trade or business of the taxpayer, and

22 “(4) the transfer of such mixture to the fuel
23 tank of such aircraft occurs in the United States.

1 “(d) SUSTAINABLE AVIATION FUEL.—For purposes
2 of this section, the term ‘sustainable aviation fuel’ means
3 liquid fuel which—

4 “(1) meets the requirements of—

5 “(A) ASTM International Standard
6 D7566-21, or

7 “(B) the Fischer Tropsch provisions of
8 ASTM International Standard D1655-21,
9 Annex A1,

10 “(2) is not derived from palm fatty acid dis-
11 tillates or petroleum, and

12 “(3) has been certified in accordance with sub-
13 section (e) as having a lifecycle greenhouse gas emis-
14 sions reduction percentage of at least 50 percent.

15 “(e) LIFECYCLE GREENHOUSE GAS EMISSIONS RE-
16 Duction Percentage.—For purposes of this section, the
17 term ‘lifecycle greenhouse gas emissions reduction per-
18 centage’ means, with respect to any sustainable aviation
19 fuel, the percentage reduction in lifecycle greenhouse gas
20 emissions—

21 “(1) as defined in accordance with—

22 “(A) the most recent Carbon Offsetting
23 and Reduction Scheme for International Avia-
24 tion which has been adopted by the Inter-

1 national Civil Aviation Organization with the
2 agreement of the United States, or

3 “(B) any equivalent methodology which
4 satisfies the criteria under section 211(o)(1)(H)
5 of the Clean Air Act (42 U.S.C.
6 7545(o)(1)(H)), and

7 “(2) achieved by such fuel as compared with pe-
8 troleum-based jet fuel.

9 “(f) REGISTRATION OF SUSTAINABLE AVIATION
10 FUEL PRODUCERS.—No credit shall be allowed under this
11 section with respect to any sustainable aviation fuel unless
12 the producer of such fuel—

13 “(1) is registered with the Secretary under sec-
14 tion 4101, and

15 “(2) provides—

16 “(A) certification (in such form and man-
17 ner as the Secretary shall prescribe) from an
18 unrelated party demonstrating compliance
19 with—

20 “(i) any supply chain traceability and
21 information transmission requirements
22 under subparagraph (A) of subsection
23 (e)(1), or

24 “(ii) any methodology described in
25 subparagraph (B) of such subsection, and

1 “(B) such other information with respect
2 to such fuel as the Secretary may require for
3 purposes of carrying out this section.

4 “(g) COORDINATION WITH CREDIT AGAINST EXCISE
5 TAX.—The amount of the credit determined under this
6 section with respect to any sustainable aviation fuel shall,
7 under rules prescribed by the Secretary, be properly re-
8 duced to take into account any benefit provided with re-
9 spect to such sustainable aviation fuel solely by reason of
10 the application of section 6426 or 6427(e).

11 “(h) TERMINATION.—This section shall not apply to
12 any sale or use after December 31, 2026.”.

13 (b) CREDIT MADE PART OF GENERAL BUSINESS
14 CREDIT.— Section 38(b), as amended by the preceding
15 provisions of this Act, is amended by striking “plus” at
16 the end of paragraph (35), by striking the period at the
17 end of paragraph (36) and inserting “, plus”, and by in-
18 serting after paragraph (36) the following new paragraph:

19 “(37) the sustainable aviation fuel credit deter-
20 mined under section 40B.”.

21 (c) COORDINATION WITH BIODIESEL INCENTIVES.—

22 (1) IN GENERAL.—Section 40A(d)(1) is amend-
23 ed by inserting “or 40B” after “determined under
24 section 40”.

1 (2) CONFORMING AMENDMENT.—Section
2 40A(f) is amended by striking paragraph (4).

3 (d) SUSTAINABLE AVIATION FUEL ADDED TO CRED-
4 IT FOR ALCOHOL FUEL, BIODIESEL, AND ALTERNATIVE
5 FUEL MIXTURES.—

6 (1) IN GENERAL.—Section 6426 is amended by
7 adding at the end the following new subsection:

8 “(k) SUSTAINABLE AVIATION FUEL CREDIT.—

9 “(1) IN GENERAL.—For purposes of this sec-
10 tion, the sustainable aviation fuel credit for the tax-
11 able year is, with respect to any sale or use of a
12 qualified mixture, an amount equal to the product
13 of—

14 “(A) the number of gallons of sustainable
15 aviation fuel in such mixture, multiplied by

16 “(B) the sum of—

17 “(i) \$1.25, plus

18 “(ii) the applicable supplementary
19 amount with respect to such sustainable
20 aviation fuel.

21 “(2) DEFINITIONS.—Any term used in this sub-
22 section which is also used in section 40B shall have
23 the meaning given such term by section 40B.

1 “(3) REGISTRATION REQUIREMENT.—For pur-
2 poses of this subsection, rules similar to the rules of
3 section 40B(f) shall apply.”.

4 (2) CONFORMING AMENDMENTS.—

5 (A) Section 6426 is amended—

6 (i) in subsection (a)(1), by striking
7 “and (e)” and inserting “(e), and (k)”,
8 and

9 (ii) in subsection (h), by striking
10 “under section 40 or 40A” and inserting
11 “under section 40, 40A, or 40B”.

12 (B) Section 6427(e) is amended—

13 (i) in the heading, by striking “OR
14 ALTERNATIVE FUEL” and inserting, “AL-
15 TERNATIVE FUEL, OR SUSTAINABLE AVIA-
16 TION FUEL”,

17 (ii) in paragraph (1), by inserting “or
18 the sustainable aviation fuel mixture cred-
19 it” after “alternative fuel mixture credit”,
20 and

21 (iii) in paragraph (6)—

22 (I) in subparagraph (C), by strik-
23 ing “and” at the end,

1 (II) in subparagraph (D), by
2 striking the period at the end and in-
3 sserting “, and”, and

4 (III) by adding at the end the
5 following new subparagraph:

6 “(E) any qualified mixture of sustainable
7 aviation fuel (as defined in section 6426(k)(3))
8 sold or used after December 31, 2026.”.

9 (C) Section 4101(a)(1) is amended by in-
10 sserting “every person producing sustainable
11 aviation fuel (as defined in section 40B),” be-
12 fore “and every person producing second gen-
13 eration biofuel”.

14 (D) The table of sections for subpart D of
15 subchapter A of chapter 1 is amended by in-
16 sserting after the item relating to section 40A
17 the following new item:

“Sec. 40B. Sustainable aviation fuel credit.”.

18 (e) GUIDANCE.—Under rules prescribed by the Sec-
19 retary of the Treasury (or the Secretary’s delegate), the
20 amount of the credit allowed under section 40B of the In-
21 ternal Revenue Code of 1986 (as added by this section)
22 shall be properly reduced to take into account any benefit
23 provided with respect to sustainable aviation fuel (as de-
24 fined in such section 40B) by reason of the application
25 of section 6426 or section 6427(e).

1 (f) AMOUNT OF CREDIT INCLUDED IN GROSS IN-
2 COME.—Section 87 is amended by striking “and” in para-
3 graph (1), by striking the period at the end of paragraph
4 (2) and inserting “, and”, and by adding at the end the
5 following new paragraph:

6 “(3) the sustainable aviation fuel credit deter-
7 mined with respect to the taxpayer for the taxable
8 year under section 40B(a).”.

9 (g) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to fuel sold or used after December
11 31, 2022.

12 **SEC. 126204. CLEAN HYDROGEN.**

13 (a) CREDIT FOR PRODUCTION OF CLEAN HYDRO-
14 GEN.—

15 (1) IN GENERAL.—Subpart D of part IV of
16 subchapter A of chapter 1, as amended by the pre-
17 ceding provisions of this Act, is amended by adding
18 at the end the following new section:

19 **“SEC. 45W. CREDIT FOR PRODUCTION OF CLEAN HYDRO-
20 GEN.**

21 “(a) AMOUNT OF CREDIT.—For purposes of section
22 38, the clean hydrogen production credit for any taxable
23 year is an amount equal to the product of—

24 “(1) the applicable amount, multiplied by

1 “(2) the kilograms of qualified clean hydrogen
2 produced by the taxpayer during such taxable year
3 at a qualified clean hydrogen production facility dur-
4 ing the 10-year period beginning on the date such
5 facility was originally placed in service.

6 “(b) APPLICABLE AMOUNT.—

7 “(1) IN GENERAL.—For purposes of subsection
8 (a)(1), the applicable amount shall be an amount
9 equal to the applicable percentage of \$0.60. If any
10 amount as determined under the preceding sentence
11 is not a multiple of 0.1 cent, such amount shall be
12 rounded to the nearest multiple of 0.1 cent.

13 “(2) APPLICABLE PERCENTAGE.—For purposes
14 of paragraph (1), the term ‘applicable percentage’
15 shall be determined as follows:

16 “(A) In the case of any qualified clean hy-
17 drogen which is produced by a facility that is
18 placed in service before January 1, 2027,
19 through a process that results in a lifecycle
20 greenhouse gas emissions rate of—

21 “(i) not greater than 6 kilograms of
22 CO₂e per kilogram of hydrogen, and

23 “(ii) not less than 4 kilograms of
24 CO₂e per kilogram of hydrogen,

25 the applicable percentage shall be 15 percent.

1 “(B) In the case of any qualified clean hy-
2 drogen which is produced through a process
3 that results in a lifecycle greenhouse gas emis-
4 sions rate of—

5 “(i) less than 4 kilograms of CO₂e
6 per kilogram of hydrogen, and

7 “(ii) not less than 2.5 kilograms of
8 CO₂e per kilogram of hydrogen,
9 the applicable percentage shall be 20 percent.

10 “(C) In the case of any qualified clean hy-
11 drogen which is produced through a process
12 that results in a lifecycle greenhouse gas emis-
13 sions rate of—

14 “(i) less than 2.5 kilograms of CO₂e
15 per kilogram of hydrogen, and

16 “(ii) not less than 1.5 kilograms of
17 CO₂e per kilogram of hydrogen,
18 the applicable percentage shall be 25 percent.

19 “(D) In the case of any qualified clean hy-
20 drogen which is produced through a process
21 that results in a lifecycle greenhouse gas emis-
22 sions rate of—

23 “(i) less than 1.5 kilograms of CO₂e
24 per kilogram of hydrogen, and

1 “(ii) not less than 0.45 kilograms of
2 CO₂e per kilogram of hydrogen,
3 the applicable percentage shall be 33.4 percent.

4 “(E) In the case of any qualified clean hy-
5 drogen which is produced through a process
6 that results in a lifecycle greenhouse gas emis-
7 sions rate of less than 0.45 kilograms of CO₂e
8 per kilogram of hydrogen, the applicable per-
9 centage shall be 100 percent.

10 “(3) INFLATION ADJUSTMENT.—The \$0.60
11 amount in paragraph (1) shall be adjusted by multi-
12 plying such amount by the inflation adjustment fac-
13 tor (as determined under section 45(e)(2), deter-
14 mined by substituting ‘2020’ for ‘1992’ in subpara-
15 graph (B) thereof) for the calendar year in which
16 the qualified clean hydrogen is produced. If any
17 amount as increased under the preceding sentence is
18 not a multiple of 0.1 cent, such amount shall be
19 rounded to the nearest multiple of 0.1 cent.

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

21 “(1) LIFECYCLE GREENHOUSE GAS EMIS-
22 SIONS.—

23 “(A) IN GENERAL.—Subject to subpara-
24 graph (B), the term ‘lifecycle greenhouse gas
25 emissions’ has the same meaning given such

1 term under subparagraph (H) of section
2 211(o)(1) of the Clean Air Act (42 U.S.C.
3 7545(o)(1)), as in effect on the date of enact-
4 ment of this section.

5 “(B) GREET MODEL.—The term ‘lifecycle
6 greenhouse gas emissions’ shall only include
7 emissions through the point of production (well-
8 to-gate), as determined under the most recent
9 Greenhouse gases, Regulated Emissions, and
10 Energy use in Transportation model (commonly
11 referred to as the ‘GREET model’) developed
12 by Argonne National Laboratory, or a successor
13 model (as determined by the Secretary).

14 “(2) QUALIFIED CLEAN HYDROGEN.—

15 “(A) IN GENERAL.—The term ‘qualified
16 clean hydrogen’ means hydrogen which is pro-
17 duced through a process that results in a
18 lifecycle greenhouse gas emissions rate of not
19 greater than 6 kilograms of CO₂e per kilogram
20 of hydrogen.

21 “(B) ADDITIONAL REQUIREMENTS.—Such
22 term shall not include any hydrogen unless such
23 hydrogen is produced—

24 “(i) in the United States (as defined
25 in section 638(1)) or a possession of the

1 United States (as defined in section
2 638(2)),

3 “(ii) in the ordinary course of a trade
4 or business of the taxpayer, and

5 “(iii) in compliance with such require-
6 ments as the Secretary may prescribe
7 under subsection (f)(2).

8 “(3) QUALIFIED CLEAN HYDROGEN PRODUC-
9 TION FACILITY.—The term ‘qualified clean hydrogen
10 production facility’ means a facility—

11 “(A) owned by the taxpayer,

12 “(B) which produces qualified clean hydro-
13 gen, and

14 “(C) the construction of which begins be-
15 fore January 1, 2029.

16 “(d) SPECIAL RULES.—

17 “(1) TREATMENT OF FACILITIES OWNED BY
18 MORE THAN 1 TAXPAYER.—Rules similar to the
19 rules section 45(e)(3) shall apply for purposes of
20 this section.

21 “(2) COORDINATION WITH CREDIT FOR CARBON
22 OXIDE SEQUESTRATION.—No credit shall be allowed
23 under this section with respect to any qualified clean
24 hydrogen produced at a facility which includes car-
25 bon capture equipment for which a credit is allowed

1 to any taxpayer under section 45Q for the taxable
2 year or any prior taxable year.

3 “(e) INCREASED CREDIT AMOUNT FOR QUALIFIED
4 CLEAN HYDROGEN PRODUCTION FACILITIES.—

5 “(1) IN GENERAL.—In the case of any qualified
6 clean hydrogen production facility which satisfies the
7 requirements of paragraph (2), the amount of the
8 credit determined under subsection (a) with respect
9 to qualified clean hydrogen described in subsection
10 (b)(2) shall be equal to such amount (determined
11 without regard to this sentence) multiplied by 5.

12 “(2) REQUIREMENTS.—A facility meets the re-
13 quirements of this paragraph if it is one of the fol-
14 lowing:

15 “(A) A facility—

16 “(i) the construction of which begins
17 prior to the date that is 60 days after the
18 Secretary publishes guidance with respect
19 to the requirements of paragraphs (3)(A)
20 and (4), and

21 “(ii) which meets the requirements of
22 paragraph (3)(A) with respect to construc-
23 tion, alteration, or repair of such facility
24 which occurs after such date.

1 “(B) A facility which satisfies the require-
2 ments of paragraphs (3)(A) and (4).

3 “(3) PREVAILING WAGE REQUIREMENTS.—

4 “(A) IN GENERAL.—The requirements de-
5 scribed in this subparagraph with respect to
6 any qualified clean hydrogen production facility
7 are that the taxpayer shall ensure that any la-
8 borers and mechanics employed by contractors
9 and subcontractors in—

10 “(i) the construction of such facility,

11 and

12 “(ii) with respect to any taxable year,
13 for any portion of such taxable year which
14 is within the period described in subsection
15 (a)(2), the alteration or repair of such fa-
16 cility,

17 shall be paid wages at rates not less than the
18 prevailing rates for construction, alteration, or
19 repair of a similar character in the locality as
20 most recently determined by the Secretary of
21 Labor, in accordance with subchapter IV of
22 chapter 31 of title 40, United States Code. For
23 purposes of determining an increased credit
24 amount under paragraph (1) for a taxable year,
25 the requirement under clause (ii) of this sub-

1 paragraph is applied to such taxable year in
2 which the alteration or repair of qualified facil-
3 ity occurs.

4 “(B) CORRECTION AND PENALTY RELATED
5 TO FAILURE TO SATISFY WAGE REQUIRE-
6 MENTS.—Rules similar to the rules of section
7 45(b)(7)(B) shall apply.

8 “(4) APPRENTICESHIP REQUIREMENTS.—Rules
9 similar to the rules of section 45(b)(8) shall apply.

10 “(5) REGULATIONS AND GUIDANCE.—The Sec-
11 retary shall issue such regulations or other guidance
12 as the Secretary determines necessary or appropriate
13 to carry out the purposes of this subsection, includ-
14 ing regulations or other guidance which provides for
15 requirements for recordkeeping or information re-
16 porting for purposes of administering the require-
17 ments of this subsection.

18 “(f) REGULATIONS.—Not later than 1 year after the
19 date of enactment of this section, the Secretary shall issue
20 regulations or other guidance to carry out the purposes
21 of this section, including regulations or other guidance—

22 “(1) for determining lifecycle greenhouse gas
23 emissions, and

24 “(2) which require verification by unrelated
25 third parties of the production and sale or use of

450

1 qualified clean hydrogen with respect to which credit
2 is otherwise allowed under this section.”.

3 (2) ELECTIVE PAYMENT OF CREDIT.—

4 (A) IN GENERAL.—Section 6417(b), as
5 amended by the preceding provisions of this
6 Act, is amended by adding at the end the fol-
7 lowing new paragraph:

8 “(8) So much of the credit for production of
9 clean hydrogen determined under section 45W as is
10 attributable to qualified clean hydrogen production
11 facilities which are originally placed in service after
12 December 31, 2011, and with respect to which an
13 election is made under subsection (c)(3).”.

14 (B) ELECTION.—Section 6417(c)(3), as
15 added by section 126104, is amended by adding
16 at the end the following new subparagraph:

17 “(D) CREDIT FOR PRODUCTION OF CLEAN
18 HYDROGEN.—In the case of the credit described
19 in subsection (b)(8), any election under this
20 subsection shall—

21 “(i) apply separately with respect to
22 each qualified clean hydrogen production
23 facility,

24 “(ii) be made for the taxable year in
25 which the facility is placed in service (or

451

1 within 90 days of date of enactment of this
2 section in the case of facilities placed in
3 service before December 31, 2021), and

4 “(iii) shall apply to such taxable year
5 and all subsequent taxable years with re-
6 spect to such facility.”.

7 (3) CREDIT REDUCED FOR TAX-EXEMPT
8 BONDS.—Section 45W(d), as added by this section,
9 is amended by adding at the end the following new
10 paragraph:

11 “(3) CREDIT REDUCED FOR TAX-EXEMPT
12 BONDS.—Rules similar to the rule under section
13 45(b)(3) shall apply for purposes of this section.”.

14 (4) MODIFICATION OF EXISTING FACILITIES.—
15 Section 45W(d), as added and amended by the pre-
16 ceding provisions of this section, is amended by add-
17 ing at the end the following new paragraph:

18 “(4) MODIFICATION OF EXISTING FACILI-
19 TIES.—For purposes of subsection (a)(2), in the
20 case of any facility which—

21 “(A) was originally placed in service before
22 January 1, 2022, and, prior to the modification
23 described in subparagraph (B), did not produce
24 qualified clean hydrogen, and

1 “(B) after the date such facility was origi-
2 nally placed in service, is modified to produce
3 qualified clean hydrogen,
4 such facility shall be deemed to have been originally
5 placed in service as of the date that the property re-
6 quired to complete the modification described in sub-
7 paragraph (B) is placed in service.”.

8 (5) CONFORMING AMENDMENTS.—

9 (A) Section 38(b), as amended by the pre-
10 ceding provisions of this Act, is amended—

11 (i) in paragraph (36), by striking
12 “plus” at the end,

13 (ii) in paragraph (37), by striking the
14 period at the end and inserting “, plus”,
15 and

16 (iii) by adding at the end the fol-
17 lowing new paragraph:

18 “(38) the clean hydrogen production credit de-
19 termined under section 45W(a).”.

20 (B) The table of sections for subpart D of
21 part IV of subchapter A of chapter 1 amended
22 by adding at the end the following new item:

“Sec. 45W. Credit for production of clean hydrogen.”.

23 (6) EFFECTIVE DATES.—

24 (A) IN GENERAL.—The amendments made
25 by paragraphs (1), (2), and (5) of this sub-

1 section shall apply to hydrogen produced after
2 December 31, 2021.

3 (B) CREDIT REDUCED FOR TAX-EXEMPT
4 BONDS.—The amendment made by paragraph
5 (3) shall apply to facilities the construction of
6 which begins after December 31, 2021.

7 (C) MODIFICATION OF EXISTING FACILI-
8 TIES.—The amendment made by paragraph (4)
9 shall apply to modifications made after Decem-
10 ber 31, 2021.

11 (b) CREDIT FOR ELECTRICITY PRODUCED FROM RE-
12 NEWABLE RESOURCES ALLOWED IF ELECTRICITY IS
13 USED TO PRODUCE CLEAN HYDROGEN.—

14 (1) IN GENERAL.—Section 45(e), as amended
15 by the preceding provisions of this Act, is amended
16 by adding at the end the following new paragraph:

17 “(13) SPECIAL RULE FOR ELECTRICITY USED
18 AT A QUALIFIED CLEAN HYDROGEN PRODUCTION
19 FACILITY.—Electricity produced by the taxpayer
20 shall be treated as sold by such taxpayer to an unre-
21 lated person during the taxable year if such elec-
22 tricity is used during such taxable year by the tax-
23 payer or a person related to the taxpayer at a quali-
24 fied clean hydrogen production facility (as defined in
25 section 45W(e)(3)) to produce qualified clean hydro-

1 gen (as defined in section 45W(c)(2)) during the 10-
2 year period after such facility is placed in service.
3 The Secretary shall issue such regulations or other
4 guidance as the Secretary determines appropriate to
5 carry out the purposes of this paragraph, including
6 regulations or other guidance to require verification
7 by unrelated third parties of the production and use
8 of electricity to which this paragraph applies.”.

9 (2) EFFECTIVE DATE.—The amendment made
10 by this subsection shall apply to electricity produced
11 after December 31, 2021.

12 (c) ELECTION TO TREAT CLEAN HYDROGEN PRO-
13 Duction FACILITIES AS ENERGY PROPERTY.—

14 (1) IN GENERAL.—Section 48(a), as amended
15 by the preceding provisions of this Act, is amend-
16 ed—

17 (A) by redesignating paragraph (15) as
18 paragraph (16), and

19 (B) by inserting after paragraph (14) the
20 following new paragraph:

21 “(15) ELECTION TO TREAT CLEAN HYDROGEN
22 PRODUCTION FACILITIES AS ENERGY PROPERTY.—

23 “(A) IN GENERAL.—In the case of any
24 qualified property (as defined in paragraph

1 (5)(D)) which is part of a specified clean hydro-
2 gen production facility—

3 “(i) such property shall be treated as
4 energy property for purposes of this sec-
5 tion, and

6 “(ii) the energy percentage with re-
7 spect to such property is—

8 “(I) in the case of a facility
9 which is designed and reasonably ex-
10 pected to produce qualified clean hy-
11 drogen which is described in a sub-
12 paragraph (A) of section 45W(b)(2),
13 0.9 percent,

14 “(II) in the case of a facility
15 which is designed and reasonably ex-
16 pected to produce qualified clean hy-
17 drogen which is described in a sub-
18 paragraph (B) of such section, 1.2
19 percent,

20 “(III) in the case of a facility
21 which is designed and reasonably ex-
22 pected to produce qualified clean hy-
23 drogen which is described in a sub-
24 paragraph (C) of such section, 1.5
25 percent,

456

1 “(IV) in the case of a facility
2 which is designed and reasonably ex-
3 pected to produce qualified clean hy-
4 drogen which is described in a sub-
5 paragraph (D) of such section, 2 per-
6 cent, and

7 “(V) in the case of a facility
8 which is designed and reasonably ex-
9 pected to produce qualified clean hy-
10 drogen which is described in subpara-
11 graph (E) of such section, 6 percent.

12 “(B) DENIAL OF PRODUCTION CREDIT.—
13 No credit shall be allowed under section 45W or
14 section 45Q for any taxable year with respect to
15 any specified clean hydrogen production facility
16 or any carbon capture equipment included at
17 such facility.

18 “(C) SPECIFIED CLEAN HYDROGEN PRO-
19 DUCTION FACILITY.—For purposes of this para-
20 graph, the term ‘specified clean hydrogen pro-
21 duction facility’ means any qualified clean hy-
22 drogen production facility (as defined in section
23 45W(c)(3)) or any portion of such facility—

24 “(i) which is placed in service after
25 December 31, 2021, and

457

1 “(ii) with respect to which—

2 “(I) no credit has been allowed
3 under section 45W or 45Q, and

4 “(II) the taxpayer makes an ir-
5 revocable election to have this para-
6 graph apply.

7 “(D) QUALIFIED CLEAN HYDROGEN.—For
8 purposes of this paragraph, the term ‘qualified
9 clean hydrogen’ has the meaning given such
10 term by section 45W(c)(2).

11 “(E) REGULATIONS.—The Secretary shall
12 issue such regulations or other guidance as the
13 Secretary determines necessary or appropriate
14 to carry out the purposes of this section, includ-
15 ing regulations or other guidance which—

16 “(i) requires verification by one or
17 more unrelated third parties that the facil-
18 ity produces hydrogen which is consistent
19 with the hydrogen that such facility was
20 designed and expected to produce under
21 subparagraph (A)(ii), and

22 “(ii) recaptures so much of any credit
23 allowed under this section as exceeds the
24 amount of the credit which would have
25 been allowed if the expected production

1 were consistent with the actual verified
2 production (or all of the credit so allowed
3 in the absence of such verification).”.

4 (2) CONFORMING AMENDMENT.—Paragraph
5 (9)(A)(i) of section 48(a), as added by section
6 126102, is amended by inserting “and paragraph
7 (15)” after “paragraphs (1) through (8)”.

8 (3) EFFECTIVE DATE.—The amendments made
9 by this subsection shall apply to property placed in
10 service after December 31, 2021, and, for any prop-
11 erty the construction of which begins prior to Janu-
12 ary 1, 2022, only to the extent of the basis thereof
13 attributable to the construction, reconstruction, or
14 erection after December 31, 2021.

15 (d) TERMINATION OF EXCISE TAX CREDIT FOR HY-
16 DROGEN.—

17 (1) IN GENERAL.—Section 6426(d)(2) is
18 amended by striking subparagraph (D) and by re-
19 designating subparagraphs (E), (F), and (G) as sub-
20 paragraphs (D), (E), and (F), respectively.

21 (2) CONFORMING AMENDMENT.—Section
22 6426(e)(2) is amended by striking “(F)” and insert-
23 ing “(E)”.

1 (3) EFFECTIVE DATE.—The amendments made
2 by this subsection shall apply to fuel sold or used
3 after December 31, 2021.

4 **PART 3—GREEN ENERGY AND EFFICIENCY**
5 **INCENTIVES FOR INDIVIDUALS**

6 **SEC. 126301. EXTENSION, INCREASE, AND MODIFICATIONS**
7 **OF NONBUSINESS ENERGY PROPERTY CRED-**
8 **IT.**

9 (a) EXTENSION OF CREDIT.—Section 25C(g)(2) is
10 amended by striking “December 31, 2021” and inserting
11 “December 31, 2031”.

12 (b) ALLOWANCE OF CREDIT.—Section 25C(a) is
13 amended to read as follows:

14 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
15 dividual, there shall be allowed as a credit against the tax
16 imposed by this chapter for the taxable year an amount
17 equal to 30 percent of the sum of—

18 “(1) the amount paid or incurred by the tax-
19 payer for qualified energy efficiency improvements
20 installed during such taxable year, and

21 “(2) the amount of the residential energy prop-
22 erty expenditures paid or incurred by the taxpayer
23 during such taxable year.”.

1 (c) APPLICATION OF ANNUAL LIMITATION IN LIEU
2 OF LIFETIME LIMITATION.—Section 25C(b) is amended
3 to read as follows:

4 “(b) LIMITATIONS.—

5 “(1) IN GENERAL.—The credit allowed under
6 this section with respect to any taxpayer for any tax-
7 able year shall not exceed \$1,200.

8 “(2) ENERGY PROPERTY.—The credit allowed
9 under this section by reason of subsection (a) with
10 respect to any taxpayer for any taxable year shall
11 not exceed, with respect to any item of qualified en-
12 ergy property, \$600.

13 “(3) WINDOWS.—The credit allowed under this
14 section by reason of subsection (a)(1) with respect to
15 any taxpayer for any taxable year shall not exceed,
16 in the aggregate with respect to all exterior windows
17 and skylights, \$600.

18 “(4) DOORS.—The credit allowed under this
19 section by reason of subsection (a)(1) with respect to
20 any taxpayer for any taxable year shall not exceed—

21 “(A) \$250 in the case of any exterior door,
22 and

23 “(B) \$500 in the aggregate with respect to
24 all exterior doors.

1 “(5) CERTAIN PROPERTY EXCLUDED FROM
2 LIMITATION.—The limitations described in para-
3 graphs (1) and (2) shall not apply to amounts paid
4 or incurred for property described in—

5 “(A) clause (i) or (ii) of subsection
6 (d)(2)(A), or

7 “(B) subsection (d)(2)(B).”.

8 (d) MODIFICATIONS RELATED TO QUALIFIED EN-
9 ERGY EFFICIENCY IMPROVEMENTS.—

10 (1) INCLUSION OF ELECTRIC LOAD OR SERVICE
11 CENTER UPGRADES.—Section 25C(c) is amended—

12 (A) in paragraph (1)—

13 (i) by inserting “or any electric load
14 or service center upgrade” after “energy
15 efficient building envelope component”,
16 and

17 (ii) by striking “such component”
18 each place it appears and inserting “such
19 component or upgrade”, and

20 (B) by adding at the end the following:

21 “(5) ELECTRIC LOAD OR SERVICE CENTER UP-
22 GRADE.—The term ‘electric load or service center
23 upgrade’ means an improvement to, or replacement
24 of, a panelboard, sub-panelboard, branch circuits, or
25 feeders which—

1 “(A) enable the installation and use of
2 electric appliances, and

3 “(B) is installed in a manner consistent
4 with the National Electric Code.”.

5 (2) STANDARDS FOR ENERGY EFFICIENT
6 BUILDING ENVELOPE COMPONENTS.—Section
7 25C(e)(2) is amended by striking “meets—” and all
8 that follows through the period at the end and in-
9 serting the following: “meets—

10 “(A) in the case of an exterior window or
11 skylight, Energy Star most efficient certifi-
12 cation requirements, and

13 “(B) in the case of any other component,
14 the prescriptive criteria for such component es-
15 tablished by the most recent International En-
16 ergy Conservation Code standard in effect as of
17 the beginning of the calendar year which is 2
18 years prior to the calendar year in which such
19 component is placed in service.”.

20 (3) ROOFS NOT TREATED AS BUILDING ENVE-
21 LOPE COMPONENTS.—Section 25C(e)(3) is amended
22 by adding “and” at the end of subparagraph (B), by
23 striking “, and” at the end of subparagraph (C) and
24 inserting a period, and by striking subparagraph
25 (D).

1 (4) AIR SEALING INSULATION ADDED TO DEFI-
2 NITION OF BUILDING ENVELOPE COMPONENT.—Sec-
3 tion 25C(c)(3)(A) is amended by inserting “, includ-
4 ing air sealing material or system,” after “material
5 or system”.

6 (e) MODIFICATION OF RESIDENTIAL ENERGY PROP-
7 ERTY EXPENDITURES.—Section 25C(d) is amended to
8 read as follows:

9 “(d) RESIDENTIAL ENERGY PROPERTY EXPENDI-
10 TURES.—For purposes of this section—

11 “(1) IN GENERAL.—The term ‘residential en-
12 ergy property expenditures’ means expenditures
13 made by the taxpayer for qualified energy property
14 which is—

15 “(A) installed on or in connection with a
16 dwelling unit located in the United States and
17 used as a residence by the taxpayer, and

18 “(B) originally placed in service by the tax-
19 payer.

20 Such term includes expenditures for labor costs
21 properly allocable to the onsite preparation, assem-
22 bly, or original installation of the property.

23 “(2) QUALIFIED ENERGY PROPERTY.—The
24 term ‘qualified energy property’ means any of the
25 following:

1 “(A) Any of the following which meet or
2 exceed the highest efficiency tier (not including
3 any advanced tier) established by the Consor-
4 tium for Energy Efficiency which is in effect as
5 of the beginning of the calendar year in which
6 the property is placed in service:

7 “(i) An electric heat pump water heat-
8 er.

9 “(ii) An electric heat pump.

10 “(iii) A central air conditioner.

11 “(iv) A natural gas, propane, or oil
12 water heater.

13 “(v) A natural gas, propane, or oil
14 furnace or hot water boiler.

15 “(B) A biomass stove which—

16 “(i) uses the burning of biomass fuel
17 to heat a dwelling unit located in the
18 United States and used as a residence by
19 the taxpayer, or to heat water for use in
20 such a dwelling unit, and

21 “(ii) has a thermal efficiency rating of
22 at least 75 percent (measured by the high-
23 er heating value of the fuel).

24 “(C) Any oil furnace or hot water boiler
25 which—

1 “(i) is placed in service after Decem-
2 ber 31, 2021, and before January 1, 2027,
3 and—

4 “(I) meets or exceeds 2021 En-
5 ergy Star efficiency criteria, and

6 “(II) is rated by the manufac-
7 turer for use with eligible fuel blends
8 of 20 percent or more, or

9 “(ii) is placed in service after Decem-
10 ber 31, 2026, and—

11 “(I) achieves an annual fuel utili-
12 zation efficiency rate of not less than
13 90, and

14 “(II) is rated by the manufac-
15 turer for use with eligible fuel blends
16 of 50 percent or more.

17 “(3) ELIGIBLE FUEL.—For purposes of para-
18 graph (2), the term ‘eligible fuel’ means biodiesel
19 and renewable diesel (within the meaning of section
20 40A) and second generation biofuel (within the
21 meaning of section 40).”.

22 (f) HOME ENERGY AUDITS.—

23 (1) IN GENERAL.—Section 25C(a), as amended
24 by subsection (b), is amended by striking “and” at
25 the end of paragraph (1), by striking the period at

1 the end of paragraph (2) and inserting “, and”, and
2 by adding at the end the following new paragraph:

3 “(3) 30 percent of the amount paid or incurred
4 by the taxpayer during the taxable year for home en-
5 ergy audits.”.

6 (2) LIMITATION.—Section 25C(b), as amended
7 by subsection (c), is amended adding at the end the
8 following new paragraph:

9 “(6) HOME ENERGY AUDITS.—

10 “(A) DOLLAR LIMITATION.—The amount
11 of the credit allowed under this section by rea-
12 son of subsection (a)(3) shall not exceed \$150.

13 “(B) SUBSTANTIATION REQUIREMENT.—
14 No credit shall be allowed under this section by
15 reason of subsection (a)(3) unless the taxpayer
16 includes with the taxpayer’s return of tax such
17 information or documentation as the Secretary
18 may require.”.

19 (3) HOME ENERGY AUDITS.—

20 (A) IN GENERAL.—Section 25C is amend-
21 ed by redesignating subsections (e), (f), and (g),
22 as subsections (f), (g), and (h), respectively,
23 and by inserting after subsection (d) the fol-
24 lowing new subsection:

1 “(e) HOME ENERGY AUDITS.—For purposes of this
2 section, the term ‘home energy audit’ means an inspection
3 and written report with respect to a dwelling unit located
4 in the United States and owned or used by the taxpayer
5 as the taxpayer’s principal residence (within the meaning
6 of section 121) which—

7 “(1) identifies the most significant and cost-ef-
8 fective energy efficiency improvements with respect
9 to such dwelling unit, including an estimate of the
10 energy and cost savings with respect to each such
11 improvement, and

12 “(2) is conducted and prepared by a home en-
13 ergy auditor that meets the certification or other re-
14 quirements specified by the Secretary (not later than
15 365 days after the date of the enactment of this
16 subsection) in regulations or other guidance.”.

17 (B) CONFORMING AMENDMENT.—Section
18 1016(a)(33) is amended by striking “section
19 25C(f)” and inserting “section 25C(g)”.

20 (4) LACK OF SUBSTANTIATION TREATED AS
21 MATHEMATICAL OR CLERICAL ERROR.—Section
22 6213(g)(2) is amended—

23 (A) in subparagraph (P), by striking
24 “and” at the end,

1 (B) in subparagraph (Q), by striking the
2 period at the end and inserting “, and”, and

3 (C) by adding at the end the following:

4 “(R) an omission of correct information or
5 documentation required under section
6 25C(b)(6)(B) (relating to home energy audits)
7 to be included on a return.”.

8 (g) IDENTIFICATION NUMBER REQUIREMENT.—

9 (1) IN GENERAL.—Section 25C, as amended by
10 this section, is amended by redesignating subsection
11 (h) as subsection (i) and by inserting after sub-
12 section (g) the following new subsection:

13 “(h) PRODUCT IDENTIFICATION NUMBER REQUIRE-
14 MENT.—

15 “(1) IN GENERAL.—No credit shall be allowed
16 under subsection (a) with respect to any item of
17 specified property placed in service after December
18 31, 2023, unless—

19 “(A) such item is produced by a qualified
20 manufacturer, and

21 “(B) the taxpayer includes the qualified
22 product identification number of such item on
23 the return of tax for the taxable year.

24 “(2) QUALIFIED PRODUCT IDENTIFICATION
25 NUMBER.—For purposes of this section, the term

1 ‘qualified product identification number’ means, with
2 respect to any item of specified property, the prod-
3 uct identification number assigned to such item by
4 the qualified manufacturer pursuant to the method-
5 ology referred to in paragraph (3).

6 “(3) QUALIFIED MANUFACTURER.—For pur-
7 poses of this section, the term ‘qualified manufac-
8 turer’ means any manufacturer of specified property
9 which enters into an agreement with the Secretary
10 which provides that such manufacturer will—

11 “(A) assign a product identification num-
12 ber to each item of specified property produced
13 by such manufacturer utilizing a methodology
14 that will ensure that such number (including
15 any alphanumeric) is unique to each such item
16 (by utilizing numbers or letters which are
17 unique to such manufacturer or by such other
18 method as the Secretary may provide),

19 “(B) label such item with such number in
20 such manner as the Secretary may provide, and

21 “(C) make periodic written reports to the
22 Secretary (at such times and in such manner as
23 the Secretary may provide) of the product iden-
24 tification numbers so assigned and including
25 such information as the Secretary may require

1 with respect to the item of specified property to
2 which such number was so assigned.

3 “(4) SPECIFIED PROPERTY.—For purposes of
4 this subsection, the term ‘specified property’ means
5 any qualified energy property and any property de-
6 scribed in subparagraph (B) or (C) of subsection
7 (c)(3).”.

8 (2) OMISSION OF CORRECT PRODUCT IDENTI-
9 FICATION NUMBER TREATED AS MATHEMATICAL OR
10 CLERICAL ERROR.—Section 6213(g)(2), as amended
11 by the preceding provisions of this Act, is amend-
12 ed—

13 (A) in subparagraph (Q), by striking
14 “and” at the end,

15 (B) in subparagraph (R), by striking the
16 period at the end and inserting “, and”, and

17 (C) by adding at the end the following:

18 “(S) an omission of a correct product iden-
19 tification number required under section 25C(h)
20 (relating to credit for nonbusiness energy prop-
21 erty) to be included on a return.”.

22 (h) ENERGY EFFICIENT HOME IMPROVEMENT
23 CREDIT.—

24 (1) IN GENERAL.—The heading for section 25C
25 is amended by striking “**NONBUSINESS ENERGY**

1 **PROPERTY**” and inserting “**ENERGY EFFICIENT**
2 **HOME IMPROVEMENT CREDIT**”.

3 (2) **CLERICAL AMENDMENT.**—The table of sec-
4 tions for subpart A of part IV of subchapter A of
5 chapter 1 is amended by striking the item relating
6 to section 25C and inserting after the item relating
7 to section 25B the following item:

“Sec. 25C. Energy efficient home improvement credit.”.

8 (i) **EFFECTIVE DATES.**—

9 (1) **IN GENERAL.**—Except as otherwise pro-
10 vided by this subsection, the amendments made by
11 this section shall apply to property placed in service
12 after December 31, 2021.

13 (2) **HOME ENERGY AUDITS.**—The amendments
14 made by subsection (f) shall apply to amounts paid
15 or incurred after December 31, 2021.

16 (3) **IDENTIFICATION NUMBER REQUIREMENT.**—
17 The amendments made by subsection (g) shall apply
18 to property placed in service after December 31,
19 2023.

20 **SEC. 126302. RESIDENTIAL CLEAN ENERGY CREDIT.**

21 (a) **EXTENSION OF CREDIT.**—

22 (1) **IN GENERAL.**—Section 25D(h) is amended
23 by striking “December 31, 2023” and inserting
24 “December 31, 2033”.

1 (2) APPLICATION OF PHASEOUT.—Section
2 25D(g) is amended—

3 (A) in paragraph (2), by striking “before
4 January 1, 2023, 26 percent, and” and insert-
5 ing “before January 1, 2022, 26 percent,” and

6 (B) by striking paragraph (3) and by in-
7 serting after paragraph (2) the following new
8 paragraphs:

9 “(3) in the case of property placed in service
10 after December 31, 2021, and before January 1,
11 2032, 30 percent,

12 “(4) in the case of property placed in service
13 after December 31, 2031, and before January 1,
14 2033, 26 percent, and

15 “(5) in the case of property placed in service
16 after December 31, 2032, and before January 1,
17 2034, 22 percent.”.

18 (b) RESIDENTIAL CLEAN ENERGY CREDIT FOR BAT-
19 TERY STORAGE TECHNOLOGY; CERTAIN EXPENDITURES
20 DISALLOWED.—

21 (1) ALLOWANCE OF CREDIT.—Paragraph (6) of
22 section 25D(a) is amended to read as follows:

23 “(6) the qualified battery storage technology ex-
24 penditures,”.

1 (2) DEFINITION OF QUALIFIED BATTERY STOR-
2 AGE TECHNOLOGY EXPENDITURE.—Paragraph (6)
3 of section 25D(d) is amended to read as follows:

4 “(6) QUALIFIED BATTERY STORAGE TECH-
5 NOLOGY EXPENDITURE.—The term ‘qualified bat-
6 tery storage technology expenditure’ means an ex-
7 penditure for battery storage technology which—

8 “(A) is installed in connection with a
9 dwelling unit located in the United States and
10 used as a residence by the taxpayer, and

11 “(B) has a capacity of not less than 3 kilo-
12 watt hours.”.

13 (c) INSTALLER REQUIREMENTS; TREATMENT OF
14 CERTAIN POSSESSIONS.—Section 25D is amended by re-
15 designating subsection (h) as subsection (j) and by insert-
16 ing after subsection (g) the following new subsections:

17 “(h) REQUIREMENT FOR QUALIFIED INSTALLER.—

18 “(1) IN GENERAL.—No credit shall be allowed
19 under this section with respect to any property de-
20 scribed in subsection (a) placed in service after De-
21 cember 31, 2022, unless—

22 “(A) such property is installed by a quali-
23 fied installer, and

24 “(B) the taxpayer includes the qualified in-
25 stallation identification number described in

1 paragraph (3) on the return of tax for the tax-
2 able year.

3 “(2) QUALIFIED INSTALLER.—

4 “(A) IN GENERAL.—For purposes of this
5 section, the term ‘qualified installer’ means an
6 installer who enters into an agreement with the
7 Secretary which provides that such installer
8 will, with respect to expenditures described in
9 subsection (a) in connection with the residence
10 of a taxpayer—

11 “(i) provide the taxpayer with a quali-
12 fied installation identification number and
13 a written receipt of the purchase and in-
14 stallation of such property in a manner
15 prescribed by the Secretary, and

16 “(ii) make periodic written reports to
17 the Secretary (in such manner as the Sec-
18 retary may provide) of installation identi-
19 fication numbers assigned by the installer
20 corresponding to such expenditures, includ-
21 ing such information as the Secretary may
22 require with respect to such expenditures.

23 “(B) INSTALLER DEEMED TO MEET RE-
24 QUIREMENT.—For purposes of subparagraph
25 (A), to the extent provided by the Secretary, an

1 installer may be deemed to meet the require-
2 ment under clause (ii) of such subparagraph on
3 the basis of information available to the Sec-
4 retary which the Secretary determines is rea-
5 sonably reliable for purposes of determining the
6 amount of qualified expenditures under sub-
7 section (a) made by a taxpayer in connection
8 with a residence of such taxpayer.

9 “(3) QUALIFIED INSTALLATION IDENTIFICA-
10 TION NUMBER.—For purposes of this section, the
11 term ‘qualified installation identification number’
12 means a unique identification number with respect
13 to expenditures described in subsection (a) in con-
14 nection with a residence of a taxpayer that is in-
15 stalled by a qualified installer.

16 “(4) REGISTRATION.—The Secretary shall re-
17 quire such information or registration of a qualified
18 installer as the Secretary deems necessary or appro-
19 priate for purposes of preventing duplication, fraud,
20 or improper claims with respect to expenditures de-
21 scribed in subsection (a). Under regulations or other
22 guidance prescribed by the Secretary, the registra-
23 tion of any person under this section may be denied,
24 revoked, or suspended if the Secretary determines
25 that such denial, revocation, or suspension is nec-

1 essary to prevent duplication, fraud, or improper
2 claims with respect to expenditures described in sub-
3 section (a).

4 “(i) TREATMENT OF CERTAIN POSSESSIONS.—

5 “(1) PAYMENTS TO POSSESSIONS WITH MIRROR
6 CODE TAX SYSTEMS.—The Secretary shall pay to
7 each possession of the United States which has a
8 mirror code tax system amounts equal to the loss (if
9 any) to that possession by reason of the application
10 of the provisions of this section. Such amounts shall
11 be determined by the Secretary based on information
12 provided by the government of the respective posses-
13 sion.

14 “(2) PAYMENTS TO OTHER POSSESSIONS.—The
15 Secretary shall pay to each possession of the United
16 States which does not have a mirror code tax system
17 amounts estimated by the Secretary as being equal
18 to the aggregate benefits (if any) that would have
19 been provided to residents of such possession by rea-
20 son of the provisions of this section if a mirror code
21 tax system had been in effect in such possession.
22 The preceding sentence shall not apply unless the re-
23 spective possession has a plan which has been ap-
24 proved by the Secretary under which such possession

1 will promptly distribute such payments to its resi-
2 dents.

3 “(3) MIRROR CODE TAX SYSTEM; TREATMENT
4 OF PAYMENTS.—Rules similar to the rules of para-
5 graphs (3), (4), and (5) of section 21(h) shall apply
6 for purposes of this section.”.

7 (d) CREDIT MADE REFUNDABLE.—

8 (1) CREDIT MOVED TO SUBPART RELATING TO
9 REFUNDABLE CREDITS.—Part IV of subchapter A of
10 chapter 1 is amended—

11 (A) by redesignating section 25D, as
12 amended by the preceding provisions of this
13 section, as section 36C, and

14 (B) by moving section 36C (as so redesign-
15 ated) from subpart A of such part to the loca-
16 tion immediately before section 37 in subpart C
17 of such part.

18 (2) ELIMINATION OF CARRYFORWARD OF UN-
19 USED CREDIT.—Section 36C, as so redesignated, is
20 amended—

21 (A) in subsection (b)(1), by striking “(de-
22 termined without regard to subsection (c))”,
23 and

24 (B) by striking subsection (c).

25 (3) CONFORMING AMENDMENTS.—

1 (A) Section 23(c)(1) is amended by strik-
2 ing “and section 25D”.

3 (B) Section 25(e)(1)(C) is amended by
4 striking “sections 23 and 25D” and inserting
5 “section 23”.

6 (C) Subsection (f)(1) of section 25C, as re-
7 designated by section 126301(f)(3)(A), is
8 amended by striking “25D(e)” and inserting
9 “36C(e)”.

10 (D) Section 45(d)(1) is amended by strik-
11 ing “section 25D” and inserting “section 36C”.

12 (E) Section 1016(a)(34) is amended—

13 (i) by striking “in section 25D(f)”
14 and inserting “in section 36C(f)”, and

15 (ii) by striking “under section 25D”
16 and inserting “under section 36C”.

17 (F) Section 6211(b)(4)(A) is amended by
18 inserting “36C,” after “36B,”.

19 (G) Paragraph (2) of section 1324(b) of
20 title 31, United States Code, is amended by in-
21 serting “36C,” after “36B,”.

22 (H) The table of sections for subpart A of
23 part IV of subchapter A of chapter 1 is amend-
24 ed by striking the item relating to section 25D.

1 (I) The table of sections for subpart C of
2 part IV of subchapter A of chapter 1 is amend-
3 ed by inserting after the item relating to section
4 36B the following new item:

“Sec. 36C. Residential clean energy credit.”.

5 (e) CONFORMING AMENDMENTS.—

6 (1) The heading for section 36C, as redesign-
7 nated and moved by subsection (d), is amended by
8 striking “**ENERGY EFFICIENT PROPERTY**” and
9 inserting “**CLEAN ENERGY CREDIT**”.

10 (2) Section 6213(g)(2), as amended by the pre-
11 ceding provisions of this Act, is amended—

12 (A) in subparagraph (R), by striking
13 “and” at the end,

14 (B) in subparagraph (S), by striking the
15 period at the end and inserting “, and”, and

16 (C) by adding at the end the following:

17 “(T) an omission of a correct qualified in-
18 stallation identification number required under
19 section 36C (relating to residential clean energy
20 credit) to be included on a return.”.

21 (f) EFFECTIVE DATES.—

22 (1) IN GENERAL.—Except as provided in para-
23 graphs (2) and (3), the amendments made by this
24 section shall apply to expenditures made after De-
25 cember 31, 2021.

1 (2) INSTALLER REQUIREMENTS; TREATMENT
2 OF CERTAIN POSSESSIONS.—The amendments made
3 by subsection (c) shall apply to expenditures made
4 after December 31, 2022.

5 (3) REFUNDABILITY.—The amendments made
6 by subsection (d) shall apply to taxable years begin-
7 ning after December 31, 2022.

8 **SEC. 126303. ENERGY EFFICIENT COMMERCIAL BUILDINGS**
9 **DEDUCTION.**

10 (a) PLACED IN SERVICE REQUIREMENT.—

11 (1) IN GENERAL.—Section 179D(c)(2) is
12 amended by striking “the most recent” and inserting
13 the following: “the more recent of—

14 “(A) Standard 90.1-2007 published by the
15 American Society of Heating, Refrigerating,
16 and Air Conditioning Engineers and the Illu-
17 minating Engineering Society of North Amer-
18 ica, or

19 “(B) the most recent”.

20 (2) FINAL DETERMINATION; EXTENSION OF PE-
21 RIOD; PLACED IN SERVICE DEADLINE.—Subpara-
22 graph (B) of section 179D(c)(2), as amended by
23 paragraph (1), is amended—

1 (A) by inserting “for which the Depart-
2 ment of Energy has issued a final determina-
3 tion and” before “which has been affirmed”,

4 (B) by striking “2 years” and inserting “4
5 years”, and

6 (C) by striking “that construction of such
7 property begins” and inserting “such property
8 is placed in service”.

9 (b) TEMPORARY INCREASE IN DEDUCTION, ETC.—
10 Section 179D is amended by adding at the end the fol-
11 lowing:

12 “(i) TEMPORARY RULES.—

13 “(1) PERIOD OF APPLICATION.—The provisions
14 of this subsection shall apply only to taxable years
15 beginning after December 31, 2021, and before Jan-
16 uary 1, 2032.

17 “(2) MODIFICATION OF EFFICIENCY STAND-
18 ARD.—Subsection (c)(1)(D) shall be applied by sub-
19 stituting ‘25’ for ‘50’.

20 “(3) MAXIMUM AMOUNT OF DEDUCTION.—

21 “(A) IN GENERAL.—The deduction under
22 subsection (a) with respect to any building for
23 any taxable year shall not exceed the excess (if
24 any) of—

25 “(i) the product of—

482

1 “(I) the applicable dollar value,
2 and

3 “(II) the square footage of the
4 building, over

5 “(ii) the aggregate amount of the de-
6 ductions under subsection (a) and para-
7 graph (8) with respect to the building for
8 the 3 taxable years immediately preceding
9 such taxable year (or, in the case of any
10 such deduction allowable to a person other
11 than the taxpayer, for any taxable year
12 ending during the 4-taxable-year period
13 ending with such taxable year).

14 “(B) APPLICABLE DOLLAR VALUE.—For
15 purposes of paragraph (3)(A)(i), the applicable
16 dollar value shall be an amount equal to \$0.50
17 increased (but not above \$1.00) by \$0.02 for
18 each percentage point by which the total annual
19 energy and power costs for the building are cer-
20 tified to be reduced by a percentage greater
21 than 25 percent.

22 “(C) APPLICATION OF INFLATION ADJUST-
23 MENT.—Subsection (g) shall be applied—

24 “(i) by substituting ‘2022’ for ‘2020’,

1 “(ii) by substituting ‘subsection
2 (i)(3)(B)’ for ‘subsection (b) or subsection
3 (d)(1)(A)’, and

4 “(iii) by substituting ‘2021’ for
5 ‘2019’.

6 “(D) LIMITATION TO APPLY IN LIEU OF
7 CURRENT LIMITATION AND PARTIAL ALLOW-
8 ANCE.—Subsections (b) and (d)(1) shall not
9 apply.

10 “(4) INCREASED CREDIT AMOUNT FOR CERTAIN
11 PROPERTY.—

12 “(A) IN GENERAL.—In the case of any
13 property which satisfies the requirements of
14 subparagraph (B), paragraph (3)(B) shall be
15 applied by substituting ‘\$2.50’ for ‘\$0.50’,
16 ‘\$.10’ for ‘\$.02’, and ‘\$5.00’ for ‘\$1.00’.

17 “(B) PROPERTY REQUIREMENTS.—In the
18 case of any energy efficient commercial building
19 property, energy efficient retrofit building prop-
20 erty, or property installed pursuant to a quali-
21 fied retrofit plan, such property shall meet the
22 requirements of this subparagraph if —

23 “(i) construction of such property be-
24 gins prior to the date that is 60 days after
25 the Secretary publishes guidance with re-

1 spect to the requirements of paragraphs
2 (5)(A) and (6), or

3 “*(ii)* construction of such property
4 satisfies the requirements of paragraphs
5 (5)(A) and (6).

6 “(5) PREVAILING WAGE REQUIREMENTS.—

7 “*(A)* IN GENERAL.—The requirements de-
8 scribed in this subparagraph with respect to
9 any property are that the taxpayer shall ensure
10 that any laborers and mechanics employed by
11 contractors and subcontractors in the construc-
12 tion of any property shall be paid wages at
13 rates not less than the prevailing rates for con-
14 struction, alteration, or repair of a similar char-
15 acter in the locality as most recently determined
16 by the Secretary of Labor, in accordance with
17 subchapter IV of chapter 31 of title 40, United
18 States Code.

19 “*(B)* CORRECTION AND PENALTY RELATED
20 TO FAILURE TO SATISFY WAGE REQUIRE-
21 MENTS.—Rules similar to the rules of section
22 45(b)(7)(B) shall apply.

23 “(6) APPRENTICESHIP REQUIREMENTS.—Rules
24 similar to the rules of section 45(b)(8) shall apply.

1 “(7) ALLOCATION OF DEDUCTION BY CERTAIN
2 TAX-EXEMPT ENTITIES.—

3 “(A) IN GENERAL.—A specified tax-ex-
4 empt entity shall be treated in the same manner
5 as a Federal, State, or local government for
6 purposes of applying subsection (d)(4).

7 “(B) SPECIFIED TAX-EXEMPT ENTITY.—
8 For purposes of this paragraph, the term ‘spec-
9 ified tax-exempt entity’ means—

10 “(i) the United States, any State or
11 political subdivision thereof, any possession
12 of the United States, or any agency or in-
13 strumentality of any of the foregoing,

14 “(ii) an Indian tribal government (as
15 defined in section 48(e)(4)(F)(ii)) or Alas-
16 ka Native Corporation (as defined in sec-
17 tion 3 of the Alaska Native Claims Settle-
18 ment Act (43 U.S.C. 1602(m)), and

19 “(iii) any organization exempt from
20 tax imposed by this chapter.

21 “(8) ALTERNATIVE DEDUCTION FOR ENERGY
22 EFFICIENT RETROFIT BUILDING PROPERTY.—

23 “(A) IN GENERAL.—In the case of a tax-
24 payer which elects (at such time and in such
25 manner as the Secretary may provide) the ap-

1 plication of this paragraph with respect to any
2 qualified building, there shall be allowed as a
3 deduction for the taxable year which includes
4 the date of the qualifying final certification with
5 respect to the qualified retrofit plan of such
6 building, an amount equal to the lesser of—

7 “(i) the excess described in paragraph
8 (3) (determined by substituting ‘energy
9 usage intensity’ for ‘total annual energy
10 and power costs’ in subparagraph (B)
11 thereof), or

12 “(ii) the aggregate adjusted basis (de-
13 termined after taking into account all ad-
14 justments with respect to such taxable year
15 other than the reduction under subsection
16 (e)) of energy efficient retrofit building
17 property placed in service by the taxpayer
18 pursuant to such qualified retrofit plan.

19 “(B) QUALIFIED RETROFIT PLAN.—For
20 purposes of this paragraph, the term ‘qualified
21 retrofit plan’ means a written plan prepared by
22 a qualified professional which specifies modi-
23 fications to a building which, in the aggregate,
24 are expected to reduce such building’s energy
25 usage intensity by 25 percent or more in com-

1 parison to the baseline energy usage intensity of
2 such building. Such plan shall provide for a
3 qualified professional to—

4 “(i) as of any date during the 1-year
5 period ending on the date of the first cer-
6 tification described in clause (ii), certify
7 the energy usage intensity of such building
8 as of such date,

9 “(ii) certify the status of property in-
10 stalled pursuant to such plan as meeting
11 the requirements of clauses (ii) and (iii)
12 subparagraph (C), and

13 “(iii) as of any date that is more than
14 1 year after completion of the plan, certify
15 the energy usage intensity of such building
16 as of such date.

17 “(C) ENERGY EFFICIENT RETROFIT
18 BUILDING PROPERTY.—For purposes of this
19 paragraph, the term ‘energy efficient retrofit
20 building property’ means property—

21 “(i) with respect to which depreciation
22 (or amortization in lieu of depreciation) is
23 allowable,

24 “(ii) which is installed on or in any
25 qualified building,

1 “(iii) which is installed as part of—

2 “(I) the interior lighting systems,

3 “(II) the heating, cooling, ven-

4 tilation, and hot water systems, or

5 “(III) the building envelope, and

6 “(iv) which is certified in accordance

7 with subparagraph (B)(ii) as meeting the

8 requirements of clauses (ii) and (iii).

9 “(D) QUALIFIED BUILDING.—For pur-
10 poses of this paragraph, the term ‘qualified
11 building’ means any building which—

12 “(i) is located in the United States,

13 and

14 “(ii) was originally placed in service

15 not less than 5 years before the establish-

16 ment of the qualified retrofit plan with re-

17 spect to such building.

18 “(E) QUALIFYING FINAL CERTIFI-

19 CATION.—For purposes of this paragraph, the

20 term ‘qualifying final certification’ means, with

21 respect to any qualified retrofit plan, the certifi-

22 cation described in subparagraph (B)(iii) if the

23 energy usage intensity certified in such certifi-

24 cation is not more than 75 percent of the base-

25 line energy usage intensity of the building.

1 “(F) BASELINE ENERGY USAGE INTEN-
2 SITY.—

3 “(i) IN GENERAL.—The term ‘baseline
4 energy usage intensity’ means the energy
5 usage intensity certified under subpara-
6 graph (B)(i), as adjusted to take into ac-
7 count weather as compared to the energy
8 usage intensity determined under subpara-
9 graph (B)(iii).

10 “(ii) DETERMINATION OF ADJUST-
11 MENT.—For purposes of clause (i), the ad-
12 justments described in such clause shall be
13 determined in such manner as the Sec-
14 retary may provide.

15 “(G) OTHER DEFINITIONS.—For purposes
16 of this paragraph—

17 “(i) ENERGY USAGE INTENSITY.—The
18 term ‘energy usage intensity’ means the
19 annualized, measured site energy usage in-
20 tensity determined in accordance with such
21 regulations or other guidance as the Sec-
22 retary may provide and measured in Brit-
23 ish thermal units.

24 “(ii) QUALIFIED PROFESSIONAL.—
25 The term ‘qualified professional’ means an

1 individual who is a licensed architect or a
2 licenced engineer and meets such other re-
3 quirements as the Secretary may provide.

4 “(H) COORDINATION WITH DEDUCTION
5 OTHERWISE ALLOWED UNDER SUBSECTION
6 (a).—

7 “(i) IN GENERAL.—In the case of any
8 building with respect to which an election
9 is made under subparagraph (A), the term
10 ‘energy efficient commercial building prop-
11 erty’ shall not include any energy efficient
12 retrofit building property with respect to
13 which a deduction is allowable under this
14 paragraph.

15 “(ii) CERTAIN RULES NOT APPLICA-
16 BLE.—

17 “(I) IN GENERAL.—Except as
18 provided in subclause (II), subsection
19 (d) shall not apply for purposes of
20 this paragraph.

21 “(II) ALLOCATION OF DEDUC-
22 TION BY CERTAIN TAX-EXEMPT ENTI-
23 TIES.—Rules similar to subsection
24 (d)(4) (determined after application of

1 paragraph (7)) shall apply for pur-
2 poses of this paragraph.”.

3 (c) APPLICATION TO REAL ESTATE INVESTMENT
4 TRUST EARNINGS AND PROFITS.—Section 312(k)(3)(B)
5 is amended—

6 (1) by striking “For purposes of computing the
7 earnings and profits of a corporation” and inserting
8 the following:

9 “(i) IN GENERAL.—For purposes of
10 computing the earnings and profits of a
11 corporation, except as provided in clause
12 (ii)”, and

13 (2) by adding at the end the following new
14 clause:

15 “(ii) SPECIAL RULE.—In the case of a
16 corporation that is a real estate investment
17 trust, any amount deductible under section
18 179D shall be allowed in the year in which
19 the property giving rise to such deduction
20 is placed in service.”.

21 (d) CONFORMING AMENDMENT.—Section
22 179D(d)(2) is amended by striking “not later than the
23 date that is 2 years before the date that construction of
24 such property begins” and inserting “not later than the

1 date that is 4 years before the date such property is placed
2 in service”.

3 (e) 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) ALTERNATIVE DEDUCTION FOR ENERGY EF-
9 FICIENT RETROFIT BUILDING PROPERTY.—Para-
10 graph (8) of section 179D(i) of the Internal Revenue
11 Code of 1986 (as added by this section), and any
12 other provision of such section solely for purposes of
13 applying such paragraph, shall apply to property
14 placed in service after December 31, 2021 (in tax-
15 able years ending after such date) if such property
16 is placed in service pursuant to qualified retrofit
17 plan (within the meaning of such section) estab-
18 lished after such date.

19 **SEC. 126304. EXTENSION, INCREASE, AND MODIFICATIONS**
20 **OF NEW ENERGY EFFICIENT HOME CREDIT.**

21 (a) EXTENSION OF CREDIT.—Section 45L(g) is
22 amended by striking “December 31, 2021” and inserting
23 “December 31, 2031”.

24 (b) INCREASE IN CREDIT AMOUNTS.—Section
25 45L(a)(2) is amended to read as follows:

1 “(2) APPLICABLE AMOUNT.—For purposes of
2 paragraph (1), the applicable amount is an amount
3 equal to—

4 “(A) in the case of a dwelling unit which
5 is eligible to participate in the Energy Star
6 Residential New Construction Program or the
7 Energy Star Manufactured New Homes pro-
8 gram—

9 “(i) which meets the requirements of
10 subsection (c)(1)(A) (and which does not
11 meet the requirements of subsection
12 (c)(1)(B)), \$2,500, and

13 “(ii) which meets the requirements of
14 subsection (c)(1)(B), \$5,000, and

15 “(B) in the case of a dwelling unit which
16 is part of a building eligible to participate in
17 the Energy Star Multifamily New Construction
18 Program—

19 “(i) which meets the requirements of
20 subsection (c)(1)(A) (and which does not
21 meet the requirements of subsection
22 (c)(1)(B)), \$500, and

23 “(ii) which meets the requirements of
24 subsection (c)(1)(B), \$1,000.”.

1 (c) MODIFICATION OF ENERGY SAVING REQUIRE-
2 MENTS.—Section 45L(c) is amended to read as follows:

3 “(c) ENERGY SAVING REQUIREMENTS.—

4 “(1) IN GENERAL.—

5 “(A) IN GENERAL.—A dwelling unit meets
6 the requirements of this subparagraph if such
7 dwelling unit meets the requirements of para-
8 graph (2) or (3) (whichever is applicable).

9 “(B) ZERO ENERGY READY HOME PRO-
10 GRAM.—A dwelling unit meets the requirements
11 of this subparagraph if such dwelling unit is
12 certified as a zero energy ready home under the
13 zero energy ready home program of the Depart-
14 ment of Energy (or any successor program de-
15 termined by the Secretary) as in effect on Jan-
16 uary 1, 2022.

17 “(2) SINGLE-FAMILY HOME REQUIREMENTS.—

18 A dwelling unit meets the requirements of this para-
19 graph if—

20 “(A) such dwelling unit meets—

21 “(i) in the case of a dwelling unit ac-
22 quired before January 1, 2025, the Energy
23 Star Single-Family New Homes National
24 Program Requirements 3.1, and

1 “(ii) in the case of a dwelling unit ac-
2 quired after December 31, 2024, the En-
3 ergy Star Single-Family New Homes Na-
4 tional Program Requirements 3.2,

5 “(B) such dwelling unit meets the most re-
6 cent Energy Star Single-Family New Homes
7 Program Requirements applicable to the loca-
8 tion of such dwelling unit (as in effect on the
9 latter of January 1, 2022, or January 1 of two
10 calendar years prior to the date the dwelling
11 unit was acquired), or

12 “(C) such dwelling unit meets the most re-
13 cent Energy Star Manufactured Home National
14 program requirements as in effect on the latter
15 of January 1, 2022, or January 1 of two cal-
16 endar years prior to the date such dwelling unit
17 is acquired.

18 “(3) MULTI-FAMILY HOME REQUIREMENTS.—A
19 dwelling unit meets the requirements of this para-
20 graph if—

21 “(A) such dwelling unit meets the most re-
22 cent Energy Star Multifamily New Construction
23 National Program Requirements (as in effect
24 on either January 1, 2022, or January 1 of

1 three calendar years prior to the date the dwell-
2 ing was acquired, whichever is later), and

3 “(B) such dwelling unit meets the most re-
4 cent Energy Star Multifamily New Construction
5 Regional Program Requirements applicable to
6 the location of such dwelling unit (as in effect
7 on either January 1, 2022, or January 1 of
8 three calendar years prior to the date the dwell-
9 ing was acquired, whichever is later).”.

10 (d) PREVAILING WAGE REQUIREMENT.—Section
11 45L is amended by redesignating subsection (g) as sub-
12 section (h) and by inserting after subsection (f) the fol-
13 lowing new subsection:

14 “(g) PREVAILING WAGE REQUIREMENT.—

15 “(1) IN GENERAL.—In the case of a qualifying
16 residence described in subsection (b)(2)(B) meeting
17 the prevailing wage requirements of paragraph
18 (2)(A), the credit amount allowed with respect to
19 such residence shall be—

20 “(A) \$2,500 in the case of a residence
21 which meets the requirements of subparagraph
22 (A) of subsection (c)(1) (and which does not
23 meet the requirements of subparagraph (B) of
24 such subsection), and

1 “(B) \$5,000 in the case of a residence
2 which meets the requirements of subsection
3 (c)(1)(B).

4 “(2) PREVAILING WAGE REQUIREMENTS.—

5 “(A) IN GENERAL.—The requirements de-
6 scribed in this subparagraph with respect to
7 any qualified residence are that the taxpayer
8 shall ensure that any laborers and mechanics
9 employed by contractors and subcontractors in
10 the construction of such residence shall be paid
11 wages at rates not less than the prevailing rates
12 for construction, alteration, or repair of a simi-
13 lar character in the locality as most recently de-
14 termined by the Secretary of Labor, in accord-
15 ance with subchapter IV of chapter 31 of title
16 40, United States Code.

17 “(B) CORRECTION AND PENALTY RELATED
18 TO FAILURE TO SATISFY WAGE REQUIRE-
19 MENTS.—Rules similar to the rules of section
20 45(b)(7)(B) shall apply.

21 “(3) REGULATIONS AND GUIDANCE.—The Sec-
22 retary shall issue such regulations or other guidance
23 as the Secretary determines necessary or appropriate
24 to carry out the purposes of this subsection, includ-
25 ing regulations or other guidance which provides for

1 requirements for recordkeeping or information re-
2 porting for purposes of administering the require-
3 ments of this subsection.”.

4 (e) EFFECTIVE DATES.—The amendments made by
5 this section shall apply to dwelling units acquired after
6 December 31, 2021.

7 **SEC. 126305. MODIFICATIONS TO INCOME EXCLUSION FOR**
8 **CONSERVATION SUBSIDIES.**

9 (a) IN GENERAL.—Section 136(a) is amended—

10 (1) by striking “any subsidy provided” and in-
11 sserting “any subsidy—

12 “(1) provided”,

13 (2) by striking the period at the end and insert-
14 ing a comma, and

15 (3) by adding at the end the following new
16 paragraphs:

17 “(2) provided (directly or indirectly) by a public
18 utility to a customer, or by a State or local govern-
19 ment to a resident of such State or locality, for the
20 purchase or installation of any water conservation or
21 efficiency measure,

22 “(3) provided (directly or indirectly) by a storm
23 water management provider to a customer, or by a
24 State or local government to a resident of such State

1 or locality, for the purchase or installation of any
2 storm water management measure, or

3 “(4) provided (directly or indirectly) by a State
4 or local government to a resident of such State or
5 locality for the purchase or installation of any waste-
6 water management measure, but only if such meas-
7 ure is with respect to the taxpayer’s principal resi-
8 dence.”.

9 (b) CONFORMING AMENDMENTS.—

10 (1) DEFINITION OF WATER CONSERVATION OR
11 EFFICIENCY MEASURE AND STORM WATER MANAGE-
12 MENT MEASURE.—Section 136(c) is amended—

13 (A) by striking “ENERGY CONSERVATION
14 MEASURE” in the heading thereof and inserting
15 “DEFINITIONS”,

16 (B) by striking “IN GENERAL” in the
17 heading of paragraph (1) and inserting “EN-
18 ERGY CONSERVATION MEASURE”, and

19 (C) by redesignating paragraph (2) as
20 paragraph (5) and by inserting after paragraph
21 (1) the following:

22 “(2) WATER CONSERVATION OR EFFICIENCY
23 MEASURE.—For purposes of this section, the term
24 ‘water conservation or efficiency measure’ means any
25 evaluation of water use, or any installation or modi-

1 fication of property, the primary purpose of which is
2 to reduce consumption of water or to improve the
3 management of water demand with respect to one or
4 more dwelling units.

5 “(3) STORM WATER MANAGEMENT MEASURE.—
6 For purposes of this section, the term ‘storm water
7 management measure’ means any installation or
8 modification of property primarily designed to re-
9 duce or manage amounts of storm water with re-
10 spect to one or more dwelling units.

11 “(4) WASTEWATER MANAGEMENT MEASURE.—
12 For purposes of this section, the term ‘wastewater
13 management measure’ means any installation or
14 modification of property primarily designed to man-
15 age wastewater (including septic tanks and cess-
16 pools) with respect to one or more dwelling units.”.

17 (2) DEFINITION OF PUBLIC UTILITY.—Section
18 136(c)(5) (as redesignated by paragraph (1)(C)) is
19 amended by striking subparagraph (B) and inserting
20 the following:

21 “(B) PUBLIC UTILITY.—The term ‘public
22 utility’ means a person engaged in the sale of
23 electricity, natural gas, or water to residential,
24 commercial, or industrial customers for use by
25 such customers.

1 “(C) STORM WATER MANAGEMENT PRO-
2 VIDER.—The term ‘storm water management
3 provider’ means a person engaged in the provi-
4 sion of storm water management measures to
5 the public.

6 “(D) PERSON.—For purposes of subpara-
7 graphs (B) and (C), the term ‘person’ includes
8 the Federal Government, a State or local gov-
9 ernment or any political subdivision thereof, or
10 any instrumentality of any of the foregoing.”.

11 (3) CLERICAL AMENDMENTS.—

12 (A) The heading for section 136 is amend-
13 ed—

14 (i) by inserting “**AND WATER**” after
15 “**ENERGY**”, and

16 (ii) by striking “**PROVIDED BY PUB-
17 LIC UTILITIES**”.

18 (B) The item relating to section 136 in the
19 table of sections of part III of subchapter B of
20 chapter 1 is amended—

21 (i) by inserting “and water” after
22 “energy”, and

23 (ii) by striking “provided by public
24 utilities”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to amounts received after Decem-
3 ber 31, 2018.

4 (d) NO INFERENCE.—Nothing in this Act or the
5 amendments made by this Act shall be construed to create
6 any inference with respect to the proper tax treatment of
7 any subsidy received directly or indirectly from a public
8 utility, a storm water management provider, or a State
9 or local government for any water conservation measure
10 or storm water management measure before January 1,
11 2019.

12 **SEC. 126306. CREDIT FOR QUALIFIED WILDFIRE MITIGA-**
13 **TION EXPENDITURES.**

14 (a) IN GENERAL.—Subpart B of part IV of sub-
15 chapter A of chapter 1 is amended by inserting after sec-
16 tion 27 the following new section:

17 **“SEC. 28. QUALIFIED WILDFIRE MITIGATION EXPENDI-**
18 **TURES.**

19 “(a) IN GENERAL.—There shall be allowed as a cred-
20 it against the tax imposed by this chapter for the taxable
21 year an amount equal to 30 percent of the qualified wild-
22 fire mitigation expenditures paid or incurred by the tax-
23 payer during such taxable year with respect to real prop-
24 erty owned or leased by the taxpayer.

1 “(b) QUALIFIED WILDFIRE MITIGATION EXPENDI-
2 TURES.—For purposes of this section—

3 “(1) IN GENERAL.—The term ‘qualified wildfire
4 mitigation expenditures’ means any specified wildfire
5 mitigation expenditure made pursuant to a qualified
6 State wildfire mitigation program of a State which
7 requires expenditures for wildfire mitigation to be
8 paid both by the taxpayer and such State. Such
9 term shall not include any item of expenditure un-
10 less the ratio (expressed as a percentage) of the
11 State’s expenditure for such item to the sum of the
12 State’s and taxpayer’s expenditures for such item is
13 not less than 25 percent.

14 “(2) SPECIFIED WILDFIRE MITIGATION EX-
15 PENDITURE.—The term ‘specified wildfire mitigation
16 expenditure’ means, with respect to any real prop-
17 erty owned or leased by the taxpayer, any amount
18 paid or incurred to reduce the risk of wildfire by re-
19 moving accumulations of vegetation (including estab-
20 lishing, expanding, or maintaining fuel breaks to
21 serve as fire breaks) on such real property.

22 “(3) QUALIFIED STATE WILDFIRE MITIGATION
23 PROGRAM.—The term ‘qualified State wildfire miti-
24 gation program’ means any program of a State the

1 primary purpose of which is to mitigate the risk of
2 wildfires in such State.

3 “(4) TREATMENT OF REIMBURSEMENTS.—Any
4 amount originally paid or incurred by the taxpayer
5 which is reimbursed by a State under a qualified
6 wildfire mitigation program of such State shall be
7 treated as paid by such State (and not by such tax-
8 payer).

9 “(c) APPLICATION WITH OTHER CREDITS.—

10 “(1) BUSINESS CREDIT TREATED AS PART OF
11 GENERAL BUSINESS CREDIT.—So much of the credit
12 which would be allowed under subsection (a) for any
13 taxable year (determined without regard to this sub-
14 section) that is attributable to expenditures made in
15 the ordinary course of the taxpayer’s trade or busi-
16 ness (or, in the case of expenditures made by a
17 State, would have been expenditures made in the or-
18 dinary course of the taxpayer’s trade or business if
19 made by the taxpayer) shall be treated as a credit
20 listed in section 38(b) for taxable year (and not al-
21 lowed under subsection (a)).

22 “(2) PERSONAL CREDIT.—For purposes of this
23 title, the credit allowed under subsection (a) for any
24 taxable year (determined after application of para-

1 graph (1)) shall be treated as a credit allowable
2 under subpart A for such taxable year.

3 “(d) REDUCTION OF CREDIT PERCENTAGE WHERE
4 TAXPAYER EXPENDITURES LESS THAN 30 PERCENT.—

5 “(1) IN GENERAL.—If the expenditure percent-
6 age with respect to any item of any qualified wildfire
7 mitigation expenditure is less than 30 percent, sub-
8 section (a) shall be applied by substituting ‘the ex-
9 penditure percentage’ for ‘30 percent’ with respect
10 to such item of expenditure.

11 “(2) EXPENDITURE PERCENTAGE.—For pur-
12 poses of this section, the term ‘expenditure percent-
13 age’ means, with respect to any item of any qualified
14 wildfire mitigation expenditure any portion of which
15 is paid or incurred by a State, the ratio (expressed
16 as a percentage) of—

17 “(A) the taxpayer’s expenditure for such
18 item, divided by

19 “(B) the sum of the taxpayer’s and such
20 State’s expenditures for such item.

21 “(e) SPECIAL RULES.—

22 “(1) TREATMENT OF EXPENDITURES RELATED
23 TO MARKETABLE TIMBER.—An expenditure shall not
24 be taken into account for purposes of this section
25 (whether made by the taxpayer or a State pursuant

1 to a qualified State wildfire mitigation program of
2 such State) if such expenditure is properly allocable
3 to timber which is sold or exchanged by the tax-
4 payer. The preceding sentence shall not apply to the
5 extent that such amount exceeds the gain on such
6 sale or exchange.

7 “(2) BASIS REDUCTION.—For purposes of this
8 subtitle, if the basis of any property would (but for
9 this paragraph) be determined by taking into ac-
10 count any qualified wildfire mitigation expenditure,
11 the basis of such property shall be reduced by the
12 amount of the credit allowed under subsection (a)
13 with respect to such expenditure (determined with-
14 out regard to subsection (c)).

15 “(3) DENIAL OF DOUBLE BENEFIT.—The
16 amount of any deduction or other credit allowable
17 under this chapter for any expenditure for which a
18 credit is allowable under subsection (a) shall be re-
19 duced by the amount of credit allowed under such
20 subsection for such expenditure (determined without
21 regard to subsection (c)).”.

22 (b) CONFORMING AMENDMENTS.—

23 (1) Section 38(b), as amended by the preceding
24 provisions of this Act, is amended by striking “plus”
25 at the end of paragraph (37), by striking the period

1 at the end of paragraph (38) and inserting “, plus”,
2 and by adding at the end the following new para-
3 graph:

4 “(39) the portion of the qualified wildfire miti-
5 gation expenditures credit to which section 28(e)(1)
6 applies.”.

7 (2) Section 1016(a) is amended by redesign-
8 nating paragraphs (35) through (38) as paragraphs
9 (36) through (39), respectively, and by inserting
10 after paragraph (34) the following new paragraph:

11 “(35) to the extent provided in section
12 28(e)(2),”.

13 (3) The table of sections for subpart B of part
14 IV of subchapter A of chapter 1 is amended by in-
15 serting after the item relating to section 27 the fol-
16 lowing new item:

“Sec. 28. Qualified wildfire mitigation expenditures.”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to expenditures paid or incurred
19 after the date of the enactment of this Act, in taxable
20 years ending after such date.

1 **PART 4—GREENING THE FLEET AND**
2 **ALTERNATIVE VEHICLES**
3 **SEC. 126401. REFUNDABLE NEW QUALIFIED PLUG-IN ELEC-**
4 **TRIC DRIVE MOTOR VEHICLE CREDIT FOR IN-**
5 **DIVIDUALS.**

6 (a) MAKING CREDIT REFUNDABLE.—

7 (1) CREDIT MOVED TO SUBPART RELATING TO
8 REFUNDABLE CREDITS.—Part IV of subchapter A of
9 chapter 1, as amended by the preceding provisions
10 of this Act, is amended—

11 (A) by redesignating section 30D as sec-
12 tion 36D, and

13 (B) by moving section 36D (as so redesign-
14 ated) from subpart B of such part to the loca-
15 tion immediately before section 37 in subpart C
16 of such part.

17 (2) CONFORMING AMENDMENT.—Section 36D,
18 as redesignated and moved by paragraph (1), is
19 amended by striking subsection (c).

20 (b) ALLOWANCE OF CREDIT FOR INDIVIDUALS.—
21 Subsection (a) of section 36D, as redesignated and moved
22 by subsection (a), is amended—

23 (1) by striking “There shall be allowed” and in-
24 serting “In the case of an individual, there shall be
25 allowed”,

1 (2) by striking “chapter” and inserting “sub-
2 title”,

3 (3) by striking “the sum of the credit amounts”
4 and inserting “the credit amount”, and

5 (4) by striking “each new” and inserting “a
6 new”.

7 (c) CREDIT AMOUNT.—Section 36D, as redesignated
8 and moved by subsection (a), is amended by striking sub-
9 section (b) and inserting the following:

10 “(b) CREDIT AMOUNT.—

11 “(1) IN GENERAL.—The amount determined
12 under this subsection with respect to any new quali-
13 fied plug-in electric drive motor vehicle is the sum
14 of the amounts determined under paragraphs (2)
15 through (5) with respect to such vehicle (not to ex-
16 ceed 50 percent of the purchase price of such vehi-
17 cle).

18 “(2) BASE AMOUNT.—The amount determined
19 under this paragraph is \$4,000.

20 “(3) BATTERY CAPACITY.—In the case of a new
21 qualified plug-in electric drive motor vehicle, the
22 amount determined under this paragraph is \$3,500
23 if—

24 “(A) in the case of a vehicle placed in serv-
25 ice before January 1, 2027, such vehicle draws

1 propulsion energy from a battery with not less
2 than 40 kilowatt hours of capacity and has a
3 gasoline tank capacity not greater than 2.5 gal-
4 lons, and

5 “(B) in the case of a vehicle placed in serv-
6 ice after December 31, 2026, such vehicle
7 draws propulsion energy from a battery with
8 not less than 50 kilowatt hours of capacity and
9 has a gasoline tank capacity not greater than
10 2.5 gallons.

11 “(4) DOMESTIC ASSEMBLY.—In the case of a
12 new qualified plug-in electric drive motor vehicle
13 which satisfies the domestic assembly qualifications,
14 the amount determined under this paragraph is
15 \$4,500.

16 “(5) DOMESTIC CONTENT.—In the case of a
17 new qualified plug-in electric drive motor vehicle
18 which satisfies domestic content qualifications, the
19 amount determined under this paragraph is \$500.”.

20 (d) LIMITATIONS.—Section 36D, as redesignated,
21 moved, and amended by subsection (a), is amended—

22 (1) by striking subsection (e),

23 (2) by redesignating subsections (d), (f), and
24 (g) as subsection (f), (g), and (h), respectively, and

1 (3) by inserting after subsection (b) the fol-
2 lowing:

3 “(c) VEHICLE LIMITATION.—The number of vehicles
4 taken into account under subsection (a) shall not exceed
5 1 per taxpayer per taxable year.

6 “(d) LIMITATION BASED ON MODIFIED ADJUSTED
7 GROSS INCOME.—

8 “(1) IN GENERAL.—The amount of the credit
9 allowable under subsection (a) for any taxable year
10 shall be reduced (but not below zero) by \$200 for
11 each \$1,000 (or fraction thereof) by which—

12 “(A) the lesser of—

13 “(i) the taxpayer’s modified adjusted
14 gross income for such taxable year, or

15 “(ii) the taxpayer’s modified adjusted
16 gross income for the preceding taxable
17 year, exceeds

18 “(B) the threshold amount.

19 For purposes of the preceding sentence, the term
20 ‘modified adjusted gross income’ means adjusted
21 gross income increased by any amount excluded
22 from gross income under section 911, 931, or 933.

23 “(2) THRESHOLD AMOUNT.—For purposes of
24 paragraph (1), the term ‘threshold amount’ means—

1 “(A) \$500,000 in the case of a joint return
2 or surviving spouse (half such amount in the
3 case of a married individual filing a separate re-
4 turn),

5 “(B) \$375,000 in the case of a head of
6 household, and

7 “(C) \$250,000 in any other case.

8 “(e) MANUFACTURER’S SUGGESTED RETAIL PRICE
9 LIMITATION.—

10 “(1) IN GENERAL.—No credit shall be allowed
11 under subsection (a) for a vehicle with a manufac-
12 turer’s suggested retail price in excess of the appli-
13 cable limitation.

14 “(2) APPLICABLE LIMITATION.—For purposes
15 of paragraph (1), the applicable limitation for each
16 vehicle classification is as follows:

17 “(A) VANS.—In the case of a van,
18 \$80,000.

19 “(B) SPORT UTILITY VEHICLES.—In the
20 case of a sport utility vehicle, \$80,000.

21 “(C) PICKUP TRUCKS.—In the case of a
22 pickup truck, \$80,000.

23 “(D) OTHER.—In the case of any other ve-
24 hicle, \$55,000.

1 “(G) with respect to which, in the case of
2 a vehicle placed in service after December 31,
3 2026, final assembly is within the United
4 States,

5 “(H) is not of a character subject to an al-
6 lowance for depreciation, and

7 “(I) for which the person who sells any ve-
8 hicle to the taxpayer furnishes a report to the
9 taxpayer and to the Secretary, at such time and
10 in such manner as the Secretary shall provide,
11 containing—

12 “(i) the name and taxpayer identifica-
13 tion number of the taxpayer,

14 “(ii) the vehicle identification number
15 of the vehicle, unless, in accordance with
16 any applicable rules promulgated by the
17 Secretary of Transportation, the vehicle is
18 not assigned such a number,

19 “(iii) the battery capacity of the vehi-
20 cle,

21 “(iv) in the case of any new qualified
22 plug-in electric drive motor vehicle,
23 verification that original use of the vehicle
24 commences with the taxpayer, and

1 “(v) the maximum credit under this
2 section allowable to the taxpayer with re-
3 spect to the vehicle.”, and

4 (2) in paragraph (3)—

5 (A) in the heading, by striking “MANUFAC-
6 Turer” and inserting “QUALIFIED MANUFAC-
7 Turer”,

8 (B) by striking “The term ‘manufacturer’
9 has the meaning given such term in” and in-
10 serting “The term ‘qualified manufacturer’
11 means any manufacturer (within the meaning
12 of the”, and

13 (C) by inserting “() which enters into a
14 written agreement with the Secretary under
15 which such manufacturer agrees to make peri-
16 odic written reports to the Secretary (at such
17 times and in such manner as the Secretary may
18 provide) providing vehicle identification num-
19 bers and such other information related to each
20 vehicle manufactured by such manufacturer as
21 the Secretary may require” before the period at
22 the end.

23 (f) SPECIAL RULES.—Subsection (g) of section 36D,
24 as redesignated by subsection (d), is amended—

1 (1) in paragraph (1), by striking “(determined
2 without regard to subsection (c))”,

3 (2) in paragraph (2), by striking “(determined
4 without regard to subsection (c))”,

5 (3) by striking paragraph (3),

6 (4) by redesignating paragraphs (4) through
7 (7) as paragraphs (3) through (6), respectively, and

8 (5) in paragraph (4), as so redesignated, by in-
9 serting “or other guidance” after “by regulations”.

10 (g) 2 AND 3-WHEELED PLUG-IN ELECTRIC VEHI-
11 CLES.—Subsection (h) of section 36D, as redesignated by
12 subsection (d), is amended—

13 (1) in paragraph (1)(A), by striking “chapter”
14 and inserting “subtitle”, and

15 (2) by striking paragraphs (2) and (3) and in-
16 serting the following:

17 “(2) APPLICABLE AMOUNT.—For purposes of
18 paragraph (1), the applicable amount is an amount
19 equal to the lesser of—

20 “(A) 30 percent of the cost of the qualified
21 2- or 3-wheeled plug-in electric vehicle, or

22 “(B) \$7,500.

23 “(3) QUALIFIED 2- OR 3-WHEELED PLUG-IN
24 ELECTRIC VEHICLE.—The term ‘qualified 2- or 3-

1 wheeled plug-in electric vehicle’ means any vehicle
2 which—

3 “(A) has 2 or 3 wheels,

4 “(B) meets the requirements of—

5 “(i) subparagraphs (A), (B), (C), (E),
6 (F), (G), and (H) of subsection (f)(1) (de-
7 termined by substituting ‘2.5 kilowatt
8 hours’ for ‘10 kilowatt hours’ in subpara-
9 graph (F)(i) of such subsection), and

10 “(ii) subparagraph (I) of such sub-
11 section, determined by substituting ‘quali-
12 fied 2- or 3-wheeled plug-in electric vehicle’
13 for ‘new qualified plug-in electric drive
14 motor vehicle’ in clause (iv) of such sub-
15 paragraph,

16 “(C) is manufactured primarily for use on
17 public streets, roads, and highways, and

18 “(D) is capable of achieving a speed of 45
19 miles per hour or greater.”.

20 (h) ADDITIONAL PROVISIONS.—Section 36D, as re-
21 designated and moved by subsection (a), is amended by
22 adding at the end the following:

23 “(i) VIN NUMBER REQUIREMENT.—No credit shall
24 be allowed under this section with respect to any vehicle
25 unless the taxpayer includes the vehicle identification

1 number of such vehicle on the return of tax for the taxable
2 year.

3 “(j) TREATMENT OF CERTAIN POSSESSIONS.—

4 “(1) PAYMENTS TO POSSESSIONS WITH MIRROR
5 CODE TAX SYSTEMS.—The Secretary shall pay to
6 each possession of the United States which has a
7 mirror code tax system amounts equal to the loss (if
8 any) to that possession by reason of the application
9 of the provisions of this section (determined without
10 regard to this subsection). Such amounts shall be
11 determined by the Secretary based on information
12 provided by the government of the respective posses-
13 sion.

14 “(2) PAYMENTS TO OTHER POSSESSIONS.—The
15 Secretary shall pay to each possession of the United
16 States which does not have a mirror code tax system
17 amounts estimated by the Secretary as being equal
18 to the aggregate benefits (if any) that would have
19 been provided to residents of such possession by rea-
20 son of the provisions of this section if a mirror code
21 tax system had been in effect in such possession.
22 The preceding sentence shall not apply unless the re-
23 spective possession has a plan which has been ap-
24 proved by the Secretary under which such possession

1 will promptly distribute such payments to its resi-
2 dents.

3 “(3) MIRROR CODE TAX SYSTEM; TREATMENT
4 OF PAYMENTS.—Rules similar to the rules of para-
5 graphs (3), (4), and (5) of section 21(h) shall apply
6 for purposes of this section.

7 “(k) ASSEMBLY AND CONTENT QUALIFICATIONS.—
8 For purposes of this section—

9 “(1) DOMESTIC ASSEMBLY QUALIFICATIONS.—
10 The term ‘domestic assembly qualifications’ means,
11 with respect to any new qualified plug-in electric ve-
12 hicle, that the final assembly of such vehicle occurs
13 at a plant, factory, or other place which is located
14 in the United States and operating under a collective
15 bargaining agreement negotiated by an employee or-
16 ganization (as defined in section 412(c)(4)), deter-
17 mined in a manner consistent with section
18 7701(a)(46).

19 “(2) DOMESTIC CONTENT QUALIFICATIONS.—
20 The term ‘domestic content qualifications’ means,
21 with respect to any model of a new qualified plug-
22 in electric vehicle, that vehicles of that model are
23 powered by battery cells which are manufactured in
24 the United States, as certified by the manufacturer

1 at such time and in such form and manner as the
2 Secretary may prescribe.

3 “(3) FINAL ASSEMBLY.—The term ‘final assem-
4 bly’ means the process by which a manufacturer pro-
5 duces a new qualified plug-in electric drive motor ve-
6 hicle at, or through the use of, a plant, factory, or
7 other place from which the vehicle is delivered to a
8 dealer or importer with all component parts nec-
9 essary for the mechanical operation of the vehicle in-
10 cluded with the vehicle, whether or not the compo-
11 nent parts are permanently installed in or on the ve-
12 hicle.

13 “(l) TERMINATION.—No credit shall be allowed under
14 this section with respect to any vehicle acquired after De-
15 cember 31, 2031.”.

16 (i) TRANSFER OF CREDIT.—

17 (1) IN GENERAL.—Section 36D, as redesign-
18 nated and moved by subsection (a), is amended by
19 redesignating subsection (l) as subsection (m) and
20 by inserting after subsection (k) following new sub-
21 section:

22 “(l) TRANSFER OF CREDIT.—

23 “(1) IN GENERAL.—Subject to such regulations
24 or other guidance as the Secretary determines nec-
25 essary or appropriate, if the taxpayer who acquires

1 a new plug-in electric drive motor vehicle or qualified
2 2- or 3-wheeled plug-in electric vehicle elects the ap-
3 plication of this subsection with respect to such vehi-
4 cle, the credit which would (but for this subsection)
5 be allowed to such taxpayer with respect to such ve-
6 hicle shall be allowed to the eligible entity specified
7 in such election (and not to such taxpayer).

8 “(2) ELIGIBLE ENTITY.—For purposes of this
9 subsection, the term ‘eligible entity’ means, with re-
10 spect to the vehicle for which the credit is allowed
11 under subsection (a), the dealer which sold such ve-
12 hicle to the taxpayer and has—

13 “(A) subject to paragraph (4), registered
14 with the Secretary for purposes of this para-
15 graph, at such time, and in such form and
16 manner, as the Secretary may prescribe,

17 “(B) prior to the election described in
18 paragraph (1) and not later than at the time of
19 such sale, disclosed to the taxpayer purchasing
20 such vehicle—

21 “(i) the manufacturer’s suggested re-
22 tail price,

23 “(ii) the value of the credit allowed or
24 other incentive available for the purchase
25 of such vehicle, and

1 “(iii) the amount provided by the
2 dealer to such taxpayer as a condition of
3 the election described in paragraph (1),

4 “(C) made payment to such taxpayer
5 (whether in cash or in the form of a partial
6 payment or down payment for the purchase of
7 such vehicle) in an amount equal to the credit
8 otherwise allowable to such taxpayer, and

9 “(D) with respect to any incentive other-
10 wise available for the purchase of a vehicle for
11 which a credit is allowed under this section, in-
12 cluding any incentive in the form of a rebate or
13 discount provided by the dealer or manufac-
14 turer, ensured that—

15 “(i) the availability or use of such in-
16 centive shall not limit the ability of a tax-
17 payer to make an election described in
18 paragraph (1), and

19 “(ii) such election shall not limit the
20 value or use of such incentive.

21 “(3) TIMING.—An election described in para-
22 graph (1) shall be made by the taxpayer not later
23 than the date on which the vehicle for which the
24 credit is allowed under subsection (a) is purchased.

1 come for the taxable year in which such ve-
2 hicle was acquired),

3 “(ii) the requirements of paragraphs
4 (1) and (2) of subsection (g) shall apply to
5 the taxpayer who acquired the vehicle in
6 the same manner as if the credit deter-
7 mined under this section with respect to
8 such vehicle were allowed to such taxpayer,

9 “(iii) subsection (g)(5) shall not
10 apply, and

11 “(iv) the requirement of subsection (i)
12 shall be treated as satisfied if the eligible
13 entity provides the vehicle identification
14 number of such vehicle to the Secretary in
15 such manner as the Secretary may provide.

16 “(B) ALTERNATIVE METHOD.—For pur-
17 poses of subparagraph (A)(i), in the case of a
18 taxpayer who, at the time the vehicle was ac-
19 quired, has not filed a tax return for the tax-
20 able year described in such subparagraph, the
21 Secretary shall prescribe such regulations or
22 other guidance as the Secretary determines ap-
23 propriate for establishing an alternative method
24 for determining the modified adjusted gross in-

1 come of the taxpayer for purposes of the appli-
2 cation of subsection (d).

3 “(7) ADVANCE PAYMENT TO REGISTERED
4 DEALERS.—

5 “(A) IN GENERAL.—The Secretary shall
6 establish a program to make advance payments
7 to any eligible entity in an amount equal to the
8 cumulative amount of the credits allowed under
9 subsection (a) with respect to any vehicles sold
10 by such entity for which an election described
11 in paragraph (1) has been made.

12 “(B) EXCESSIVE PAYMENTS.—Rules simi-
13 lar to the rules of section 6417(c)(7) shall apply
14 for purposes of this paragraph.

15 “(8) DEALER.—For purposes of this sub-
16 section, the term ‘dealer’ means a person licensed by
17 a State, the District of Columbia, the Common-
18 wealth of Puerto Rico, any other territory or posses-
19 sion of the United States, an Indian tribal govern-
20 ment (as defined in section 48(e)(4)(F)(ii)), or any
21 Alaska Native Corporation (as defined in section 3
22 of the Alaska Native Claims Settlement Act (43
23 U.S.C. 1602(m)) to engage in the sale of vehicles.”.

1 (2) CONFORMING AMENDMENTS.—Section 36D,
2 as amended by the preceding provisions of this sec-
3 tion, is amended—

4 (A) in subsection (c), by inserting “, in-
5 cluding any vehicle with respect to which the
6 taxpayer elects the application of subsection
7 (l)” before the period at the end, and

8 (B) in subsection (f)(1)(I) of such sec-
9 tion—

10 (i) in clause (iv), by striking “and” at
11 the end,

12 (ii) in clause (v), by striking the pe-
13 riod at the end and inserting “, and”, and

14 (iii) by adding at the end the fol-
15 lowing:

16 “(vi) in the case of a taxpayer who
17 makes an election under subsection
18 (l)(1)—

19 “(I) the modified adjusted gross
20 income of such taxpayer in the pre-
21 vious taxable year, as described in
22 subsection (l)(6)(A), and

23 “(II) any amount described in
24 subsection (l)(2)(C) which has been
25 provided to such taxpayer.”.

1 (j) CONFORMING AMENDMENTS.—

2 (1) Section 1016(a)(38), as redesignated by
3 section 126306, is amended by striking “section
4 30D(f)(1)” and inserting “section 36D(g)(1)”.

5 (2) Section 6211(b)(4)(A), as amended by the
6 preceding provisions of this Act, is amended by in-
7 serting “36D,” after “36C.”

8 (3) Section 6213(g)(2), as amended by the pre-
9 ceding provisions of this Act, is amended—

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

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

14 (C) by adding at the end the following:

15 “(U) an omission of a correct vehicle iden-
16 tification number required under section 36D(i)
17 (relating to credit for new qualified plug-in elec-
18 tric drive motor vehicles) to be included on a re-
19 turn.”.

20 (4) Section 6501(m) is amended by striking
21 “30D(e)(4)” and inserting “36D(g)(5)”.

22 (5) Section 166(b)(5)(A)(ii) of title 23, United
23 States Code, is amended by striking “section
24 30D(d)(1)” and inserting “section 36D(f)(1)”.

1 (6) Section 1324(b)(2) of title 31, United
2 States Code, as amended by the preceding provisions
3 of this Act, is amended by inserting “36D,” after
4 “36C.”

5 (7) The table of sections for subpart C of part
6 IV of subchapter A of chapter 1, as amended by the
7 preceding provisions of this Act, is amended by in-
8 serting after the item relating to section 36C the fol-
9 lowing new item:

“Sec. 36D. New qualified plug-in electric drive motor vehicles.”

10 (k) GROSS-UP OF DIRECT SPENDING.—Beginning in
11 fiscal year 2023 and each fiscal year thereafter, the por-
12 tion of any credit allowed to an eligible entity (as defined
13 in section 36D(l)(2) of the Internal Revenue Code of
14 1986) pursuant to an election made under section 36D(l)
15 of the Internal Revenue Code of 1986 that is direct spend-
16 ing shall be increased by 6.0445 percent.

17 (l) EFFECTIVE DATES.—

18 (1) IN GENERAL.—Except as provided in para-
19 graph (2), the amendments made by this section
20 shall apply to vehicles acquired after December 31,
21 2021.

22 (2) LIMITATIONS; TRANSFER OF CREDIT.—The
23 amendments made by subsections (d) and (i) shall
24 apply to vehicles acquired after December 31, 2022.

1 **SEC. 126402. CREDIT FOR PREVIOUSLY-OWNED QUALIFIED**
2 **PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.**

3 (a) IN GENERAL.—Subpart C of part IV of sub-
4 chapter A of chapter 1, as amended by the preceding pro-
5 visions of this Act, is amended by inserting after section
6 36D the following new section:

7 **“SEC. 36E. PREVIOUSLY-OWNED QUALIFIED PLUG-IN ELEC-**
8 **TRIC DRIVE MOTOR VEHICLES.**

9 “(a) ALLOWANCE OF CREDIT.—In the case of a
10 qualified buyer who during a taxable year places in service
11 a previously-owned qualified plug-in electric drive motor
12 vehicle, there shall be allowed as a credit against the tax
13 imposed by this subtitle for the taxable year an amount
14 equal to the sum of—

15 “(1) \$2,000, plus

16 “(2) in the case of a vehicle which satisfies the
17 requirements under subsection (b), \$2,000.

18 “(b) SUPPLEMENTAL CREDIT REQUIREMENTS.—A
19 previously-owned qualified plug-in electric drive motor ve-
20 hicle satisfies the requirements of this subsection if—

21 “(1) in the case of a vehicle placed in service
22 before January 1, 2027, such vehicle draws propul-
23 sion energy from a battery with not less than 40 kil-
24 owatt hours of capacity and has a gasoline tank ca-
25 pacity not greater than 2.5 gallons, and

1 “(2) in the case of a vehicle placed in service
2 after December 31, 2026, such vehicle draws propul-
3 sion energy from a battery with not less than 50 kil-
4 owatt hours of capacity and has a gasoline tank ca-
5 pacity not greater than 2.5 gallons.

6 “(c) LIMITATIONS.—

7 “(1) SALE PRICE.—The credit allowed under
8 subsection (a) with respect to the sale of a vehicle
9 shall not exceed 50 percent of the sale price.

10 “(2) LIMITATION BASED ON MODIFIED AD-
11 JUSTED GROSS INCOME.—The amount which would
12 (but for this paragraph) be allowed as a credit under
13 subsection (a) shall be reduced (but not below zero)
14 by \$200 for each \$1,000 (or fraction thereof) by
15 which the lesser of—

16 “(A) the taxpayer’s modified adjusted
17 gross income for such taxable year, or

18 “(B) the taxpayer’s modified adjusted
19 gross income for the preceding taxable year, ex-
20 ceeds—

21 “(i) \$150,000 in the case of a joint
22 return or a surviving spouse (as defined in
23 section 2(a)),

1 “(ii) \$112,500 in the case of a head
2 of household (as defined in section 2(b)),
3 and

4 “(iii) \$75,000 in the case of a tax-
5 payer not described in paragraph (1) or
6 (2).

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

8 “(1) PREVIOUSLY-OWNED QUALIFIED PLUG-IN
9 ELECTRIC DRIVE MOTOR VEHICLE.—The term ‘pre-
10 viously-owned qualified plug-in electric drive motor
11 vehicle’ means, with respect to a taxpayer, a motor
12 vehicle—

13 “(A) the model year of which is at least 2
14 years earlier than the calendar year in which
15 the taxpayer acquires such vehicle,

16 “(B) the original use of which commences
17 with a person other than the taxpayer,

18 “(C) which is acquired by the taxpayer in
19 a qualified sale, and

20 “(D) which—

21 “(i) meets the requirements of sub-
22 paragraphs (C), (D), (E), (F), (H), and (I)
23 of section 36D(f)(1) (determined by sub-
24 stituting ‘previously-owned qualified plug-
25 in electric drive motor vehicle’ for ‘new

1 qualified plug-in electric drive motor vehi-
2 cle’), or

3 “(ii) is a motor vehicle which—

4 “(I) satisfies the requirements
5 under subparagraphs (A) and (B) of
6 section 30B(b)(3), and

7 “(II) has a gross vehicle weight
8 rating of less than 14,000 pounds.

9 “(2) QUALIFIED SALE.—The term ‘qualified
10 sale’ means a sale of a motor vehicle—

11 “(A) by a seller who holds such vehicle in
12 inventory (within the meaning of section 471)
13 for sale or lease,

14 “(B) for a sale price not to exceed
15 \$25,000, and

16 “(C) which is the first transfer since the
17 date of the enactment of this section to a per-
18 son other than the person with whom the origi-
19 nal use of such vehicle commenced.

20 “(3) QUALIFIED BUYER.—The term ‘qualified
21 buyer’ means, with respect to a sale of a motor vehi-
22 cle, a taxpayer—

23 “(A) who is an individual,

24 “(B) who purchases such vehicle for use
25 and not for resale,

1 “(C) with respect to whom no deduction is
2 allowable with respect to another taxpayer
3 under section 151, and

4 “(D) who has not been allowed a credit
5 under this section for any sale during the 3-
6 year period ending on the date of the sale of
7 such vehicle.

8 “(4) MOTOR VEHICLE; CAPACITY.—The terms
9 ‘motor vehicle’ and ‘capacity’ have the meaning
10 given such terms in paragraphs (2) and (4) of sec-
11 tion 36D(f), respectively.

12 “(e) VIN NUMBER REQUIREMENT.—No credit shall
13 be allowed under subsection (a) with respect to any vehicle
14 unless the taxpayer includes the vehicle identification
15 number of such vehicle on the return of tax for the taxable
16 year.

17 “(f) APPLICATION OF CERTAIN RULES.—For pur-
18 poses of this section, rules similar to the rules of section
19 36D(g) shall apply for purposes of this section.

20 “(g) TREATMENT OF CERTAIN POSSESSIONS.—

21 “(1) PAYMENTS TO POSSESSIONS WITH MIRROR
22 CODE TAX SYSTEMS.—The Secretary shall pay to
23 each possession of the United States which has a
24 mirror code tax system amounts equal to the loss (if
25 any) to that possession by reason of the application

1 of the provisions of this section. Such amounts shall
2 be determined by the Secretary based on information
3 provided by the government of the respective posses-
4 sion.

5 “(2) PAYMENTS TO OTHER POSSESSIONS.—The
6 Secretary shall pay to each possession of the United
7 States which does not have a mirror code tax system
8 amounts estimated by the Secretary as being equal
9 to the aggregate benefits (if any) that would have
10 been provided to residents of such possession by rea-
11 son of the provisions of this section if a mirror code
12 tax system had been in effect in such possession.
13 The preceding sentence shall not apply unless the re-
14 spective possession has a plan which has been ap-
15 proved by the Secretary under which such possession
16 will promptly distribute such payments to its resi-
17 dents.

18 “(3) MIRROR CODE TAX SYSTEM; TREATMENT
19 OF PAYMENTS.—Rules similar to the rules of para-
20 graphs (3), (4), and (5) of section 21(h) shall apply
21 for purposes of this section.

22 “(h) TERMINATION.—No credit shall be allowed
23 under this section with respect to any vehicle acquired
24 after December 31, 2031.”

1 (b) TRANSFER OF CREDIT.—Section 36E, as added
2 by subsection (a), is amended—

3 (1) by redesignating subsection (h) as sub-
4 section (i), and

5 (2) by inserting after subsection (g) the fol-
6 lowing:

7 “(h) TRANSFER OF CREDIT.—Rules similar to the
8 rules of section 36D(l) shall apply.”.

9 (c) CONFORMING AMENDMENTS.—

10 (1) Section 6211(b)(4)(A), as amended by the
11 preceding provisions of this Act, is amended by in-
12 serting “36E,” after “36D,”.

13 (2) Section 6213(g)(2), as amended by the pre-
14 ceding provisions of this Act, is amended—

15 (A) in subparagraph (T), by striking
16 “and” at the end,

17 (B) in subparagraph (U), by striking the
18 period at the end and inserting “, and”, and

19 (C) by adding at the end the following:

20 “(V) an omission of a correct vehicle iden-
21 tification number required under section 36E(e)
22 (relating to credit for previously-owned qualified
23 plug-in electric drive motor vehicles) to be in-
24 cluded on a return.”.

1 (3) Paragraph (2) of section 1324(b) of title
2 31, United States Code, as amended by the pre-
3 ceding provisions of this Act, is amended by insert-
4 ing “36E,” after “36D.”.

5 (d) GROSS-UP OF DIRECT SPENDING.—Beginning in
6 fiscal year 2023 and each fiscal year thereafter, the por-
7 tion of any credit allowed to a seller described in section
8 36E(d)(2)(A) of the Internal Revenue Code of 1986 pur-
9 suant to application of the rules under section 36E(h) of
10 the Internal Revenue Code of 1986 that is direct spending
11 shall be increased by 6.0445 percent.

12 (e) CLERICAL AMENDMENT.—The table of sections
13 for subpart C of part IV of subchapter A of chapter 1,
14 as amended by the preceding provisions of this Act, is
15 amended by inserting after the item relating to section
16 36D the following new item:

“Sec. 36E. Previously-owned qualified plug-in electric drive motor vehicles.”.

17 (f) EFFECTIVE DATE.—

18 (1) IN GENERAL.—Except as provided in para-
19 graph (2), the amendments made by this section
20 shall apply to vehicles acquired after December 31,
21 2021.

22 (2) TRANSFER OF CREDIT.—The amendments
23 made by subsection (b) shall apply to vehicles ac-
24 quired after December 31, 2022.

1 **SEC. 126403. QUALIFIED COMMERCIAL ELECTRIC VEHI-**
2 **CLES.**

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

7 **“SEC. 45X. CREDIT FOR QUALIFIED COMMERCIAL ELEC-**
8 **TRIC VEHICLES.**

9 “(a) IN GENERAL.—For purposes of section 38, the
10 qualified commercial electric vehicle credit for any taxable
11 year is an amount equal to the sum of the credit amounts
12 determined under subsection (b) with respect to each
13 qualified commercial electric vehicle placed in service by
14 the taxpayer during the taxable year.

15 “(b) PER VEHICLE AMOUNT.—

16 “(1) IN GENERAL.—The amount determined
17 under this subsection with respect to any qualified
18 commercial electric vehicle shall be equal to the less-
19 er of—

20 “(A) 15 percent of the basis of such vehi-
21 cle (30 percent in the case of a vehicle not pow-
22 ered by a gasoline or diesel internal combustion
23 engine), or

24 “(B) the incremental cost of such vehicle.

25 “(2) INCREMENTAL COST.—For purposes of
26 paragraph (1)(B), the incremental cost of any quali-

1 fied commercial electric vehicle is an amount equal
2 to the excess of the purchase price for such vehicle
3 over such price of a comparable vehicle.

4 “(3) COMPARABLE VEHICLE.—For purposes of
5 this subsection, the term ‘comparable vehicle’ means,
6 with respect to any qualified commercial electric ve-
7 hicle, any vehicle which is powered solely by a gaso-
8 line or diesel internal combustion engine and which
9 is comparable in size and use to such vehicle.

10 “(4) VEHICLES FOR LEASE TO INDIVIDUALS.—

11 “(A) IN GENERAL.—In the case of a quali-
12 fied commercial electric vehicle which is ac-
13 quired by the taxpayer for the purpose of leas-
14 ing such vehicle to any individual, the amount
15 determined under this subsection with respect
16 to such vehicle shall, at the election of such tax-
17 payer, be equal to the amount of the credit that
18 would otherwise be allowed under section 36D
19 with respect to such vehicle, as determined as
20 if such vehicle—

21 “(i) is a new qualified plug-in electric
22 drive motor vehicle or qualified 2- or 3-
23 wheeled plug-in electric vehicle, and

24 “(ii) has been acquired and placed in
25 service by an individual.

1 “(B) ELECTION REQUIREMENTS.—

2 “(i) IN GENERAL.—An election under
3 subparagraph (A) shall be made at such
4 time and in such manner as the Secretary
5 prescribes by regulations or other guid-
6 ance.

7 “(ii) DISCLOSURE REQUIREMENT.—
8 For purposes of any regulations or other
9 guidance prescribed under clause (i), the
10 Secretary shall require that, as a condition
11 of an election under subparagraph (A), the
12 taxpayer making such election shall be re-
13 quired to disclose to the lessee of the com-
14 mercial electric vehicle the value of the
15 credit allowed under this section.

16 “(c) QUALIFIED COMMERCIAL ELECTRIC VEHI-
17 CLE.—For purposes of this section, the term ‘qualified
18 commercial electric vehicle’ means any vehicle which—

19 “(1) meets the requirements of section
20 36D(f)(1)(C) and is acquired for use or lease by the
21 taxpayer and not for resale,

22 “(2) either—

23 “(A) meets the requirements of subpara-
24 graph (D) of section 36D(f)(1) and is manufac-
25 tured primarily for use on public streets, roads,

1 and highways (not including a vehicle operated
2 exclusively on a rail or rails), or

3 “(B) is mobile machinery, as defined in
4 section 4053(8) (including vehicles that are not
5 designed to perform a function of transporting
6 a load over the public highways),

7 “(3) either—

8 “(A) is propelled to a significant extent by
9 an electric motor which draws electricity from a
10 battery which has a capacity of not less than 15
11 kilowatt hours and is capable of being re-
12 charged from an external source of electricity,
13 or

14 “(B) is a motor vehicle which satisfies the
15 requirements under subparagraphs (A) and (B)
16 of section 30B(b)(3), and

17 “(4) is of a character subject to the allowance
18 for depreciation.

19 “(d) SPECIAL RULES.—

20 “(1) IN GENERAL.—Subject to paragraph (2),
21 rules similar to the rules under subsection (g) of sec-
22 tion 36D shall apply for purposes of this section.

23 “(2) RECAPTURE.—The Secretary shall, by reg-
24 ulations or other guidance, provide for recapturing
25 the benefit of any credit allowed under subsection

1 (a) with respect to any property which ceases to be
2 property eligible for such credit, including regula-
3 tions or other guidance which, in the case of any
4 commercial electric vehicle for which an election was
5 made under subsection (b)(4)—

6 “(A) recaptures the credit allowed under
7 subsection (a) if—

8 “(i) such vehicle was not leased to an
9 individual, or

10 “(ii) the taxpayer failed to comply
11 with the requirements described in sub-
12 section (b)(4)(B)(ii), and

13 “(B) in the case of a commercial electric
14 vehicle which is leased by an individual whose
15 modified adjusted gross income exceeds the
16 threshold amount under section 36D(d)(2), re-
17 captures so much of the credit allowed under
18 subsection (a) as exceeds the amount of the
19 credit which would have otherwise been allow-
20 able under such subsection if, for purposes of
21 subsection (b)(4)(A), the amount of the credit
22 that would otherwise be allowed under section
23 36D(a) with respect to such vehicle had been
24 determined as if such vehicle was acquired and

1 placed in service by such individual and subject
2 to reduction under section 36D(d).

3 “(3) VEHICLES PLACED IN SERVICE BY TAX-
4 EXEMPT ENTITIES.—Subsection (c)(4) shall not
5 apply to any vehicle which is not subject to a lease
6 and which is placed in service by a tax-exempt entity
7 described in clause (i), (ii), or (iv) of section
8 168(h)(2)(A).

9 “(e) VIN NUMBER REQUIREMENT.—No credit shall
10 be determined under subsection (a) with respect to any
11 vehicle unless the taxpayer includes the vehicle identifica-
12 tion number of such vehicle on the return of tax for the
13 taxable year.

14 “(f) TERMINATION.—No credit shall be determined
15 under this section with respect to any vehicle acquired
16 after December 31, 2031.”.

17 (b) ELECTIVE PAYMENT OF CREDIT IN CASE OF
18 CERTAIN TAX-EXEMPT ENTITIES.—Section 6417(b), as
19 amended by the preceding provisions of this Act, is amend-
20 ed by adding at the end the following new paragraph:

21 “(9) In the case of a tax-exempt entity de-
22 scribed in clause (i), (ii), or (iv) of section
23 168(h)(2)(A), the credit for qualified commercial ve-
24 hicles determined under section 45X by reason of
25 subsection (d)(3) thereof.”.

1 (c) CONFORMING AMENDMENTS.—

2 (1) Section 38(b) is amended by striking para-
3 graph (30) and inserting the following:

4 “(30) the qualified commercial electric vehicle
5 credit determined under section 45X,”.

6 (2) Section 6213(g)(2), as amended by the pre-
7 ceding provisions of this Act, is amended—

8 (A) in subparagraph (U), by striking
9 “and” at the end,

10 (B) in subparagraph (V), by striking the
11 period at the end and inserting “, and”, and

12 (C) by adding at the end the following:

13 “(W) an omission of a correct vehicle iden-
14 tification number required under section 45X(e)
15 (relating to commercial electric vehicle credit)
16 to be included on a return.”.

17 (3) The table of sections for subpart D of part
18 IV of subchapter A of chapter 1, as amended by the
19 preceding provisions of this Act, is amended by add-
20 ing at the end the following new item:

“Sec. 45X. Qualified commercial electric vehicle credit.”.

21 (d) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to vehicles acquired after Decem-
23 ber 31, 2021.

1 **SEC. 126404. QUALIFIED FUEL CELL MOTOR VEHICLES.**

2 (a) IN GENERAL.—Section 30B(k)(1) is amended by
3 striking “December 31, 2021” and inserting “December
4 31, 2031”.

5 (b) NEW QUALIFIED FUEL CELL MOTOR VEHI-
6 CLE.—Section 30B(b)(3) is amended by striking “and” at
7 the end of subparagraph (D), by striking the period at
8 the end of subparagraph (E) and inserting “, and”, and
9 by adding at the end the following new subparagraph:

10 “(F) which is not property of a character
11 subject to an allowance for depreciation.”.

12 (c) CONFORMING AMENDMENT.—Section 30B(g) is
13 amended to read as follows:

14 “(g) PERSONAL CREDIT.—For purposes of this title,
15 the credit allowed under subsection (a) for any taxable
16 year shall be treated as a credit allowable under subpart
17 A for such taxable year.”.

18 (d) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to property placed in service after
20 December 31, 2021.

21 **SEC. 126405. ALTERNATIVE FUEL REFUELING PROPERTY**
22 **CREDIT.**

23 (a) IN GENERAL.—Section 30C(g) is amended by
24 striking “December 31, 2021” and inserting “December
25 31, 2031”.

1 (b) ADDITIONAL CREDIT FOR CERTAIN ELECTRIC
2 CHARGING PROPERTY.—

3 (1) IN GENERAL.—Section 30C(a) is amend-
4 ed—

5 (A) by striking “equal to 30 percent” and
6 inserting the following: “equal to the sum of—
7 “(1) 30 percent (6 percent in the case of prop-
8 erty of a character subject to depreciation)”,

9 (B) by striking the period at the end and
10 inserting “, plus”, and

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

13 “(2) 4 percent of so much of such cost as ex-
14 ceeds the limitation under subsection (b)(1) that
15 does not exceed the amount of cost attributable to
16 qualified alternative fuel vehicle refueling property
17 (determined without regard to subsection (c)(1) and
18 as if only electricity, and fuel at least 85 percent of
19 the volume of which consists of hydrogen, were
20 treated as clean-burning fuels for purposes of section
21 179A(d)) which—

22 “(A) is intended for general public use
23 with no associated fee or payment arrangement,

24 “(B) is intended for general public use and
25 accepts payment via a credit card reader, in-

1 including a credit card reader that uses
2 contactless technology, or

3 “(C) is intended for use exclusively by
4 commercial or governmental vehicles.”.

5 (2) CONFORMING AMENDMENT.—Section
6 30C(b) is amended—

7 (A) by striking “The credit allowed under
8 subsection (a)” and inserting “The amount of
9 cost taken into account under subsection
10 (a)(1)”,

11 (B) by striking “\$30,000” and inserting
12 “\$100,000”, and

13 (C) by striking “\$1,000” and inserting
14 “\$3,333.33”.

15 (3) BIDIRECTIONAL CHARGING EQUIPMENT IN-
16 CLUDED AS QUALIFIED ALTERNATIVE FUEL VEHI-
17 CLE REFUELING PROPERTY.—Section 30C(c) is
18 amended to read as follows:

19 “(c) QUALIFIED ALTERNATIVE FUEL VEHICLE RE-
20 FUELING PROPERTY.—For purposes of this section—

21 “(1) IN GENERAL.—The term ‘qualified alter-
22 native fuel vehicle refueling property’ has the same
23 meaning as the term ‘qualified clean-fuel vehicle re-
24 fueling property’ would have under section 179A
25 if—

1 “(A) paragraph (1) of section 179A(d) did
2 not apply to property installed on property
3 which is used as the principal residence (within
4 the meaning of section 121) of the taxpayer,
5 and

6 “(B) only the following were treated as
7 clean-burning fuels for purposes of section
8 179A(d):

9 “(i) Any fuel at least 85 percent of
10 the volume of which consists of one or
11 more of the following: ethanol, natural gas,
12 compressed natural gas, liquified natural
13 gas, liquefied petroleum gas, or hydrogen.

14 “(ii) Any mixture—

15 “(I) which consists of two or
16 more of the following: biodiesel (as de-
17 fined in section 40A(d)(1)), diesel fuel
18 (as defined in section 4083(a)(3)), or
19 kerosene, and

20 “(II) at least 20 percent of the
21 volume of which consists of biodiesel
22 (as so defined) determined without re-
23 gard to any kerosene in such mixture.

24 “(iii) Electricity.

1 “(2) BIDIRECTIONAL CHARGING EQUIPMENT.—
2 Property shall not fail to be treated as qualified al-
3 ternative fuel vehicle refueling property solely be-
4 cause such property—

5 “(A) is capable of charging the battery of
6 a motor vehicle propelled by electricity, and

7 “(B) allows discharging electricity from
8 such battery to an electric load external to such
9 motor vehicle.”.

10 (c) CERTAIN ELECTRIC CHARGING STATIONS IN-
11 CLUDED AS QUALIFIED ALTERNATIVE FUEL VEHICLE
12 REFUELING PROPERTY.—Section 30C is amended by re-
13 designating subsections (f) and (g) as subsections (g) and
14 (h), respectively, and by inserting after subsection (e) the
15 following:

16 “(f) SPECIAL RULE FOR ELECTRIC CHARGING STA-
17 TIONS FOR CERTAIN VEHICLES WITH 2 OR 3 WHEELS.—
18 For purposes of this section—

19 “(1) IN GENERAL.—The term ‘qualified alter-
20 native fuel vehicle refueling property’ includes any
21 property described in subsection (c) for the re-
22 charging of a motor vehicle described in paragraph
23 (2), but only if such property—

24 “(A) meets the requirements of subsection
25 (a)(2), and

1 “(B) is of a character subject to deprecia-
2 tion.

3 “(2) MOTOR VEHICLE.—A motor vehicle is de-
4 scribed in this paragraph if the motor vehicle—

5 “(A) is manufactured primarily for use on
6 public streets, roads, or highways (not including
7 a vehicle operated exclusively on a rail or rails),

8 “(B) has at least 2, but not more than 3,
9 wheels, and

10 “(C) is propelled by electricity.”.

11 (d) WAGE AND APPRENTICESHIP REQUIREMENTS.—
12 Section 30C, as amended by this section, is further
13 amended by redesignating subsections (g) and (h) as sub-
14 sections (h) and (i) and by inserting after subsection (f)
15 the following new subsection:

16 “(g) WAGE AND APPRENTICESHIP REQUIRE-
17 MENTS.—

18 “(1) INCREASED CREDIT AMOUNT.—

19 “(A) IN GENERAL.—In the case of any
20 qualified alternative fuel vehicle refueling
21 project which satisfies the requirements of sub-
22 paragraph (C), the amount of the credit deter-
23 mined under subsection (a) for any qualified al-
24 ternative fuel vehicle refueling property of a
25 character subject to an allowance for deprecia-

1 tion which is part of such project shall be equal
2 to such amount (determined without regard to
3 this sentence) multiplied by 5.

4 “(B) QUALIFIED ALTERNATIVE FUEL VE-
5 HICLE REFUELING PROJECT.—For purposes of
6 this subsection, the term ‘qualified alternative
7 fuel vehicle refueling project’ means a project
8 consisting of one or more properties that are
9 part of a single project.

10 “(C) PROJECT REQUIREMENTS.—A project
11 meets the requirements of this subparagraph if
12 it is one of the following:

13 “(i) A project the construction of
14 which begins prior to the date that is 60
15 days after the Secretary publishes guid-
16 ance with respect to the requirements of
17 paragraphs (2)(A) and (3).

18 “(ii) A project which satisfies the re-
19 quirements of paragraphs (2)(A) and (3).

20 “(2) PREVAILING WAGE REQUIREMENTS.—

21 “(A) IN GENERAL.—The requirements de-
22 scribed in this subparagraph with respect to
23 any qualified alternative fuel vehicle refueling
24 project are that the taxpayer shall ensure that
25 any laborers and mechanics employed by con-

1 tractors and subcontractors in the construction
2 of any qualified alternative fuel vehicle refueling
3 property which is part of such project shall be
4 paid wages at rates not less than the prevailing
5 rates for construction, alteration, or repair of a
6 similar character in the locality as most re-
7 cently determined by the Secretary of Labor, in
8 accordance with subchapter IV of chapter 31 of
9 title 40, United States Code.

10 “(B) CORRECTION AND PENALTY RELATED
11 TO FAILURE TO SATISFY WAGE REQUIRE-
12 MENTS.—Rules similar to the rules of section
13 45(b)(7)(B) shall apply.

14 “(3) APPRENTICESHIP REQUIREMENTS.—Rules
15 similar to the rules of section 45(b)(8) shall apply.

16 “(4) REGULATIONS AND GUIDANCE.—The Sec-
17 retary shall issue such regulations or other guidance
18 as the Secretary determines necessary or appropriate
19 to carry out the purposes of this subsection, includ-
20 ing regulations or other guidance which provides for
21 requirements for recordkeeping or information re-
22 porting for purposes of administering the require-
23 ments of this subsection.”.

1 (e) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to property placed in service after
3 December 31, 2021.

4 **SEC. 126406. REINSTATEMENT AND EXPANSION OF EM-**
5 **PLOYER-PROVIDED FRINGE BENEFITS FOR**
6 **BICYCLE COMMUTING.**

7 (a) REPEAL OF SUSPENSION OF EXCLUSION FOR
8 QUALIFIED BICYCLE COMMUTING BENEFITS.—Section
9 132(f) is amended by striking paragraph (8).

10 (b) EXPANSION OF BICYCLE COMMUTING BENE-
11 FITS.—Section 132(f)(5)(F) is amended to read as fol-
12 lows:

13 “(F) DEFINITIONS RELATED TO BICYCLE
14 COMMUTING BENEFITS.—

15 “(i) QUALIFIED BICYCLE COMMUTING
16 BENEFIT.—The term ‘qualified bicycle
17 commuting benefit’ means, with respect to
18 any calendar year—

19 “(I) any employer reimbursement
20 during the 15-month period beginning
21 with the first day of such calendar
22 year for reasonable expenses incurred
23 by the employee during such calendar
24 year for the purchase (including asso-
25 ciated finance charges), lease, rental

1 (including a bikeshare), improvement,
2 repair, or storage of qualified com-
3 muting property, or

4 “(II) the direct or indirect provi-
5 sion by the employer to the employee
6 during such calendar year of the use
7 (including a bikeshare), improvement,
8 repair, or storage of qualified com-
9 muting property,

10 if the employee regularly uses such quali-
11 fied commuting property for travel between
12 the employee’s residence, place of employ-
13 ment, a qualified parking facility, or a
14 mass transit facility that connects the em-
15 ployee to their residence or place of em-
16 ployment.

17 “(ii) QUALIFIED COMMUTING PROP-
18 erty.—The term ‘qualified commuting
19 property’ means—

20 “(I) except as provided in sub-
21 clause (II), any bicycle which is not
22 equipped with a motor,

23 “(II) any electric bicycle which
24 meets the requirements of section
25 36F(c)(5),

1 “(III) except as provided in sub-
2 clause (IV), any 2- or 3-wheel scooter
3 which is not equipped with a motor,
4 and

5 “(IV) any 2- or 3-wheel scooter
6 propelled by an electric motor if such
7 motor does not provide assistance if
8 the speed of such scooter exceeds 20
9 miler per hour (or if the speed of such
10 scooter is not capable of exceeding 20
11 miles per hour) and the weight of
12 such scooter does not exceed 100
13 pounds.

14 “(iii) BIKESHARE.—The term
15 ‘bikeshare’ means a rental operation at
16 which qualified commuting property is
17 made available to customers to pick up and
18 drop off for point-to-point use within a de-
19 fined geographic area.”.

20 (e) LIMITATION ON EXCLUSION.—Section
21 132(f)(2)(C) is amended to read as follows:

22 “(C) 30 percent of the dollar amount in ef-
23 fect under subparagraph (B) per month in the
24 case of any qualified bicycle commuting ben-
25 efit.”.

1 (d) NO CONSTRUCTIVE RECEIPT.—Section 132(f)(4)
2 is amended by striking “(other than a qualified bicycle
3 commuting reimbursement)”.

4 (e) CONFORMING AMENDMENTS.—

5 (1) Section 132(f)(1)(D) is amended by striking
6 “reimbursement” and inserting “benefit”.

7 (2) Section 274(l) is amended—

8 (A) by striking paragraph (2), and

9 (B) by striking “BENEFITS” and all that
10 follows through “No deduction” and inserting
11 “BENEFITS.—No deduction”.

12 (f) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to taxable years beginning after
14 December 31, 2021.

15 **SEC. 126407. CREDIT FOR CERTAIN NEW ELECTRIC BICY-**
16 **CLES.**

17 (a) IN GENERAL.—Subpart C of part IV of sub-
18 chapter A of chapter 1, as amended by the preceding pro-
19 visions of this Act, is amended by inserting after section
20 36E the following new section:

21 **“SEC. 36F. ELECTRIC BICYCLES.**

22 “(a) ALLOWANCE OF CREDIT.—There shall be al-
23 lowed as a credit against the tax imposed by this chapter
24 for the taxable year an amount equal to 30 percent of the

1 cost of each qualified electric bicycle placed in service by
2 the taxpayer during such taxable year.

3 “(b) LIMITATIONS.—

4 “(1) LIMITATION ON COST PER ELECTRIC BICY-
5 CLE TAKEN INTO ACCOUNT.—The amount taken
6 into account under subsection (a) as the cost of any
7 qualified electric bicycle shall not exceed \$3,000.

8 “(2) BICYCLE LIMITATION WITH RESPECT TO
9 CREDIT.—

10 “(A) LIMITATION ON NUMBER OF PER-
11 SONAL-USE BICYCLES.—In the case of any tax-
12 payer for any taxable year, the number of per-
13 sonal-use bicycles taken into account under sub-
14 section (a) shall not exceed the excess (if any)
15 of—

16 “(i) 1 (2 in the case of a joint return),
17 reduced by

18 “(ii) the aggregate number of bicycles
19 taken into account by the taxpayer under
20 subsection (a) for the 2 preceding taxable
21 years.

22 “(B) PHASEOUT BASED ON MODIFIED AD-
23 JUSTED GROSS INCOME.—The credit allowed
24 under subsection (a) shall be reduced by \$200
25 for each \$1,000 (or fraction thereof) by which

1 the taxpayer's modified adjusted gross income
2 exceeds—

3 “(i) \$150,000 in the case of a joint
4 return or a surviving spouse (as defined in
5 section 2(a)),

6 “(ii) \$112,500 in the case of a head
7 of household (as defined in section 2(b)),
8 and

9 “(iii) \$75,000 in the case of a tax-
10 payer not described in clause (i) or (ii).

11 “(C) MODIFIED ADJUSTED GROSS IN-
12 COME.—For purposes of subparagraph (B), the
13 term ‘modified adjusted gross income’ means
14 adjusted gross income increased by any amount
15 excluded from gross income under section 911,
16 931, or 933.

17 “(D) SPECIAL RULE FOR MODIFIED AD-
18 JUSTED GROSS INCOME TAKEN INTO AC-
19 COUNT.—The modified adjusted gross income
20 of the taxpayer that is taken into account for
21 purposes of this paragraph shall be the lesser
22 of—

23 “(i) the modified adjusted gross in-
24 come for the taxable year in which the
25 credit is claimed, or

1 “(ii) the modified adjusted gross in-
2 come for the immediately preceding taxable
3 year.

4 “(c) QUALIFIED ELECTRIC BICYCLE.—For purposes
5 of this section, the term ‘qualified electric bicycle’ means
6 a bicycle—

7 “(1) the original use of which commences with
8 the taxpayer,

9 “(2) which is acquired for use by the taxpayer
10 and not for resale,

11 “(3) which is made by a qualified manufacturer
12 and is labeled with the qualified vehicle identification
13 number assigned to such bicycle by such manufac-
14 turer,

15 “(4) with respect to which the aggregate
16 amount paid for such acquisition does not exceed
17 \$4,000, and

18 “(5) which is equipped with—

19 “(A) fully operable pedals,

20 “(B) a saddle or seat for the rider, and

21 “(C) an electric motor of less than 750
22 watts which is designed to provided assistance
23 in propelling the bicycle and—

1 “(i) does not provide such assistance
2 if the bicycle is moving in excess of 20
3 miler per hour, or

4 “(ii) if such motor only provides such
5 assistance when the rider is pedaling, does
6 not provide such assistance if the bicycle is
7 moving in excess of 28 miles per hour.

8 “(d) VIN NUMBER REQUIREMENT.—

9 “(1) IN GENERAL.—No credit shall be allowed
10 under subsection (a) with respect to any qualified
11 electric bicycle unless the taxpayer includes the
12 qualified vehicle identification number of such bicy-
13 cle on the return of tax for the taxable year.

14 “(2) QUALIFIED VEHICLE IDENTIFICATION
15 NUMBER.—For purposes of this section, the term
16 ‘qualified vehicle identification number’ means, with
17 respect to any bicycle, the vehicle identification num-
18 ber assigned to such bicycle by a qualified manufac-
19 turer pursuant to the methodology referred to in
20 paragraph (3).

21 “(3) QUALIFIED MANUFACTURER.—For pur-
22 poses of this section, the term ‘qualified manufac-
23 turer’ means any manufacturer of qualified electric
24 bicycles which enters into an agreement with the

1 Secretary which provides that such manufacturer
2 will—

3 “(A) assign a vehicle identification number
4 to each qualified electric bicycle produced by
5 such manufacturer utilizing a methodology that
6 will ensure that such number (including any al-
7 phanumeric) is unique to such bicycle (by uti-
8 lizing numbers or letters which are unique to
9 such manufacturer or by such other method as
10 the Secretary may provide),

11 “(B) label such bicycle with such number
12 in such manner as the Secretary may provide,
13 and

14 “(C) make periodic written reports to the
15 Secretary (at such times and in such manner as
16 the Secretary may provide) of the vehicle identi-
17 fication numbers so assigned and including
18 such information as the Secretary may require
19 with respect to the qualified electric bicycle to
20 which such number was so assigned.

21 “(e) SPECIAL RULES.—

22 “(1) BASIS REDUCTION.—For purposes of this
23 subtitle, the basis of any property for which a credit
24 is allowable under subsection (a) shall be reduced by
25 the amount of such credit so allowed.

1 “(2) NO DOUBLE BENEFIT.—The amount of
2 any deduction or other credit allowable under this
3 chapter for a qualified electric bicycle for which a
4 credit is allowable under subsection (a) shall be re-
5 duced by the amount of credit allowed under such
6 subsection for such bicycle.

7 “(3) PROPERTY USED OUTSIDE UNITED STATES
8 NOT QUALIFIED.—No credit shall be allowable under
9 subsection (a) with respect to any property referred
10 to in section 50(b)(1).

11 “(4) RECAPTURE.—The Secretary shall, by reg-
12 ulations or other guidance, provide for recapturing
13 the benefit of any credit allowable under subsection
14 (a) with respect to any property which ceases to be
15 property eligible for such credit.

16 “(5) ELECTION NOT TO TAKE CREDIT.—No
17 credit shall be allowed under subsection (a) for any
18 bicycle if the taxpayer elects to not have this section
19 apply to such bicycle.

20 “(f) TREATMENT OF CERTAIN POSSESSIONS.—

21 “(1) PAYMENTS TO POSSESSIONS WITH MIRROR
22 CODE TAX SYSTEMS.—The Secretary shall pay to
23 each possession of the United States which has a
24 mirror code tax system amounts equal to the loss (if
25 any) to that possession by reason of the application

1 of the provisions of this section (determined without
2 regard to this subsection). Such amounts shall be
3 determined by the Secretary based on information
4 provided by the government of the respective posses-
5 sion.

6 “(2) PAYMENTS TO OTHER POSSESSIONS.—The
7 Secretary shall pay to each possession of the United
8 States which does not have a mirror code tax system
9 amounts estimated by the Secretary as being equal
10 to the aggregate benefits (if any) that would have
11 been provided to residents of such possession by rea-
12 son of the provisions of this section if a mirror code
13 tax system had been in effect in such possession.
14 The preceding sentence shall not apply unless the re-
15 spective possession has a plan which has been ap-
16 proved by the Secretary under which such possession
17 will promptly distribute such payments to its resi-
18 dents.

19 “(3) MIRROR CODE TAX SYSTEM; TREATMENT
20 OF PAYMENTS.—Rules similar to the rules of para-
21 graphs (3), (4), and (5) of section 21(h) shall apply
22 for purposes of this section.

23 “(g) TERMINATION.—This section shall not apply to
24 bicycles placed in service after December 31, 2025.”

1 (b) TRANSFER OF CREDIT.—Section 36F, as added
2 by subsection (a), is amended—

3 (1) by redesignating subsection (g) as sub-
4 section (h), and

5 (2) by inserting after subsection (f) the fol-
6 lowing:

7 “(g) TRANSFER OF CREDIT.—

8 “(1) IN GENERAL.—Subject to such regulations
9 or other guidance as the Secretary determines nec-
10 essary or appropriate, if the taxpayer who acquires
11 a qualified electric bicycle after December 31, 2022,
12 elects the application of this subsection with respect
13 to such qualified electric bicycle, the credit which
14 would (but for this subsection) be allowed to such
15 taxpayer with respect to such qualified electric bicy-
16 cle shall be allowed to the eligible entity specified in
17 such election (and not to such taxpayer).

18 “(2) ELIGIBLE ENTITY.—For purposes of this
19 paragraph, the term ‘eligible entity’ means, with re-
20 spect to the qualified electric bicycle for which the
21 credit is allowed under subsection (a), the retailer
22 which sold such qualified electric bicycle to the tax-
23 payer and has—

24 “(A) subject to paragraph (4), registered
25 with the Secretary for purposes of this para-

1 graph, at such time, and in such form and
2 manner, as the Secretary may prescribe,

3 “(B) prior to the election described in
4 paragraph (1) and no later than at the time of
5 such sale, disclosed to the taxpayer purchasing
6 such qualified electric bicycle—

7 “(i) the retail price,

8 “(ii) the value of the credit allowed or
9 other incentive available for the purchase
10 of such qualified electric bicycle, and

11 “(iii) the amount provided by the re-
12 tailer to such taxpayer as a condition of
13 the election described in paragraph (1),

14 “(C) made payment to such taxpayer
15 (whether in cash or in the form of a partial
16 payment or down payment for the purchase of
17 such qualified electric bicycle) in an amount
18 equal to the credit otherwise allowable to such
19 taxpayer, and

20 “(D) with respect to any incentive other-
21 wise available for the purchase of a qualified
22 electric bicycle for which a credit is allowed
23 under this section, including any incentive in
24 the form of a rebate or discount provided by the
25 retailer or manufacturer, ensured that—

1 “(i) the availability or use of such in-
2 centive shall not limit the ability of a tax-
3 payer to make an election described in
4 paragraph (1), and

5 “(ii) such election shall not limit the
6 value or use of such incentive.

7 “(3) TIMING.—An election described in para-
8 graph (1) shall be made by the taxpayer not later
9 than the date on which the qualified electric bicycle
10 for which the credit is allowed under subsection (a)
11 is purchased.

12 “(4) REVOCATION OF REGISTRATION.—Upon
13 determination by the Secretary that a retailer has
14 failed to comply with the requirements described in
15 paragraph (2), the Secretary may revoke the reg-
16 istration (as described in subparagraph (A) of such
17 paragraph) of such retailer.

18 “(5) TAX TREATMENT OF PAYMENTS.—With
19 respect to any payment described in paragraph
20 (2)(C), such payment—

21 “(A) shall not be includible in the gross in-
22 come of the taxpayer, and

23 “(B) with respect to the retailer, shall not
24 be deductible under this title.

1 “(6) APPLICATION OF CERTAIN OTHER RE-
2 QUIREMENTS.—

3 “(A) IN GENERAL.—In the case of any
4 election under paragraph (1) with respect to
5 any qualified electric bicycle—

6 “(i) subject to subparagraph (B), the
7 amount of the reduction under subsection
8 (b) shall be determined with respect to the
9 modified adjusted gross income of the tax-
10 payer for the taxable year preceding the
11 taxable year in which such qualified elec-
12 tric bicycle was acquired (and not with re-
13 spect to such income for the taxable year
14 in which such qualified electric bicycle was
15 acquired),

16 “(ii) the requirements of paragraphs
17 (1) and (2) of subsection (e) shall apply to
18 the taxpayer who acquired the qualified
19 electric bicycle in the same manner as if
20 the credit determined under this section
21 with respect to such qualified electric bicy-
22 cle were allowed to such taxpayer, and

23 “(iii) subsection (e)(5) shall not apply.

24 “(B) ALTERNATIVE METHOD.—For pur-
25 poses of subparagraph (A)(i), in the case of a

1 taxpayer who, at the time the qualified electric
2 bicycle was acquired, has not filed a tax return
3 for the taxable year described in such subpara-
4 graph, the Secretary shall prescribe such regu-
5 lations or other guidance as the Secretary de-
6 termines appropriate for establishing an alter-
7 native method for determining the modified ad-
8 justed gross income of the taxpayer for pur-
9 poses of the application of subsection (b).

10 “(7) ADVANCE PAYMENT TO REGISTERED RE-
11 TAILERS.—

12 “(A) IN GENERAL.—The Secretary shall
13 establish a program to make advance payments
14 to any eligible entity in an amount equal to the
15 cumulative amount of the credits allowed under
16 subsection (a) with respect to any qualified elec-
17 tric bicycles sold by such entity for which an
18 election described in paragraph (1) has been
19 made.

20 “(B) EXCESSIVE PAYMENTS.—Rules simi-
21 lar to the rules of section 6417(c)(7) shall apply
22 for purposes of this paragraph.

23 “(8) RETAILER.—For purposes of this sub-
24 section, the term ‘retailer’ means a person engaged
25 in the trade or business of selling qualified electric

1 bicycles in a State, the District of Columbia, the
2 Commonwealth of Puerto Rico, any other territory
3 or possession of the United States, an Indian tribal
4 government (as defined in section 48(e)(4)(F)(ii)),
5 or any Alaska Native Corporation (as defined in sec-
6 tion 3 of the Alaska Native Claims Settlement Act
7 (43 U.S.C. 1602(m)).”.

8 (c) CONFORMING AMENDMENTS.—

9 (1) Section 1016(a), as amended by the pre-
10 ceding provisions of this Act, is amended by striking
11 “and” at the end of paragraph (38), by striking the
12 period at the end of paragraph (39) and inserting “,
13 and”, and by adding at the end the following new
14 paragraph:

15 “(40) to the extent provided in section
16 36F(e)(1).”.

17 (2) Section 6211(b)(4)(A) of such Code, as
18 amended by the preceding provisions of this Act, is
19 amended by inserting “36F,” after “36E,”.

20 (3) Section 6213(g)(2), as amended by the pre-
21 ceding provisions of this Act, is amended—

22 (A) in subparagraph (V), by striking
23 “and” at the end,

24 (B) in subparagraph (W), by striking the
25 period at the end and inserting “, and”, and

1 (C) by adding at the end the following:

2 “(X) an omission of a correct vehicle iden-
3 tification number required under section 36F(d)
4 (relating to electric bicycles credit) to be in-
5 cluded on a return.”.

6 (4) Section 6501(m) is amended by inserting
7 “36F(f)(5),” after “35(g)(11),”.

8 (5) Section 1324(b)(2) of title 31, United
9 States Code, as amended by the preceding provisions
10 of this Act, is amended by inserting “36F,” after
11 “36E,”.

12 (d) GROSS-UP OF DIRECT SPENDING.—Beginning in
13 fiscal year 2023 and each fiscal year thereafter, the por-
14 tion of any credit allowed to an eligible entity (as defined
15 in paragraph (2) of section 36F(g) of the Internal Rev-
16 enue Code of 1986) pursuant to an election made under
17 such section that is direct spending shall be increased by
18 6.0445 percent.

19 (e) CLERICAL AMENDMENT.—The table of sections
20 for subpart C of part IV of subchapter A of chapter 1,
21 as amended by the preceding provisions of this Act, is
22 amended by adding at the end the following new item:

“Sec. 36F. Electric bicycles.”.

23 (f) EFFECTIVE DATE.—

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

1 shall apply to property placed in service after De-
2 cember 31, 2021, in taxable years ending after such
3 date.

4 (2) TRANSFER OF CREDIT.—The amendments
5 made by subsection (b) shall apply to property
6 placed in service after December 31, 2022, in tax-
7 able years ending after such date.

8 **PART 5—INVESTMENT IN THE GREEN**
9 **WORKFORCE AND MANUFACTURING**

10 **SEC. 126501. EXTENSION OF THE ADVANCED ENERGY**
11 **PROJECT CREDIT.**

12 (a) EXTENSION OF CREDIT.—Section 48C is amend-
13 ed by redesignating subsection (e) as subsection (f) and
14 by inserting after subsection (d) the following new sub-
15 section:

16 “(e) ADDITIONAL ALLOCATIONS.—

17 “(1) IN GENERAL.—Not later than 270 days
18 after the date of enactment of this subsection, the
19 Secretary shall establish a program to consider and
20 award certifications for qualified investments eligible
21 for credits under this section to qualifying advanced
22 energy project sponsors.

23 “(2) ANNUAL LIMITATION.—

24 “(A) IN GENERAL.—The amount of credits
25 that may be allocated under this subsection

1 population census tract, that has ex-
2 perience major job losses in the auto-
3 motive manufacturing sector since
4 January 1, 1994, as determined by
5 the Secretary.

6 “(iii) AMOUNT SET ASIDE FOR EN-
7 ERGY COMMUNITIES.—For purposes of
8 clause (i), \$800,000,000 of the annual
9 credit limitation for each of calendar years
10 2022 through 2023 and \$300,000,000 for
11 each of calendar years 2024 through 2031
12 shall be allocated to qualified investments
13 located within energy communities (as de-
14 fined in section 45(b)(11)(B)).

15 “(C) CARRYOVER OF UNUSED LIMITA-
16 TION.—

17 “(i) IN GENERAL.—If the annual
18 credit limitation for any calendar year ex-
19 ceeds the aggregate amount designated for
20 such year under this subsection, such limi-
21 tation for the succeeding calendar year
22 shall be increased by the amount of such
23 excess.

24 “(ii) SET ASIDES DO NOT APPLY TO
25 CARRYOVER.—For purposes of the amount

1 of any increase in the annual credit limita-
2 tion for any calendar year pursuant to
3 clause (i), clauses (ii) and (iii) of subpara-
4 graph (B) shall not apply with respect to
5 such amount.

6 “(D) TERMINATION.—Notwithstanding
7 subparagraph (C), the annual credit limitation
8 for any calendar year after 2036 shall be zero.

9 “(3) CERTIFICATIONS.—

10 “(A) APPLICATION REQUIREMENT.—Each
11 applicant for certification under this subsection
12 shall submit an application at such time and
13 containing such information as the Secretary
14 may require.

15 “(B) TIME TO MEET CRITERIA FOR CER-
16 TIFICATION.—Each applicant for certification
17 shall have 2 years from the date of acceptance
18 by the Secretary of the application during
19 which to provide to the Secretary evidence that
20 the requirements of the certification have been
21 met.

22 “(C) PERIOD OF ISSUANCE.—An applicant
23 which receives a certification shall have 2 years
24 from the date of issuance of the certification in
25 order to place the project in service and to no-

1 tify the Secretary that such project has been so
2 placed in service, and if such project is not
3 placed in service (and the Secretary so notified)
4 by that time period, then the certification shall
5 no longer be valid. If any certification is re-
6 voked under this subparagraph, the amount of
7 the annual credit limitation under paragraph
8 (2) for the calendar year in which such certifi-
9 cation is revoked shall be increased by the
10 amount of the credit with respect to such re-
11 voked certification.

12 “(4) CREDIT RATE CONDITIONED UPON WAGE
13 AND APPRENTICESHIP REQUIREMENTS.—

14 “(A) BASE RATE.—For purposes of alloca-
15 tions under this subsection, the amount of the
16 credit determined under subsection (a) shall be
17 determined by substituting ‘6 percent’ for ‘30
18 percent’.

19 “(B) ALTERNATIVE RATE.—In the case of
20 any project which satisfies the requirements of
21 paragraphs (5)(A) and (6), subparagraph (A)
22 shall not apply.

23 “(5) PREVAILING WAGE REQUIREMENTS.—

24 “(A) IN GENERAL.—The requirements de-
25 scribed in this subparagraph with respect to a

1 project are that the taxpayer shall ensure that
2 any laborers and mechanics employed by con-
3 tractors and subcontractors in the re-equipping,
4 expansion, or establishment of a manufacturing
5 facility shall be paid wages at rates not less
6 than the prevailing rates for construction, alter-
7 ation, or repair of a similar character in the lo-
8 cality as most recently determined by the Sec-
9 retary of Labor, in accordance with subchapter
10 IV of chapter 31 of title 40, United States
11 Code.

12 “(B) CORRECTION AND PENALTY RELATED
13 TO FAILURE TO SATISFY WAGE REQUIRE-
14 MENTS.—In the case of any taxpayer which
15 fails to satisfy the requirement under subpara-
16 graph (A) with respect to any project, rules
17 similar to the rules of section 45(b)(7)(B) shall
18 apply.

19 “(6) APPRENTICESHIP REQUIREMENTS.—Rules
20 similar to the rules of section 45(b)(8) shall apply.”.

21 (b) MODIFICATION OF QUALIFYING ADVANCED EN-
22 ERGY PROJECTS.—Section 48C(c)(1)(A) is amended—

23 (1) by inserting “, any portion of the qualified
24 investment of which is certified by the Secretary

1 under subsection (d) as eligible for a credit under
2 this section” after “means a project”,

3 (2) in clause (i)—

4 (A) by striking “a manufacturing facility
5 for the production of” and inserting “an indus-
6 trial or manufacturing facility for the produc-
7 tion or recycling of”,

8 (B) in clause (I), by inserting “water,”
9 after “sun,”,

10 (C) in clause (II), by striking “an energy
11 storage system for use with electric or hybrid-
12 electric motor vehicles” and inserting “energy
13 storage systems and components”,

14 (D) in clause (III), by striking “grids to
15 support the transmission of intermittent
16 sources of renewable energy, including storage
17 of such energy” and inserting “grid moderniza-
18 tion equipment or components”,

19 (E) in subclause (IV), by striking “and se-
20 quester carbon dioxide emissions” and inserting
21 “, remove, use, or sequester carbon oxide emis-
22 sions”,

23 (F) by striking subclause (V) and inserting
24 the following:

577

1 “(V) equipment designed to re-
2 fine, electrolyze, or blend any fuel,
3 chemical, or product which is—

4 “(aa) renewable, or

5 “(bb) low-carbon and low-
6 emission,”,

7 (G) by striking subclause (VI),

8 (H) by redesignating subclause (VII) as
9 subclause (IX),

10 (I) by inserting after subclause (V) the fol-
11 lowing new subclauses:

12 “(VI) property designed to
13 produce energy conservation tech-
14 nologies (including residential, com-
15 mercial, and industrial applications),

16 “(VII) light-, medium-, or heavy-
17 duty electric or fuel cell vehicles, as
18 well as—

19 “(aa) technologies, compo-
20 nents, or materials for such vehi-
21 cles, and

22 “(bb) associated charging or
23 refueling infrastructure,

24 “(VIII) hybrid vehicles with a
25 gross vehicle weight rating of not less

1 than 14,000 pounds, as well as tech-
2 nologies, components, or materials for
3 such vehicles, or”, and

4 (J) in subclause (IX), as so redesignated,
5 by striking “and” at the end and inserting
6 “or”, and

7 (3) by striking clause (ii) and inserting the fol-
8 lowing:

9 “(ii) which re-equips an industrial or
10 manufacturing facility with equipment de-
11 signed to reduce greenhouse gas emissions
12 by at least 20 percent, as determined by
13 the Secretary.”.

14 (c) DENIAL OF DOUBLE BENEFIT.—48C(f), as re-
15 designated by this section, is amended by striking “or
16 48B” and inserting “48B, 48F, 45Q, or 45W”.

17 (d) EFFECTIVE DATE.—The amendments made by
18 this section shall take effect on January 1, 2022.

19 **SEC. 126502. LABOR COSTS OF INSTALLING MECHANICAL**
20 **INSULATION PROPERTY.**

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

1 **“SEC. 45Y. LABOR COSTS OF INSTALLING MECHANICAL IN-**
2 **SULATION PROPERTY.**

3 “(a) IN GENERAL.—For purposes of section 38, the
4 mechanical insulation labor costs credit determined under
5 this section for any taxable year is an amount equal to
6 2 percent of the mechanical insulation labor costs paid or
7 incurred by the taxpayer during such taxable year.

8 “(b) MECHANICAL INSULATION LABOR COSTS.—For
9 purposes of this section—

10 “(1) IN GENERAL.—The term ‘mechanical insu-
11 lation labor costs’ means the labor cost of installing
12 mechanical insulation property with respect to a me-
13 chanical system referred to in paragraph (2)(A)
14 which was originally placed in service not less than
15 1 year before the date on which such mechanical in-
16 sulation property is installed.

17 “(2) MECHANICAL INSULATION PROPERTY.—
18 The term ‘mechanical insulation property’ means in-
19 sulation materials, as well as facings and accessory
20 products installed in connection to such insulation
21 materials, which—

22 “(A) are placed in service in connection
23 with a mechanical system which—

24 “(i) is located in the United States,

25 “(ii) is of a character subject to an al-
26 lowance for depreciation, and

1 “(iii) meets the requirements of sec-
2 tion 434.403 of title 10, Code of Federal
3 Regulations (as in effect on the date of en-
4 actment of this section), and

5 “(B) result in a reduction in energy loss
6 from the mechanical system which is greater
7 than the expected reduction from the installa-
8 tion of insulation materials which meet the min-
9 imum requirements of Reference Standard 90.1
10 (as defined in section 179D(c)(2)).

11 “(c) WAGE AND APPRENTICESHIP REQUIRE-
12 MENTS.—

13 “(1) IN GENERAL.—In the case of any project
14 which satisfies the requirements of paragraphs (2)
15 and (3), the amount of credit determined under sub-
16 section (a) shall be equal to such amount (deter-
17 mined without regard to this subsection) multiplied
18 by 5.

19 “(2) WAGE REQUIREMENTS.—Rules similar to
20 the rules of section 45(b)(7) shall apply.

21 “(3) APPRENTICESHIP REQUIREMENTS.—Rules
22 similar to the rules of section 45(b)(8) shall apply.

23 “(d) TERMINATION.—This section shall not apply to
24 mechanical insulation labor costs paid or incurred after
25 December 31, 2025.”.

1 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-
2 NESS CREDIT.—Section 38(b), as amended by the pre-
3 ceding provisions of this Act, is further amended by strik-
4 ing “plus” at the end of paragraph (38), by striking the
5 period at the end of paragraph (39) and inserting “, plus”,
6 and by adding at the end the following new paragraph:

7 “(40) the mechanical insulation labor costs
8 credit determined under section 45Y(a).”.

9 (c) CONFORMING AMENDMENTS.—

10 (1) Section 280C is amended by adding at the
11 end the following new subsection:

12 “(i) MECHANICAL INSULATION LABOR COSTS CRED-
13 IT.—

14 “(1) IN GENERAL.—No deduction shall be al-
15 lowed for that portion of the mechanical insulation
16 labor costs (as defined in section 45Y(b)) otherwise
17 allowable as deduction for the taxable year which is
18 equal to the amount of the credit determined for
19 such taxable year under section 45Y(a).

20 “(2) SIMILAR RULE WHERE TAXPAYER CAP-
21 ITALIZES RATHER THAN DEDUCTS EXPENSES.—If—

22 “(A) the amount of the credit determined
23 for the taxable year under section 45Y(a), ex-
24 ceeds

1 “(B) the amount of allowable as a deduc-
2 tion for such taxable year for mechanical insu-
3 lation labor costs (determined without regard to
4 paragraph (1)),
5 the amount chargeable to capital account for the
6 taxable year for such costs shall be reduced by the
7 amount of such excess.”.

8 (2) The table of sections for subpart D of part
9 IV of subchapter A of chapter 1, as amended by the
10 preceding provisions of this Act, is further amended
11 by adding at the end the following new item:

“Sec. 45Y. Labor costs of installing mechanical insulation property.”.

12 (d) **EFFECTIVE DATE.**—The amendments made by
13 this section shall apply to amounts paid or incurred after
14 December 31, 2021, in taxable years ending after such
15 date.

16 **SEC. 126503. ADVANCED MANUFACTURING INVESTMENT**
17 **CREDIT.**

18 (a) **IN GENERAL.**—Subpart E of part IV of sub-
19 chapter A of chapter 1, as amended by the preceding pro-
20 visions of this Act, is amended by inserting after section
21 48D the following new section:

22 **“SEC. 48E. ADVANCED MANUFACTURING INVESTMENT**
23 **CREDIT.**

24 “(a) **ESTABLISHMENT OF CREDIT.**—

1 requirements under subparagraph (A)
2 of such subsection, and

3 “(II) with respect to the con-
4 struction of such facility, satisfies the
5 requirements under subsection (c)(3),
6 the applicable percentage shall be 25 percent.

7 “(b) QUALIFIED INVESTMENT.—

8 “(1) IN GENERAL.—For purposes of subsection
9 (a)(1), the qualified investment with respect to any
10 advanced manufacturing facility for any taxable year
11 is the basis of any qualified property placed in serv-
12 ice by the taxpayer during such taxable year which
13 is part of an advanced manufacturing facility.

14 “(2) QUALIFIED PROPERTY.—

15 “(A) IN GENERAL.—For purposes of this
16 subsection, the term ‘qualified property’ means
17 property—

18 “(i) which is tangible property,

19 “(ii) with respect to which deprecia-
20 tion (or amortization in lieu of deprecia-
21 tion) is allowable,

22 “(iii) which is—

23 “(I) constructed, reconstructed,
24 or erected by the taxpayer, or

1 “(II) acquired by the taxpayer if
2 the original use of such property com-
3 mences with the taxpayer, and

4 “(iv) which is integral to the operation
5 of the advanced manufacturing facility.

6 “(B) BUILDINGS AND STRUCTURAL COM-
7 PONENTS.—

8 “(i) IN GENERAL.—The term ‘quali-
9 fied property’ includes any building or its
10 structural components which otherwise sat-
11 isfy the requirements under subparagraph
12 (A).

13 “(ii) EXCEPTION.—Clause (i) shall
14 not apply with respect to a building or por-
15 tion of a building used for offices, adminis-
16 trative services, or other functions unre-
17 lated to manufacturing.

18 “(3) ADVANCED MANUFACTURING FACILITY.—
19 For purposes of this section, the term ‘advanced
20 manufacturing facility’ means a facility for which
21 the primary purpose is the manufacturing of semi-
22 conductors or semiconductor tooling equipment.

23 “(4) COORDINATION WITH REHABILITATION
24 CREDIT.—The qualified investment with respect to
25 any advanced manufacturing facility for any taxable

1 year shall not include that portion of the basis of
2 any property which is attributable to qualified reha-
3 bilitation expenditures (as defined in section
4 47(c)(2)).

5 “(c) SPECIAL RULES.—

6 “(1) CERTAIN PROGRESS EXPENDITURE RULES
7 MADE APPLICABLE.—Rules similar to the rules of
8 subsections (c)(4) and (d) of section 46 (as in effect
9 on the day before the date of the enactment of the
10 Revenue Reconciliation Act of 1990) shall apply for
11 purposes of subsection (a).

12 “(2) WAGE REQUIREMENTS.—

13 “(A) IN GENERAL.—The requirements de-
14 scribed in this subparagraph with respect to
15 any qualified property which is part of an ad-
16 vanced manufacturing facility are that the tax-
17 payer shall ensure that any laborers and me-
18 chanics employed by contractors and sub-
19 contractors in—

20 “(i) the construction of such property,
21 and

22 “(ii) for any year during the 5-year
23 period beginning on the date the property
24 is originally placed in service, the alter-
25 ation or repair of such property,

1 shall be paid wages at rates not less than the
2 prevailing rates for construction, alteration, or
3 repair of a similar character in the locality as
4 most recently determined by the Secretary of
5 Labor, in accordance with subchapter IV of
6 chapter 31 of title 40, United States Code.
7 Subject to subparagraph (C), for purposes of
8 any determination under subsection (a)(2) for
9 the taxable year in which the property is placed
10 in service, the taxpayer shall be deemed to sat-
11 isfy the requirement under clause (ii) at the
12 time such property is placed in service.

13 “(B) CORRECTION AND PENALTY RELATED
14 TO FAILURE TO SATISFY WAGE REQUIRE-
15 MENTS.—Rules similar to the rules of section
16 45(b)(7)(B) shall apply.

17 “(C) RECAPTURE.—The Secretary shall,
18 by regulations or other guidance, provide for re-
19 capturing the benefit of any increase in the
20 credit allowed under paragraph (2)(B) of sub-
21 section (a), with respect to any qualified prop-
22 erty which is part of an advanced manufac-
23 turing facility which does not satisfy the re-
24 quirements under subparagraph (A) (after ap-
25 plication of subparagraph (B)) for the period

1 described in clause (ii) of subparagraph (A)
2 (but which does not cease to be investment
3 credit property within the meaning of section
4 50(a)). The period and percentage of such re-
5 capture shall be determined under rules similar
6 to the rules of section 50(a).

7 “(3) APPRENTICESHIP REQUIREMENTS.—Rules
8 similar to the rules of section 45(b)(8) shall apply.

9 “(4) REGULATIONS AND GUIDANCE.—The Sec-
10 retary shall issue such regulations or other guidance
11 as the Secretary determines necessary or appropriate
12 to carry out the purposes of this section, including
13 regulations or other guidance which provides for re-
14 quirements for recordkeeping or information report-
15 ing for purposes of administering the requirements
16 of this section.

17 “(d) TERMINATION OF CREDIT.—The credit allowed
18 under this section shall not apply to property the construc-
19 tion of which begins after December 31, 2025.”.

20 (b) ELECTIVE PAYMENT OF CREDIT.—Section
21 6417(b), as amended by the preceding provisions of this
22 Act, is amended by adding at the end the following new
23 paragraph:

24 “(10) The advanced manufacturing investment
25 credit determined under section 48E.”.

1 (c) CONFORMING AMENDMENTS.—

2 (1) Section 46, as amended by the preceding
3 provisions of this Act, is amended—

4 (A) by striking “and” at the end of para-
5 graph (5),

6 (B) by striking the period at the end of
7 paragraph (6) and inserting “, and”, and

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

10 “(7) the advanced manufacturing investment
11 credit.”.

12 (2) Section 49(a)(1)(C), as amended by the pre-
13 ceding provisions of this Act, is amended—

14 (A) by striking “and” at the end of clause
15 (v),

16 (B) by striking the period at the end of
17 clause (vi) and inserting “, and”, and

18 (C) by adding at the end the following new
19 clause:

20 “(vii) the basis of any qualified prop-
21 erty (as defined in section 48E(b)(2))
22 which is part of an advanced manufac-
23 turing facility.”.

24 (3) Section 50(a)(2)(E), as amended by the
25 preceding provisions of this Act, is amended by

1 striking “or 48D(e)” and inserting “48D(e), or
2 48E(c)(1)”.

3 (4) The table of sections for subpart E of part
4 IV of subchapter A of chapter 1, as amended by the
5 preceding provisions of this Act, is amended by in-
6 serting after the item relating to section 48D the
7 following new item:

“48E. Advanced manufacturing investment credit.”.

8 (d) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to property placed in service after
10 December 31, 2021, and, for any property the construc-
11 tion of which begins prior to January 1, 2022, only to
12 the extent of the basis thereof attributable to the construc-
13 tion, reconstruction, or erection after December 31, 2021.

14 **SEC. 126504. ADVANCED MANUFACTURING PRODUCTION**
15 **CREDIT.**

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

20 **“SEC. 45Z. ADVANCED MANUFACTURING PRODUCTION**
21 **CREDIT.**

22 “(a) IN GENERAL.—

23 “(1) ALLOWANCE OF CREDIT.—For purposes of
24 section 38, the advanced manufacturing production
25 credit for any taxable year is an amount equal to the

1 sum of the credit amounts determined under sub-
2 section (b) with respect to each eligible component
3 which is—

4 “(A) produced by the taxpayer, and

5 “(B) during the taxable year, sold by such
6 taxpayer to an unrelated person.

7 “(2) PRODUCTION AND SALE MUST BE IN
8 TRADE OR BUSINESS.—Any eligible component pro-
9 duced and sold by the taxpayer shall be taken into
10 account only if the production and sale described in
11 paragraph (1) is in a trade or business of the tax-
12 payer.

13 “(3) UNRELATED PERSON.—For purposes of
14 this subsection, a taxpayer shall be treated as selling
15 components to an unrelated person if such compo-
16 nent is sold to such person by a person related to
17 the taxpayer.

18 “(b) CREDIT AMOUNT.—

19 “(1) IN GENERAL.—Subject to paragraph (3),
20 the amount determined under this subsection with
21 respect to any eligible component, including any eli-
22 gible component it incorporates, shall be equal to—

23 “(A) in the case of a thin film photovoltaic
24 cell or a crystalline photovoltaic cell, an amount
25 equal to the product of—

1 “(i) 4 cents, multiplied by

2 “(ii) the capacity of such cell (ex-
3 pressed on a per direct current watt basis),

4 “(B) in the case of a photovoltaic wafer,
5 \$12 per square meter,

6 “(C) in the case of solar grade polysilicon,
7 \$3 per kilogram,

8 “(D) in the case of a solar module, an
9 amount equal to the product of—

10 “(i) 7 cents, multiplied by

11 “(ii) the capacity of such module (ex-
12 pressed on a per direct current watt basis),

13 and

14 “(E) in the case of a wind energy compo-
15 nent—

16 “(i) if such component is a related
17 offshore wind vessel, an amount equal to

18 10 percent of the sales price of such vessel,

19 and

20 “(ii) if such component is not de-
21 scribed in clause (i), an amount equal to

22 the product of—

23 “(I) the applicable amount with
24 respect to such component (as deter-

1 mined under paragraph (2)(A)), mul-
2 tiplied by

3 “**(II)** the total rated capacity (ex-
4 pressed on a per watt basis) of the
5 completed wind turbine for which such
6 component is designed,

7 “(F) in the case of a torque tube, 87 cents
8 per kilogram,

9 “(G) in the case of a longitudinal purlin,
10 87 cents per kilogram,

11 “(H) in the case of a structural fastener,
12 \$2.28 per kilogram, and

13 “(I) in the case of an inverter, an amount
14 equal to the product of—

15 “(i) the applicable amount with re-
16 spect to such inverter (as determined
17 under paragraph (2)(B)), multiplied by

18 “(ii) the capacity of such inverter (ex-
19 pressed on a per alternating current watt
20 basis).

21 “(2) APPLICABLE AMOUNTS.—

22 “(A) WIND ENERGY COMPONENTS.—For
23 purposes of paragraph (1)(E)(ii), the applicable
24 amount with respect to any wind energy compo-
25 nent shall be—

- 1 “(i) in the case of a blade, 2 cents,
2 “(ii) in the case of a nacelle, 5 cents,
3 “(iii) in the case of a tower, 3 cents,
4 and
5 “(iv) in the case of an offshore wind
6 foundation—
7 “(I) which uses a fixed platform,
8 2 cents, or
9 “(II) which uses a floating plat-
10 form, 4 cents.
11 “(B) INVERTERS.—For purposes of para-
12 graph (1)(I), the applicable amount with re-
13 spect to any inverter shall be—
14 “(i) in the case of a central inverter,
15 2.5 cents,
16 “(ii) in the case of a utility inverter,
17 1.5 cents,
18 “(iii) in the case of a commercial in-
19 verter, 2 cents,
20 “(iv) in the case of a residential in-
21 verter, 6.5 cents, and
22 “(v) in the case of a microinverter, 11
23 cents.
24 “(3) PHASE OUT.—

1 “(A) IN GENERAL.—In the case of any eli-
2 gible component sold after December 31, 2028,
3 the amount determined under this subsection
4 with respect to such component shall be equal
5 to the product of—

6 “(i) the amount determined under
7 paragraph (1) with respect to such compo-
8 nent, as determined without regard to this
9 paragraph, multiplied by

10 “(ii) the phase out percentage under
11 subparagraph (B).

12 “(B) PHASE OUT PERCENTAGE.—The
13 phase out percentage under this subparagraph
14 is equal to—

15 “(i) in the case of an eligible compo-
16 nent sold during calendar year 2029, 75
17 percent,

18 “(ii) in the case of an eligible compo-
19 nent sold during calendar year 2030, 50
20 percent,

21 “(iii) in the case of an eligible compo-
22 nent sold during calendar year 2031, 25
23 percent,

1 “(v) Any inverter described in sub-
2 clauses (II) through (VI) of subparagraph
3 (B)(i).

4 “(vi) Torque tubes, longitudinal
5 purlins, or structural fasteners.

6 “(B) ASSOCIATED DEFINITIONS.—

7 “(i) INVERTERS.—

8 “(I) IN GENERAL.—The term ‘in-
9 verter’ means an end product which is
10 suitable to convert direct current elec-
11 tricity from 1 or more solar modules
12 into alternating current electricity.

13 “(II) CENTRAL INVERTER.—The
14 term ‘central inverter’ means an in-
15 verter which is suitable for large util-
16 ity-scale systems and has a capacity
17 which is greater than 1,000 kilowatts
18 (expressed on a per alternating cur-
19 rent watt basis).

20 “(III) COMMERCIAL INVERTER.—

21 The term ‘commercial inverter’ means
22 an inverter which—

23 “(aa) is suitable for com-
24 mercial applications,

1 “(bb) has a rated output of
2 208, 480, or 600 volt three-phase
3 power, and

4 “(cc) has a capacity which is
5 not less than 20 kilowatts and
6 not greater than 170 kilowatts
7 (expressed on a per alternating
8 current watt basis).

9 “(IV) MICROINVERTER.—The
10 term ‘microinverter’ means an in-
11 verter which—

12 “(aa) is suitable to connect
13 with one solar module,

14 “(bb) has a rated output of
15 120 volt single-phase power, and

16 “(cc) has a capacity which is
17 not greater than 650 watts (ex-
18 pressed on a per alternating cur-
19 rent watt basis).

20 “(V) RESIDENTIAL INVERTER.—
21 The term ‘residential inverter’ means
22 an inverter which—

23 “(aa) is suitable for a resi-
24 dence,

1 “(bb) has a rated output of
2 120 volt single-phase power, and

3 “(cc) has a capacity which is
4 not greater than 20 kilowatts
5 (expressed on a per alternating
6 current watt basis).

7 “(VI) UTILITY INVERTER.—The
8 term ‘utility inverter’ means an in-
9 verter which—

10 “(aa) is suitable for large
11 utility-scale systems,

12 “(bb) has a rated output of
13 not less than 600 volt three-
14 phase power, and

15 “(cc) has a capacity which is
16 greater than 170 kilowatts and
17 not greater than 1000 kilowatts
18 (expressed on a per alternating
19 current watt basis)

20 “(ii) PHOTOVOLTAIC CELL.—The
21 term ‘photovoltaic cell’ means the smallest
22 semiconductor element of a solar module
23 which performs the immediate conversion
24 of light into electricity.

1 “(iii) PHOTOVOLTAIC WAFER.—The
2 term ‘photovoltaic wafer’ means a thin
3 slice, sheet, or layer of semiconductor ma-
4 terial of at least 240 square centimeters—

5 “(I) produced by a single manu-
6 facturer either—

7 “(aa) directly from molten
8 or evaporated solar grade
9 polysilicon or deposition of solar
10 grade thin film semiconductor
11 photon absorber layer, or

12 “(bb) through formation of
13 an ingot from molten polysilicon
14 and subsequent slicing, and

15 “(II) which comprises the sub-
16 strate or absorber layer of one or
17 more photovoltaic cells.

18 “(iv) SOLAR GRADE POLYSILICON.—
19 The term ‘solar grade polysilicon’ means
20 silicon which is—

21 “(I) suitable for use in photo-
22 voltaic manufacturing, and

23 “(II) purified to a minimum pu-
24 rity of 99.999999 percent silicon by
25 mass.

1 “(v) SOLAR MODULE.—The term
2 ‘solar module’ means the connection and
3 lamination of photovoltaic cells into an en-
4 vironmentally protected final assembly
5 which is—

6 “(I) suitable to generate elec-
7 tricity when exposed to sunlight, and

8 “(II) ready for installation with-
9 out an additional manufacturing proc-
10 ess.

11 “(vi) SOLAR TRACKER COMPO-
12 NENTS.—

13 “(I) TORQUE TUBE.—The term
14 ‘torque tube’ means a tubular struc-
15 tural steel support element which—

16 “(aa) is part of a solar
17 tracker,

18 “(bb) is of any cross-sec-
19 tional shape,

20 “(cc) may be assembled
21 from individually manufactured
22 segments, and

23 “(dd) spans longitudinally
24 between foundation posts.

602

1 “(II) LONGITUDINAL PURLIN.—

2 The term ‘longitudinal purlin’ means

3 a structural steel support element—

4 “(aa) which satisfies the

5 conditions described in items (aa)

6 through (dd) of subclause (I),

7 and

8 “(bb) on which solar panels

9 are supported.

10 “(III) STRUCTURAL FAS-

11 TENER.—The term ‘structural fas-

12 tener’ means a component which is

13 used—

14 “(aa) to connect the me-

15chanical and drive system compo-

16nents of a solar tracker to the

17foundation of such solar tracker,

18and

19 “(bb) to connect torque

20 tubes to one another and to drive

21 assemblies.

22 “(3) WIND ENERGY COMPONENT.—

23 “(A) IN GENERAL.—The term ‘wind en-

24ergy component’ means any of the following:

25 “(i) Blades.

1 “(ii) Nacelles.

2 “(iii) Towers.

3 “(iv) Offshore wind foundations.

4 “(v) Related offshore wind vessels.

5 “(B) ASSOCIATED DEFINITIONS.—

6 “(i) BLADE.—The term ‘blade’ means
7 an airfoil-shaped blade which is responsible
8 for converting wind energy to low-speed ro-
9 tational energy.

10 “(ii) OFFSHORE WIND FOUNDA-
11 TION.—The term ‘offshore wind founda-
12 tion’ means the component (including tran-
13 sition piece) which secures an offshore
14 wind tower and any above-water turbine
15 components to the seafloor using—

16 “(I) fixed platforms, such as off-
17 shore wind monopiles, jackets, or
18 gravity-based foundations, or

19 “(II) floating platforms and asso-
20 ciated mooring systems.

21 “(iii) NACELLE.—The term ‘nacelle’
22 means the assembly of the drivetrain and
23 other tower-top components of a wind tur-
24 bine (with the exception of the blades and
25 the hub) within their cover housing.

1 “(iv) RELATED OFFSHORE WIND VES-
2 SEL.—The term ‘related offshore wind ves-
3 sel’ means any vessel which is purpose-
4 built or retrofitted for purposes of the de-
5 velopment, transport, installation, oper-
6 ation, or maintenance of offshore wind en-
7 ergy components.

8 “(v) TOWER.—The term ‘tower’
9 means a tubular or lattice structure which
10 supports the nacelle and rotor of a wind
11 turbine.

12 “(d) SPECIAL RULES.—In this section—

13 “(1) RELATED PERSONS.—Persons shall be
14 treated as related to each other if such persons
15 would be treated as a single employer under the reg-
16 ulations prescribed under section 52(b).

17 “(2) ONLY PRODUCTION IN THE UNITED
18 STATES TAKEN INTO ACCOUNT.—Sales shall be
19 taken into account under this section only with re-
20 spect to eligible components the production of which
21 is within—

22 “(A) the United States (within the mean-
23 ing of section 638(1)), or

24 “(B) a possession of the United States
25 (within the meaning of section 638(2)).

1 “(3) PASS-THRU IN THE CASE OF ESTATES AND
2 TRUSTS.—Under regulations prescribed by the Sec-
3 retary, rules similar to the rules of subsection (d) of
4 section 52 shall apply.

5 “(4) CREDIT EQUAL TO 10 PERCENT OF THE
6 CREDIT AMOUNT FOR UNION FACILITIES.—In the
7 case of a facility operating under a collective bar-
8 gaining agreement negotiated by an employee orga-
9 nization (as defined in section 412(c)(4)), deter-
10 mined in a manner consistent with section
11 7701(a)(46), for purposes of determining the
12 amount of the credit under subsection (a) with re-
13 spect to any eligible component produced by such fa-
14 cility, the amount determined under subsection (b)
15 with respect to such component shall be increased by
16 an amount equal to 10 percent of the amount other-
17 wise in effect under such subsection.

18 “(5) SALE OF INTEGRATED COMPONENTS.—
19 For purposes of this section, a person shall be treat-
20 ed as having sold an eligible component to an unre-
21 lated person if such component is integrated, incor-
22 porated, or assembled into another eligible compo-
23 nent which is sold to an unrelated person.”.

24 (b) ELECTIVE PAYMENT OF CREDIT.—Section
25 6417(b), as amended by the preceding provisions of this

1 Act, is amended by adding at the end the following new
2 paragraph:

3 “(11) The credit for advanced manufacturing
4 production under section 45Z.”.

5 (c) CONFORMING AMENDMENTS.—

6 (1) Section 38(b) of the Internal Revenue Code
7 of 1986, as amended by the preceding provisions of
8 this Act, is amended—

9 (A) in paragraph (39), by striking “plus”
10 at the end,

11 (B) in paragraph (40), by striking the pe-
12 riod at the end and inserting “, plus”, and

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

15 “(41) the advanced manufacturing production
16 credit determined under section 45Z(a).”.

17 (2) The table of sections for subpart D of part
18 IV of subchapter A of chapter 1, as amended by the
19 preceding provisions of this Act, is amended by add-
20 ing at the end the following new item:

“Sec. 45Z. Advanced manufacturing production credit.”.

21 (d) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to components produced and sold
23 after December 31, 2021.

1 **PART 6—ENVIRONMENTAL JUSTICE**

2 **SEC. 126601. QUALIFIED ENVIRONMENTAL JUSTICE PRO-**
3 **GRAM CREDIT.**

4 (a) IN GENERAL.—Subpart C of part IV of sub-
5 chapter A of chapter 1, as amended by the preceding pro-
6 visions of this Act, is amended by inserting after section
7 36F the following new section:

8 **“SEC. 36G. QUALIFIED ENVIRONMENTAL JUSTICE PRO-**
9 **GRAMS.**

10 “(a) ALLOWANCE OF CREDIT.—In the case of an eli-
11 gible educational institution, there shall be allowed as a
12 credit against the tax imposed by this subtitle for any tax-
13 able year an amount equal to the applicable percentage
14 of the amounts paid or incurred by such taxpayer during
15 such taxable year which are necessary for a qualified envi-
16 ronmental justice program.

17 “(b) QUALIFIED ENVIRONMENTAL JUSTICE PRO-
18 GRAM.—For purposes of this section—

19 “(1) IN GENERAL.—The term ‘qualified envi-
20 ronmental justice program’ means a program con-
21 ducted by one or more eligible educational institu-
22 tions that is designed to address, or improve data
23 about, qualified environmental stressors for the pri-
24 mary purpose of improving, or facilitating the im-
25 provement of, health and economic outcomes of indi-
26 viduals residing in low-income areas or areas that

1 experience, or are at risk of experiencing, multiple
2 exposures to qualified environmental stressors.

3 “(2) QUALIFIED ENVIRONMENTAL STRESSOR.—

4 The term ‘qualified environmental stressor’ means,
5 with respect to an area, a contamination of the air,
6 water, soil, or food with respect to such area or a
7 change relative to historical norms of the weather
8 conditions of such area, including—

9 “(A) toxic pollutants (such as lead, pes-
10 ticides, or fine particulate matter) in air, soil,
11 food, or water,

12 “(B) high rates of asthma prevalence and
13 incidence, and

14 “(C) such other adverse human health or
15 environmental effects as are identified by the
16 Secretary.

17 “(c) ELIGIBLE EDUCATIONAL INSTITUTION.—For
18 purposes of this section, the term ‘eligible educational in-
19 stitution’ means an institution of higher education (as
20 such term is defined in section 101 or 102(c) of the High-
21 er Education Act of 1965) that is eligible to participate
22 in a program under title IV of such Act.

23 “(d) APPLICABLE PERCENTAGE.—For purposes of
24 this section, the term ‘applicable percentage’ means—

1 “(1) in the case of a program involving material
2 participation of faculty and students of an institu-
3 tion described in section 371(a) of the Higher Edu-
4 cation Act of 1965, 30 percent, and

5 “(2) in all other cases, 20 percent.

6 “(e) CREDIT ALLOCATION.—

7 “(1) ALLOCATION.—The Secretary shall allo-
8 cate credit dollar amounts under this section to eligi-
9 ble educational institutions, for qualified environ-
10 mental justice programs, that submit applications at
11 such time and in such manner as the Secretary may
12 provide.

13 “(2) LIMITATIONS.—

14 “(A) IN GENERAL.—The amount of the
15 credit determined under this section for any
16 taxable year to any eligible educational institu-
17 tion for any qualified environmental justice pro-
18 gram shall not exceed the excess of—

19 “(i) the credit dollar amount allocated
20 to such institution for such program under
21 this subsection, over

22 “(ii) the credits previously claimed by
23 such institution for such program under
24 this section.

1 “(B) FIVE-YEAR LIMITATION.—No
2 amounts paid or incurred after the 5-year pe-
3 riod beginning on the date a credit dollar
4 amount is allocated to an eligible educational
5 institution for a qualified environmental justice
6 program shall be taken into account under sub-
7 section (a) with respect to such institution for
8 such program.

9 “(C) ALLOCATION LIMITATION.—The total
10 amount of credits that may be allocated under
11 the program shall not exceed—

12 “(i) \$1,000,000,000 for each of tax-
13 able years 2022 through 2031, and

14 “(ii) \$0 for each subsequent year.

15 “(D) CARRYOVER OF UNUSED LIMITA-
16 TION.—If the annual credit limitation for any
17 calendar year exceeds the aggregate amount
18 designated for such year under this subsection,
19 such limitation for the succeeding calendar year
20 shall be increased by the amount of such excess.
21 No amount may be carried under the preceding
22 sentence to any calendar year after 2036.”.

23 (b) CONFORMING AMENDMENTS.—

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

4 (2) Paragraph (2) of section 1324(b) of title
5 31, United States Code, as amended by the pre-
6 ceding provisions of this Act, is amended by insert-
7 ing “36G,” after “36F,”.

8 (c) GROSS-UP OF DIRECT SPENDING.—Beginning in
9 fiscal year 2023 and each fiscal year thereafter, the por-
10 tion of any credit allowed to an eligible educational institu-
11 tion (as defined in subsection (c) of section 36G of the
12 Internal Revenue Code of 1986) under such section that
13 is direct spending shall be increased by 6.0445 percent.

14 (d) CLERICAL AMENDMENT.—The table of sections
15 for subpart C of part IV of subchapter A of chapter 1,
16 as amended by the preceding provisions of this Act, is
17 amended by inserting after the item relating to section
18 36F the following new item:

“Sec. 36G. Qualified environmental justice programs.”.

19 (e) EFFECTIVE DATE.—The amendments made by
20 this section shall take effect on January 1, 2022.

21 **PART 7—SUPERFUND**

22 **SEC. 126701. REINSTATEMENT OF SUPERFUND.**

23 (a) HAZARDOUS SUBSTANCE SUPERFUND FINANC-
24 ING RATE.—

1 (1) EXTENSION.—Section 4611 is amended by
2 striking subsection (e).

3 (2) ADJUSTMENT FOR INFLATION.—

4 (A) Section 4611(c)(2)(A) is amended by
5 striking “9.7 cents” and inserting “16.4 cents”.

6 (B) Section 4611(c) is amended by adding
7 at the end the following:

8 “(3) ADJUSTMENT FOR INFLATION.—

9 “(A) IN GENERAL.—In the case of a year
10 beginning after 2022, the amount in paragraph
11 (2)(A) shall be increased by an amount equal
12 to—

13 “(i) such amount, multiplied by

14 “(ii) the cost-of-living adjustment de-
15 termined under section 1(f)(3) for the cal-
16 endar year, determined by substituting
17 ‘calendar year 2021’ for ‘calendar year
18 2016’ in subparagraph (A)(ii) thereof.

19 “(B) ROUNDING.—If any amount as ad-
20 justed under subparagraph (A) is not a multiple
21 of \$0.01, such amount shall be rounded to the
22 next lowest multiple of \$0.01.”.

23 (b) AUTHORITY FOR ADVANCES.—Section
24 9507(d)(3)(B) is amended by striking “December 31,
25 1995” and inserting “December 31, 2031”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect on July 1, 2022.

3 **PART 8—INCENTIVES FOR CLEAN ELECTRICITY**
4 **AND CLEAN TRANSPORTATION**

5 **SEC. 126801. CLEAN ELECTRICITY PRODUCTION CREDIT.**

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

10 **“SEC. 45AA. CLEAN ELECTRICITY PRODUCTION CREDIT.**

11 “(a) AMOUNT OF CREDIT.—

12 “(1) IN GENERAL.—For purposes of section 38,
13 the clean electricity production credit for any taxable
14 year is an amount equal to the product of—

15 “(A) the kilowatt hours of electricity—

16 “(i) produced by the taxpayer at a
17 qualified facility, and

18 “(ii)(I) sold by the taxpayer to an un-
19 related person during the taxable year, or

20 “(II) in the case of a qualified facility
21 which is equipped with a metering device
22 which is owned and operated by an unre-
23 lated person, sold, consumed, or stored by
24 the taxpayer during the taxable year, mul-
25 tiplied by

1 “(B) the applicable amount with respect to
2 such qualified facility.

3 “(2) APPLICABLE AMOUNT.—

4 “(A) BASE AMOUNT.—Subject to sub-
5 section (g)(7), in the case of any qualified facil-
6 ity which is not described in clause (i) of sub-
7 paragraph (B) and does not satisfy the require-
8 ments described in clause (ii) of such subpara-
9 graph, the applicable amount shall be 0.3 cents.

10 “(B) ALTERNATIVE AMOUNT.—Subject to
11 subsection (g)(7), in the case of any qualified
12 facility—

13 “(i) with a maximum net output of
14 less than 1 megawatt, or

15 “(ii) which—

16 “(I) satisfies the requirements
17 under paragraph (9) of subsection (g),
18 and

19 “(II) with respect to the con-
20 struction of such facility, satisfies the
21 requirements under paragraph (10) of
22 subsection (g),

23 the applicable amount shall be 1.5 cents.

24 “(b) QUALIFIED FACILITY.—

25 “(1) IN GENERAL.—

1 “(A) DEFINITION.—Subject to subpara-
2 graphs (B), (C), and (D), the term ‘qualified
3 facility’ means a facility owned by the tax-
4 payer—

5 “(i) which is used for the generation
6 of electricity,

7 “(ii) which is placed in service after
8 December 31, 2026, and

9 “(iii) for which the greenhouse gas
10 emissions rate (as determined under para-
11 graph (2)) is not greater than zero.

12 “(B) 10-YEAR PRODUCTION CREDIT.—For
13 purposes of this section, a facility shall only be
14 treated as a qualified facility during the 10-year
15 period beginning on the date the facility was
16 originally placed in service.

17 “(C) EXPANSION OF FACILITY; INCRE-
18 MENTAL PRODUCTION.—The term ‘qualified fa-
19 cility’ shall include either of the following in
20 connection with a facility described in subpara-
21 graph (A) (without regard to clause (ii) of such
22 subparagraph) which was placed in service be-
23 fore January 1, 2027, but only to the extent of
24 the increased amount of electricity produced at
25 the facility by reason of the following:

1 “(i) A new unit which is placed in
2 service after December 31, 2026.

3 “(ii) Any additions of capacity which
4 are placed in service after December 31,
5 2026.

6 “(D) COORDINATION WITH OTHER CRED-
7 ITS.—The term ‘qualified facility’ shall not in-
8 clude any facility for which a credit determined
9 under section 45, 45J, 45Q, 45V, 48, 48A, or
10 48F is allowed under section 38 for the taxable
11 year or any prior taxable year.

12 “(2) GREENHOUSE GAS EMISSIONS RATE.—

13 “(A) IN GENERAL.—For purposes of this
14 section, the term ‘greenhouse gas emissions
15 rate’ means the amount of greenhouse gases
16 emitted into the atmosphere by a facility in the
17 production of electricity, expressed as grams of
18 CO_{2e} per KWh.

19 “(B) FUEL COMBUSTION AND GASIFI-
20 CATION.—In the case of a facility which pro-
21 duces electricity through combustion or gasifi-
22 cation, the greenhouse gas emissions rate for
23 such facility shall be equal to the net rate of
24 greenhouse gases emitted into the atmosphere
25 by such facility (taking into account lifecycle

1 greenhouse gas emissions, as described in sec-
2 tion 211(o)(1)(H) of the Clean Air Act (42
3 U.S.C. 7545(o)(1)(H))) in the production of
4 electricity, expressed as grams of CO₂e per
5 KWh.

6 “(C) ESTABLISHMENT OF EMISSIONS
7 RATES FOR FACILITIES.—

8 “(i) PUBLISHING EMISSIONS RATES.—

9 The Secretary shall annually publish a
10 table that sets forth the greenhouse gas
11 emissions rates for types or categories of
12 facilities, which a taxpayer shall use for
13 purposes of this section.

14 “(ii) PROVISIONAL EMISSIONS
15 RATE.—In the case of any facility for
16 which an emissions rate has not been es-
17 tablished by the Secretary, a taxpayer
18 which owns such facility may file a petition
19 with the Secretary for determination of the
20 emissions rate with respect to such facility.

21 “(D) CARBON CAPTURE AND SEQUESTRA-
22 TION EQUIPMENT.—For purposes of this sub-
23 section, the amount of greenhouse gases emit-
24 ted into the atmosphere by a facility in the pro-
25 duction of electricity shall not include any quali-

1 fied carbon dioxide that is captured by the tax-
2 payer and—

3 “(i) pursuant to any regulations es-
4 tablished under paragraph (2) of section
5 45Q(f), disposed of by the taxpayer in se-
6 cure geological storage, or

7 “(ii) utilized by the taxpayer in a
8 manner described in paragraph (5) of such
9 section.

10 “(c) INFLATION ADJUSTMENT.—

11 “(1) IN GENERAL.—In the case of a calendar
12 year beginning after 2026, the 0.3 cent amount in
13 paragraph (2)(A) of subsection (a) and the 1.5 cent
14 amount in paragraph (2)(B) of such subsection shall
15 each be adjusted by multiplying such amount by the
16 inflation adjustment factor for the calendar year in
17 which the sale or use of the electricity occurs. If the
18 0.3 cent amount as increased under this paragraph
19 is not a multiple of 0.05 cent, such amount shall be
20 rounded to the nearest multiple of 0.05 cent. If the
21 1.5 cent amount as increased under this paragraph
22 is not a multiple of 0.1 cent, such amount shall be
23 rounded to the nearest multiple of 0.1 cent.

24 “(2) ANNUAL COMPUTATION.—The Secretary
25 shall, not later than April 1 of each calendar year,

1 determine and publish in the Federal Register the
2 inflation adjustment factor for such calendar year in
3 accordance with this subsection.

4 “(3) INFLATION ADJUSTMENT FACTOR.—The
5 term ‘inflation adjustment factor’ means, with re-
6 spect to a calendar year, a fraction the numerator
7 of which is the GDP implicit price deflator for the
8 preceding calendar year and the denominator of
9 which is the GDP implicit price deflator for the cal-
10 endar year 1992. The term ‘GDP implicit price
11 deflator’ means the most recent revision of the im-
12 plicit price deflator for the gross domestic product
13 as computed and published by the Department of
14 Commerce before March 15 of the calendar year.

15 “(d) CREDIT PHASE-OUT.—

16 “(1) IN GENERAL.—The amount of the clean
17 electricity production credit under subsection (a) for
18 any qualified facility the construction of which be-
19 gins during a calendar year described in paragraph
20 (2) shall be equal to the product of—

21 “(A) the amount of the credit determined
22 under subsection (a) without regard to this sub-
23 section, multiplied by

24 “(B) the phase-out percentage under para-
25 graph (2).

1 “(B) 2031.

2 “(e) DEFINITIONS.—For purposes of this section:

3 “(1) CO₂e PER KWh.—The term ‘CO₂e per
4 KWh’ means, with respect to any greenhouse gas,
5 the equivalent carbon dioxide (as determined based
6 on global warming potential) per kilowatt hour of
7 electricity produced.

8 “(2) GREENHOUSE GAS.—The term ‘greenhouse
9 gas’ has the same meaning given such term under
10 section 211(o)(1)(G) of the Clean Air Act (42
11 U.S.C. 7545(o)(1)(G)), as in effect on the date of
12 the enactment of this section.

13 “(3) QUALIFIED CARBON DIOXIDE.—The term
14 ‘qualified carbon dioxide’ means carbon dioxide cap-
15 tured from an industrial source which—

16 “(A) would otherwise be released into the
17 atmosphere as industrial emission of green-
18 house gas,

19 “(B) is measured at the source of capture
20 and verified at the point of disposal or utiliza-
21 tion, and

22 “(C) is captured and disposed or utilized
23 within the United States (within the meaning of
24 section 638(1)) or a possession of the United
25 States (within the meaning of section 638(2)).

1 “(f) GUIDANCE.—Not later than January 1, 2026,
2 the Secretary shall issue guidance regarding implementa-
3 tion of this section, including calculation of greenhouse
4 gas emission rates for qualified facilities and determina-
5 tion of clean electricity production credits under this sec-
6 tion.

7 “(g) SPECIAL RULES.—

8 “(1) ONLY PRODUCTION IN THE UNITED
9 STATES TAKEN INTO ACCOUNT.—Consumption or
10 sales shall be taken into account under this section
11 only with respect to electricity the production of
12 which is within—

13 “(A) the United States (within the mean-
14 ing of section 638(1)), or

15 “(B) a possession of the United States
16 (within the meaning of section 638(2)).

17 “(2) COMBINED HEAT AND POWER SYSTEM
18 PROPERTY.—

19 “(A) IN GENERAL.—For purposes of sub-
20 section (a)—

21 “(i) the kilowatt hours of electricity
22 produced by a taxpayer at a qualified facil-
23 ity shall include any production in the
24 form of useful thermal energy by any com-

1 bined heat and power system property
2 within such facility, and

3 “(ii) the amount of greenhouse gases
4 emitted into the atmosphere by such facil-
5 ity in the production of such useful ther-
6 mal energy shall be included for purposes
7 of determining the greenhouse gas emis-
8 sions rate for such facility.

9 “(B) COMBINED HEAT AND POWER SYS-
10 TEM PROPERTY.—For purposes of this para-
11 graph, the term ‘combined heat and power sys-
12 tem property’ has the same meaning given such
13 term by section 48(c)(3) (without regard to
14 subparagraphs (A)(iv), (B), and (D) thereof).

15 “(C) CONVERSION FROM BTU TO KWH.—

16 “(i) IN GENERAL.—For purposes of
17 subparagraph (A)(i), the amount of kilo-
18 watt hours of electricity produced in the
19 form of useful thermal energy shall be
20 equal to the quotient of—

21 “(I) the total useful thermal en-
22 ergy produced by the combined heat
23 and power system property within the
24 qualified facility, divided by

1 “(II) the heat rate for such facil-
2 ity.

3 “(ii) HEAT RATE.—For purposes of
4 this subparagraph, the term ‘heat rate’
5 means the amount of energy used by the
6 qualified facility to generate 1 kilowatt
7 hour of electricity, expressed as British
8 thermal units per net kilowatt hour gen-
9 erated.

10 “(3) PRODUCTION ATTRIBUTABLE TO THE TAX-
11 PAYER.—In the case of a qualified facility in which
12 more than 1 person has an ownership interest, ex-
13 cept to the extent provided in regulations prescribed
14 by the Secretary, production from the facility shall
15 be allocated among such persons in proportion to
16 their respective ownership interests in the gross
17 sales from such facility.

18 “(4) RELATED PERSONS.—Persons shall be
19 treated as related to each other if such persons
20 would be treated as a single employer under the reg-
21 ulations prescribed under section 52(b). In the case
22 of a corporation which is a member of an affiliated
23 group of corporations filing a consolidated return,
24 such corporation shall be treated as selling electricity

1 to an unrelated person if such electricity is sold to
2 such a person by another member of such group.

3 “(5) PASS-THRU IN THE CASE OF ESTATES AND
4 TRUSTS.—Under regulations prescribed by the Sec-
5 retary, rules similar to the rules of subsection (d) of
6 section 52 shall apply.

7 “(6) ALLOCATION OF CREDIT TO PATRONS OF
8 AGRICULTURAL COOPERATIVE.—

9 “(A) ELECTION TO ALLOCATE.—

10 “(i) IN GENERAL.—In the case of an
11 eligible cooperative organization, any por-
12 tion of the credit determined under sub-
13 section (a) for the taxable year may, at the
14 election of the organization, be apportioned
15 among patrons of the organization on the
16 basis of the amount of business done by
17 the patrons during the taxable year.

18 “(ii) FORM AND EFFECT OF ELEC-
19 TION.—An election under clause (i) for any
20 taxable year shall be made on a timely
21 filed return for such year. Such election,
22 once made, shall be irrevocable for such
23 taxable year. Such election shall not take
24 effect unless the organization designates
25 the apportionment as such in a written no-

1 tice mailed to its patrons during the pay-
2 ment period described in section 1382(d).

3 “(B) TREATMENT OF ORGANIZATIONS AND
4 PATRONS.—The amount of the credit appor-
5 tioned to any patrons under subparagraph
6 (A)—

7 “(i) shall not be included in the
8 amount determined under subsection (a)
9 with respect to the organization for the
10 taxable year, and

11 “(ii) shall be included in the amount
12 determined under subsection (a) for the
13 first taxable year of each patron ending on
14 or after the last day of the payment period
15 (as defined in section 1382(d)) for the tax-
16 able year of the organization or, if earlier,
17 for the taxable year of each patron ending
18 on or after the date on which the patron
19 receives notice from the cooperative of the
20 apportionment.

21 “(C) SPECIAL RULES FOR DECREASE IN
22 CREDITS FOR TAXABLE YEAR.—If the amount
23 of the credit of a cooperative organization de-
24 termined under subsection (a) for a taxable
25 year is less than the amount of such credit

1 shown on the return of the cooperative organi-
2 zation for such year, an amount equal to the
3 excess of—

4 “(i) such reduction, over

5 “(ii) the amount not apportioned to
6 such patrons under subparagraph (A) for
7 the taxable year,

8 shall be treated as an increase in tax imposed
9 by this chapter on the organization. Such in-
10 crease shall not be treated as tax imposed by
11 this chapter for purposes of determining the
12 amount of any credit under this chapter.

13 “(D) ELIGIBLE COOPERATIVE DEFINED.—

14 For purposes of this section, the term ‘eligible
15 cooperative’ means a cooperative organization
16 described in section 1381(a) which is owned
17 more than 50 percent by agricultural producers
18 or by entities owned by agricultural producers.
19 For this purpose an entity owned by an agricul-
20 tural producer is one that is more than 50 per-
21 cent owned by agricultural producers.

22 “(7) INCREASE IN CREDIT IN CERTAIN
23 CASES.—

24 “(A) ENERGY COMMUNITIES.—In the case
25 of any qualified facility which is located in an

1 energy community (as defined in section
2 45(b)(11)(B)), for purposes of determining the
3 amount of the credit under subsection (a) with
4 respect to any electricity produced by the tax-
5 payer at such facility during the taxable year,
6 the applicable amount under paragraph (2) of
7 such subsection shall be increased by an
8 amount equal to 10 percent of the amount oth-
9 erwise in effect under such paragraph (without
10 application of subparagraph (B)).

11 “(B) DOMESTIC CONTENT.—Rules similar
12 to the rules of section 45(b)(9) shall apply.

13 “(8) CREDIT REDUCED FOR TAX-EXEMPT
14 BONDS.—Rules similar to the rules of section
15 45(b)(3) shall apply.

16 “(9) WAGE REQUIREMENTS.—Rules similar to
17 the rules of section 45(b)(7) shall apply.

18 “(10) APPRENTICESHIP REQUIREMENTS.—
19 Rules similar to the rules of section 45(b)(8) shall
20 apply.

21 “(11) DOMESTIC CONTENT REQUIREMENT FOR
22 ELECTIVE PAYMENT.—In the case of a taxpayer
23 making an election under section 6417 with respect
24 to a credit under this section, rules similar to the
25 rules of section 45(b)(10) shall apply.”.

1 (b) ELECTIVE PAYMENT OF CREDIT.—Section
2 6417(b), as amended by preceding provisions of this Act,
3 is amended by adding at the end the following new para-
4 graph:

5 “(12) So much of the clean electricity produc-
6 tion credit determined under section 45AA as is at-
7 tributable to qualified facilities which are originally
8 placed in service after December 31, 2026, and with
9 respect to which an election is made under sub-
10 section (c)(3).”.

11 (c) ELECTION.—Section 6417(c)(3), as amended by
12 the preceding provisions of this Act, is amended by adding
13 at the end the following new subparagraph:

14 “(E) CLEAN ELECTRICITY PRODUCTION
15 CREDIT.—In the case of the credit described in
16 subsection (b)(12), any election under this sub-
17 section shall—

18 “(i) apply separately with respect to
19 each qualified facility,

20 “(ii) be made for the taxable year in
21 which such facility is placed in service, and

22 “(iii) shall apply to such taxable year
23 and to any subsequent taxable year which
24 is within the period described in subsection

1 (b)(1)(B) of section 45AA with respect to
2 such facility.”.

3 (d) CONFORMING AMENDMENTS.—

4 (1) Section 38(b), as amended by the preceding
5 provisions of this Act, is amended—

6 (A) in paragraph (40), by striking “plus”
7 at the end,

8 (B) in paragraph (41), by striking the pe-
9 riod at the end and inserting “, plus”, and

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

12 “(42) the clean electricity production credit de-
13 termined under section 45AA(a).”.

14 (2) The table of sections for subpart D of part
15 IV of subchapter A of chapter 1, as amended by the
16 preceding provisions of this Act, is amended by add-
17 ing at the end the following new item:

“Sec. 45AA. Clean electricity production credit.”.

18 (e) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to facilities placed in service after
20 December 31, 2026.

21 **SEC. 126802. CLEAN ELECTRICITY INVESTMENT CREDIT.**

22 (a) IN GENERAL.—Subpart E of part IV of sub-
23 chapter A of chapter 1, as amended by the preceding pro-
24 visions of this Act, is amended by inserting after section
25 48E the following new section:

1 **“SEC. 48F. CLEAN ELECTRICITY INVESTMENT CREDIT.**

2 “(a) INVESTMENT CREDIT FOR QUALIFIED PROP-
3 ERTY.—

4 “(1) IN GENERAL.—For purposes of section 46,
5 the clean electricity investment credit for any taxable
6 year is an amount equal to the applicable percentage
7 of the qualified investment for such taxable year
8 with respect to—

9 “(A) any qualified facility, and

10 “(B) any energy storage technology.

11 “(2) APPLICABLE PERCENTAGE.—

12 “(A) QUALIFIED FACILITIES.—Subject to
13 paragraph (3)—

14 “(i) BASE RATE.—In the case of any
15 qualified facility which is not described in
16 subclause (I) of clause (ii) and does not
17 satisfy the requirements described in sub-
18 clause (II) of such clause, the applicable
19 percentage shall be 6 percent.

20 “(ii) ALTERNATIVE RATE.—In the
21 case of any qualified facility—

22 “(I) with a maximum net output
23 of less than 1 megawatt, or

24 “(II) which—

25 “(aa) satisfies the require-
26 ments of subsection (d)(3), and

1 “(bb) with respect to the
2 construction of such facility, sat-
3 isfies the requirements of sub-
4 section (d)(4),

5 the applicable percentage shall be 30 per-
6 cent.

7 “(B) ENERGY STORAGE TECHNOLOGY.—
8 Subject to paragraph (3)—

9 “(i) BASE RATE.—In the case of any
10 energy storage technology which is not de-
11 scribed in subclause (I) of clause (ii) and
12 does not satisfy the requirements described
13 in subclause (II) of such clause, the appli-
14 cable percentage shall be 6 percent.

15 “(ii) ALTERNATIVE RATE.—In the
16 case of any energy storage technology—

17 “(I) with a capacity of less than
18 1 megawatt, or

19 “(II) which—

20 “(aa) satisfies the require-
21 ments of subsection (d)(3), and

22 “(bb) with respect to the
23 construction of such property,
24 satisfies rules similar to the rules
25 of section 45(b)(8),

1 the applicable percentage shall be 30 per-
2 cent.

3 “(3) INCREASE IN CREDIT RATE IN CERTAIN
4 CASES.—

5 “(A) ENERGY COMMUNITIES.—

6 “(i) IN GENERAL.—In the case of any
7 qualified investment with respect to a
8 qualified facility or with respect to energy
9 storage technology which is placed in serv-
10 ice within an energy community (as de-
11 fined in section 45(b)(11)(B)), for pur-
12 poses applying paragraph (2) with respect
13 to such property or investment, the appli-
14 cable percentage shall be increased by the
15 applicable credit rate increase.

16 “(ii) APPLICABLE CREDIT RATE IN-
17 CREASE.—For purposes of clause (i), the
18 applicable credit rate increase shall be an
19 amount equal to—

20 “(I) in the case of any qualified
21 investment with respect to a qualified
22 facility described in paragraph
23 (2)(A)(i) or with respect to energy
24 storage technology described in para-

1 graph (2)(B)(i), 2 percentage points,
2 and

3 “(II) in the case of any qualified
4 investment with respect to a qualified
5 facility described in paragraph
6 (2)(A)(ii) or with respect to energy
7 storage technology described in para-
8 graph (2)(B)(ii), 10 percentage
9 points.

10 “(B) DOMESTIC CONTENT.—Rules similar
11 to the rules of section 48(a)(12) shall apply.

12 “(b) QUALIFIED INVESTMENT WITH RESPECT TO A
13 QUALIFIED FACILITY.—

14 “(1) IN GENERAL.—For purposes of subsection
15 (a), the qualified investment with respect to any
16 qualified facility for any taxable year is the sum
17 of—

18 “(A) the basis of any qualified property
19 placed in service by the taxpayer during such
20 taxable year which is part of a qualified facility,
21 plus

22 “(B) the amount of any expenditures
23 which are—

24 “(i) paid or incurred by the taxpayer
25 for qualified interconnection property—

1 “(I) in connection with a quali-
2 fied facility which has a maximum net
3 output of not greater than 5
4 megawatts, and

5 “(II) placed in service during the
6 taxable year of the taxpayer, and

7 “(ii) properly chargeable to capital ac-
8 count of the taxpayer.

9 “(2) QUALIFIED PROPERTY.—The term ‘quali-
10 fied property’ means property—

11 “(A) which is—

12 “(i) tangible personal property, or

13 “(ii) other tangible property (not in-
14 cluding a building or its structural compo-
15 nents), but only if such property is used as
16 an integral part of the qualified facility,

17 “(B) with respect to which depreciation (or
18 amortization in lieu of depreciation) is allow-
19 able, and

20 “(C)(i) the construction, reconstruction, or
21 erection of which is completed by the taxpayer,
22 or

23 “(ii) which is acquired by the taxpayer if
24 the original use of such property commences
25 with the taxpayer.

1 “(3) QUALIFIED FACILITY.—

2 “(A) IN GENERAL.—For purposes of this
3 section, the term ‘qualified facility’ means a fa-
4 cility—

5 “(i) which is used for the generation
6 of electricity,

7 “(ii) which is placed in service after
8 December 31, 2026, and

9 “(iii) for which the anticipated green-
10 house gas emissions rate (as determined
11 under subparagraph (B)(ii)) is not greater
12 than zero.

13 “(B) ADDITIONAL RULES.—

14 “(i) EXPANSION OF FACILITY; INCRE-
15 MENTAL PRODUCTION.—Rules similar to
16 the rules of section 45AA(b)(1)(C) shall
17 apply for purposes of this paragraph.

18 “(ii) GREENHOUSE GAS EMISSIONS
19 RATE.—Rules similar to the rules of sec-
20 tion 45AA(b)(2) shall apply for purposes
21 of this paragraph.

22 “(C) EXCLUSION.—The term ‘qualified fa-
23 cility’ shall not include any facility for which—

24 “(i) a renewable electricity production
25 credit determined under section 45,

1 “(ii) an advanced nuclear power facil-
2 ity production credit determined under sec-
3 tion 45J,

4 “(iii) a carbon oxide sequestration
5 credit determined under section 45Q,

6 “(iv) a zero-emission nuclear power
7 production credit determined under section
8 45V,

9 “(v) a clean electricity production
10 credit determined under section 45AA,

11 “(vi) an energy credit determined
12 under section 48,

13 “(vii) a qualifying advanced coal
14 project credit under section 48A, or

15 “(viii) a qualifying electric trans-
16 mission property credit under section 48D,

17 is allowed under section 38 for the taxable year
18 or any prior taxable year.

19 “(4) QUALIFIED INTERCONNECTION PROP-
20 ERTY.—For purposes of this paragraph, the term
21 ‘qualified interconnection property’ has the meaning
22 given such term in section 48(a)(8)(B).

23 “(5) COORDINATION WITH REHABILITATION
24 CREDIT.—The qualified investment with respect to
25 any qualified facility for any taxable year shall not

1 include that portion of the basis of any property
2 which is attributable to qualified rehabilitation ex-
3 penditures (as defined in section 47(c)(2)).

4 “(6) DEFINITIONS.—For purposes of this sub-
5 section, the terms ‘CO₂e per KWh’ and ‘greenhouse
6 gas emissions rate’ have the same meaning given
7 such terms under section 45AA(b).

8 “(c) QUALIFIED INVESTMENT WITH RESPECT TO
9 ENERGY STORAGE TECHNOLOGY.—

10 “(1) QUALIFIED INVESTMENT.—For purposes
11 of subsection (a), the qualified investment with re-
12 spect to energy storage technology for any taxable
13 year is the basis of any energy storage technology
14 placed in service by the taxpayer during such taxable
15 year.

16 “(2) ENERGY STORAGE TECHNOLOGY.—For
17 purposes of this section, the term ‘energy storage
18 technology’ has the meaning given such term in sec-
19 tion 48(c)(6).

20 “(d) SPECIAL RULES.—

21 “(1) CERTAIN PROGRESS EXPENDITURE RULES
22 MADE APPLICABLE.—Rules similar to the rules of
23 subsections (c)(4) and (d) of section 46 (as in effect
24 on the day before the date of the enactment of the

1 Revenue Reconciliation Act of 1990) shall apply for
2 purposes of subsection (a).

3 “(2) SPECIAL RULE FOR PROPERTY FINANCED
4 BY SUBSIDIZED ENERGY FINANCING OR PRIVATE AC-
5 TIVITY BONDS.—Rules similar to the rules of section
6 45(b)(3) shall apply.

7 “(3) PREVAILING WAGE REQUIREMENTS.—
8 Rules similar to the rules of section 48(a)(10) shall
9 apply.

10 “(4) APPRENTICESHIP REQUIREMENTS.—Rules
11 similar to the rules of section 45(b)(8) shall apply.

12 “(5) DOMESTIC CONTENT REQUIREMENT FOR
13 ELECTIVE PAYMENT.—In the case of a taxpayer
14 making an election under section 6417 with respect
15 to a credit under this section, rules similar to the
16 rules of section 45(b)(10) shall apply.

17 “(e) CREDIT PHASE-OUT.—

18 “(1) IN GENERAL.—The amount of the clean
19 electricity investment credit under subsection (a) for
20 any qualified investment with respect to any quali-
21 fied facility or energy storage technology the con-
22 struction of which begins during a calendar year de-
23 scribed in paragraph (2) shall be equal to the prod-
24 uct of—

1 “(A) the amount of the credit determined
2 under subsection (a) without regard to this sub-
3 section, multiplied by

4 “(B) the phase-out percentage under para-
5 graph (2).

6 “(2) PHASE-OUT PERCENTAGE.—The phase-out
7 percentage under this paragraph is equal to—

8 “(A) for any qualified investment with re-
9 spect to any qualified facility or energy storage
10 technology the construction of which begins
11 during the first calendar year following the ap-
12 plicable year, 100 percent,

13 “(B) for any qualified investment with re-
14 spect to any qualified facility or energy storage
15 technology the construction of which begins
16 during the second calendar year following the
17 applicable year, 75 percent,

18 “(C) for any qualified investment with re-
19 spect to any qualified facility or energy storage
20 technology the construction of which begins
21 during the third calendar year following the ap-
22 plicable year, 50 percent, and

23 “(D) for any qualified investment with re-
24 spect to any qualified facility or energy storage
25 technology the construction of which begins

1 during any calendar year subsequent to the cal-
2 endar year described in subparagraph (C), 0
3 percent.

4 “(3) APPLICABLE YEAR.—For purposes of this
5 subsection, the term ‘applicable year’ has the same
6 meaning given such term in section 45AA(d)(3).

7 “(f) GREENHOUSE GAS.—In this section, the term
8 ‘greenhouse gas’ has the same meaning given such term
9 under section 45AA(e)(2).

10 “(g) RECAPTURE OF CREDIT.—For purposes of sec-
11 tion 50, if the Secretary determines that the greenhouse
12 gas emissions rate for a qualified facility is greater than
13 10 grams of CO₂e per KWh, any property for which a
14 credit was allowed under this section with respect to such
15 facility shall cease to be investment credit property in the
16 taxable year in which the determination is made.

17 “(h) GUIDANCE.—Not later than January 1, 2026,
18 the Secretary shall issue guidance regarding implementa-
19 tion of this section.”.

20 (b) ELECTIVE PAYMENT OF CREDIT.—Section
21 6417(b), as amended by preceding provisions of this Act,
22 is amended by adding at the end the following new para-
23 graph:

24 “(13) The clean electricity investment credit de-
25 termined under section 48F.”.

1 (c) CONFORMING AMENDMENTS.—

2 (1) Section 46, as amended by preceding provi-
3 sions of this Act, is amended—

4 (A) by striking “and” at the end of para-
5 graph (6),

6 (B) by striking the period at the end of
7 paragraph (7) and inserting “, and”, and

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

10 “(8) the clean electricity investment credit.”.

11 (2) Section 49(a)(1)(C), as amended by pre-
12 ceding provisions of this Act, is amended—

13 (A) by striking “and” at the end of clause
14 (vi),

15 (B) by striking the period at the end of
16 clause (vii) and inserting a comma, and

17 (C) by adding at the end the following new
18 clauses:

19 “(viii) the basis of any qualified prop-
20 erty which is part of a qualified facility
21 under section 48F, and

22 “(ix) the basis of any energy storage
23 technology under section 48F.”.

24 (3) Section 50(a)(2)(E), as amended by pre-
25 ceding provisions of this Act, is amended by striking

1 “or 48E(c)(1)” and inserting “48E(c)(1), or
2 48F(e)”.

3 (4) Section 50(c)(3) is amended by inserting
4 “or clean electricity investment credit” after “In the
5 case of any energy credit”.

6 (5) The table of sections for subpart E of part
7 IV of subchapter A of chapter 1, as amended by pre-
8 ceding provisions of this Act, is amended by insert-
9 ing after the item relating to section 48E the fol-
10 lowing new item:

“48F. Clean electricity investment credit.”.

11 (d) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to property placed in service after
13 December 31, 2026.

14 **SEC. 126803. INCREASE IN CLEAN ELECTRICITY INVEST-**
15 **MENT CREDIT FOR FACILITIES PLACED IN**
16 **SERVICE IN CONNECTION WITH LOW-INCOME**
17 **COMMUNITIES.**

18 (a) IN GENERAL.—Section 48F, as added by this
19 Act, is amended by adding at the end the following new
20 subsection:

21 “(i) SPECIAL RULES FOR CERTAIN FACILITIES
22 PLACED IN SERVICE IN CONNECTION WITH LOW-INCOME
23 COMMUNITIES.—

24 “(1) IN GENERAL.—In the case of any qualified
25 facility with respect to which the Secretary makes an

1 allocation of environmental justice capacity limita-
2 tion under paragraph (4)—

3 “(A) the applicable percentage otherwise
4 determined under subsection (a)(2) with respect
5 to any eligible property which is part of such
6 facility shall be increased by—

7 “(i) in the case of a facility described
8 in subclause (I) of paragraph (2)(A)(iii)
9 and not described in subclause (II) of such
10 paragraph, 10 percentage points, and

11 “(ii) in the case of a facility described
12 in subclause (II) of paragraph (2)(A)(iii),
13 20 percentage points, and

14 “(B) the increase in the credit determined
15 under subsection (a) by reason of this sub-
16 section for any taxable year with respect to all
17 property which is part of such facility shall not
18 exceed the amount which bears the same ratio
19 to the amount of such increase (determined
20 without regard to this subparagraph) as—

21 “(i) the environmental justice capacity
22 limitation allocated to such facility, bears
23 to

1 “(ii) the total megawatt nameplate ca-
2 pacity of such facility, as measured in di-
3 rect current.

4 “(2) QUALIFIED FACILITY.—For purposes of
5 this subsection—

6 “(A) IN GENERAL.—The term ‘qualified
7 facility’ means any facility—

8 “(i) which is described in subsection
9 (b)(3)(A) and not described in section
10 45AA(b)(2)(B),

11 “(ii) which has a maximum net output
12 of less than 5 megawatts, and

13 “(iii) which—

14 “(I) is located in a low-income
15 community (as defined in section
16 45D(e)) or on Indian land (as defined
17 in section 2601(2) of the Energy Pol-
18 icy Act of 1992 (25 U.S.C. 3501(2))),
19 or

20 “(II) is part of a qualified low-in-
21 come residential building project or a
22 qualified low-income economic benefit
23 project.

24 “(B) QUALIFIED LOW-INCOME RESIDEN-
25 TIAL BUILDING PROJECT.—A facility shall be

1 treated as part of a qualified low-income resi-
2 dential building project if—

3 “(i) such facility is installed on a resi-
4 dential rental building which participates
5 in a covered housing program (as defined
6 in section 41411(a) of the Violence Against
7 Women Act of 1994 (34 U.S.C.
8 12491(a)(3)), a housing assistance pro-
9 gram administered by the Department of
10 Agriculture under title V of the Housing
11 Act of 1949, a housing program adminis-
12 tered by a tribally designated housing enti-
13 ty (as defined in section 4(22) of the Na-
14 tive American Housing Assistance and
15 Self-Determination Act of 1996 (25 U.S.C.
16 4103(22))) or such other affordable hous-
17 ing programs as the Secretary may pro-
18 vide, and

19 “(ii) the financial benefits of the elec-
20 tricity produced by such facility are allo-
21 cated equitably among the occupants of the
22 dwelling units of such building.

23 “(C) QUALIFIED LOW-INCOME ECONOMIC
24 BENEFIT PROJECT.—A facility shall be treated
25 as part of a qualified low-income economic ben-

1 efit project if at least 50 percent of the finan-
2 cial benefits of the electricity produced by such
3 facility are provided to households with income
4 of—

5 “(i) less than 200 percent of the pov-
6 erty line applicable to a family of the size
7 involved, or

8 “(ii) less than 80 percent of area me-
9 dian gross income (as determined under
10 section 142(d)(2)(B)).

11 “(D) FINANCIAL BENEFIT.—For purposes
12 of subparagraphs (B) and (C), electricity ac-
13 quired at a below-market rate shall not fail to
14 be taken into account as a financial benefit.

15 “(3) ELIGIBLE PROPERTY.—For purposes of
16 this subsection, the term ‘eligible property’ means a
17 qualified investment with respect to any qualified fa-
18 cility which is described in subsection (b).

19 “(4) ALLOCATIONS.—

20 “(A) IN GENERAL.—Not later than Janu-
21 ary 1, 2027, the Secretary shall establish a pro-
22 gram to allocate amounts of environmental jus-
23 tice capacity limitation to qualified facilities.

24 “(B) LIMITATION.—The amount of envi-
25 ronmental justice capacity limitation allocated

1 by the Secretary under subparagraph (A) dur-
2 ing any calendar year shall not exceed the an-
3 nual capacity limitation with respect to such
4 year.

5 “(C) ANNUAL CAPACITY LIMITATION.—For
6 purposes of this paragraph, the term ‘annual
7 capacity limitation’ means 1.8 gigawatts of di-
8 rect current capacity for each of calendar years
9 2027 through 2031, and zero thereafter.

10 “(D) CARRYOVER OF UNUSED LIMITA-
11 TION.—

12 “(i) IN GENERAL.—If the annual ca-
13 pacity limitation for any calendar year ex-
14 ceeds the aggregate amount allocated for
15 such year under this paragraph, such limi-
16 tation for the succeeding calendar year
17 shall be increased by the amount of such
18 excess. No amount may be carried under
19 the preceding sentence to any calendar
20 year after 2033.

21 “(ii) CARRYOVER FROM SECTION 48
22 FOR CALENDAR YEAR 2027.—If the annual
23 capacity limitation for calendar year 2026
24 under section 48(e)(4)(D) exceeds the ag-
25 gregate amount allocated for such year

1 under such section, such excess amount
2 may be carried over and applied to the an-
3 nual capacity limitation under this sub-
4 section for calendar year 2027. The annual
5 capacity limitation for calendar year 2027
6 shall be increased by the amount of such
7 excess.

8 “(E) PLACED IN SERVICE DEADLINE.—

9 “(i) IN GENERAL.—Paragraph (1)
10 shall not apply with respect to any prop-
11 erty which is placed in service after the
12 date that is 4 years after the date of the
13 allocation with respect to the facility of
14 which such property is a part.

15 “(ii) APPLICATION OF CARRYOVER.—
16 Any amount of environmental justice ca-
17 pacity limitation which expires under
18 clause (i) during any calendar year shall be
19 taken into account as an excess described
20 in subparagraph (D)(i) (or as an increase
21 in such excess) for such calendar year,
22 subject to the limitation imposed by the
23 last sentence of such subparagraph.

24 “(5) RECAPTURE.—The Secretary shall, by reg-
25 ulations or other guidance, provide for recapturing

1 the benefit of any increase in the credit allowed
2 under subsection (a) by reason of this subsection
3 with respect to any property which ceases to be
4 property eligible for such increase (but which does
5 not cease to be investment credit property within the
6 meaning of section 50(a)). The period and percent-
7 age of such recapture shall be determined under
8 rules similar to the rules of section 50(a). To the ex-
9 tent provided by the Secretary, such recapture may
10 not apply with respect to any property if, within 12
11 months after the date the taxpayer becomes aware
12 (or reasonably should have become aware) of such
13 property ceasing to be property eligible for such in-
14 crease, the eligibility of such property for such in-
15 crease is restored. The preceding sentence shall not
16 apply more than once with respect to any facility.”.

17 (b) EFFECTIVE DATE.—The amendments made by
18 this section shall take effect on January 1, 2027.

19 **SEC. 126804. COST RECOVERY FOR QUALIFIED FACILITIES,**
20 **QUALIFIED PROPERTY, AND ENERGY STOR-**
21 **AGE TECHNOLOGY.**

22 (a) IN GENERAL.—Section 168(e)(3)(B) is amend-
23 ed—

24 (1) in clause (vi)(III), by striking “and” at the
25 end,

1 (2) in clause (vii), by striking the period at the
2 end and inserting “, and”, and

3 (3) by inserting after clause (vii) the following:

4 “(viii) any qualified facility (as de-
5 fined in section 45AA(b)(1)(A)), any quali-
6 fied property (as defined in subsection
7 (b)(2) of section 48F) which is a qualified
8 investment (as defined in subsection (b)(1)
9 of such section), or any energy storage
10 technology (as defined in subsection (c)(2)
11 of such section).”.

12 (b) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to facilities and property placed
14 in service after December 31, 2026.

15 **SEC. 126805. CLEAN FUEL PRODUCTION CREDIT.**

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

20 **“SEC. 45BB. CLEAN FUEL PRODUCTION CREDIT.**

21 “(a) AMOUNT OF CREDIT.—

22 “(1) IN GENERAL.—For purposes of section 38,
23 the clean fuel production credit for any taxable year
24 is an amount equal to the product of—

1 “(A) the applicable amount per gallon (or
2 gallon equivalent) with respect to any transpor-
3 tation fuel which is—

4 “(i) produced by the taxpayer at a
5 qualified facility, and

6 “(ii) sold by the taxpayer in a manner
7 described in paragraph (4) during the tax-
8 able year, and

9 “(B) the emissions factor for such fuel (as
10 determined under subsection (b)).

11 “(2) APPLICABLE AMOUNT.—

12 “(A) BASE AMOUNT.—In the case of any
13 transportation fuel produced at a qualified facil-
14 ity which does not satisfy the requirements de-
15 scribed in subparagraph (B), the applicable
16 amount shall be 20 cents.

17 “(B) ALTERNATIVE AMOUNT.—In the case
18 of any transportation fuel produced at a quali-
19 fied facility which satisfies the requirements
20 under paragraphs (6) and (7) of subsection (g),
21 the applicable amount shall be \$1.00.

22 “(3) SPECIAL RATE FOR SUSTAINABLE AVIA-
23 TION FUEL.—

1 “(A) IN GENERAL.—In the case of a trans-
2 portation fuel which is sustainable aviation fuel,
3 paragraph (2) shall be applied—

4 “(i) in the case of a transportation
5 fuel produced at a qualified facility de-
6 scribed in paragraph (2)(A), by sub-
7 stituting ‘35 cents’ for ‘20 cents’, and

8 “(ii) in the case of a transportation
9 fuel produced at a qualified facility de-
10 scribed in paragraph (2)(B), by sub-
11 stituting ‘\$1.75’ for ‘\$1.00’.

12 “(B) SUSTAINABLE AVIATION FUEL.—For
13 purposes of this subparagraph (A), the term
14 ‘sustainable aviation fuel’ means liquid fuel
15 which is sold for use in an aircraft and which—

16 “(i) meets the requirements of—

17 “(I) ASTM International Stand-
18 ard D7566-21, or

19 “(II) the Fischer Tropsch provi-
20 sions of ASTM International Stand-
21 ard D1655-21, Annex A1, and

22 “(ii) is not derived from palm fatty
23 acid distillates or petroleum.

24 “(4) SALE.—For purposes of paragraph (1),
25 the transportation fuel is sold in a manner described

1 in this paragraph if such fuel is sold by the taxpayer
2 to an unrelated person—

3 “(A) for use by such person in the produc-
4 tion of a fuel mixture,

5 “(B) for use by such person in a trade or
6 business, or

7 “(C) who sells such fuel at retail to an-
8 other person and places such fuel in the fuel
9 tank of such other person.

10 “(5) ROUNDING.—If any amount determined
11 under paragraph (1) is not a multiple of 1 cent,
12 such amount shall be rounded to the nearest cent.

13 “(b) EMISSIONS FACTORS.—

14 “(1) EMISSIONS FACTOR.—

15 “(A) CALCULATION.—

16 “(i) IN GENERAL.—The emissions fac-
17 tor of a transportation fuel shall be an
18 amount equal to the quotient of—

19 “(I) an amount equal to—

20 “(aa) 50 kilograms of CO_{2e}
21 per mmBTU, minus

22 “(bb) the emissions rate for
23 such fuel, divided by

24 “(II) 50 kilograms of CO_{2e} per
25 mmBTU.

1 “(B) ESTABLISHMENT OF EMISSIONS
2 RATE.—

3 “(i) IN GENERAL.—Subject to clauses
4 (ii) and (iii), the Secretary shall annually
5 publish a table which sets forth the emis-
6 sions rate for similar types and categories
7 of transportation fuels based on the
8 amount of lifecycle greenhouse gas emis-
9 sions (as described in section 211(o)(1)(H)
10 of the Clean Air Act (42 U.S.C.
11 7545(o)(1)(H)), as in effect on the date of
12 the enactment of this section) for such
13 fuels, expressed as kilograms of CO_{2e} per
14 mmBTU, which a taxpayer shall use for
15 purposes of this section.

16 “(ii) NON-AVIATION FUEL.—In the
17 case of any transportation fuel which is
18 not a sustainable aviation fuel, the lifecycle
19 greenhouse gas emissions of such fuel shall
20 be based on the most recent determina-
21 tions under the Greenhouse gases, Regu-
22 lated Emissions, and Energy use in Trans-
23 portation model developed by Argonne Na-
24 tional Laboratory, or a successor model (as
25 determined by the Secretary).

1 “(iii) AVIATION FUEL.—In the case of
2 any transportation fuel which is a sustain-
3 able aviation fuel, the lifecycle greenhouse
4 gas emissions of such fuel shall be deter-
5 mined in accordance with—

6 “(I) the most recent Carbon Off-
7 setting and Reduction Scheme for
8 International Aviation which has been
9 adopted by the International Civil
10 Aviation Organization with the agree-
11 ment of the United States, or

12 “(II) any equivalent methodology
13 which satisfies the criteria under sec-
14 tion 211(o)(1)(H) of the Clean Air
15 Act (42 U.S.C. 7545(o)(1)(H)).

16 “(C) ROUNDING OF EMISSIONS RATE.—
17 The Secretary may round the emissions rates
18 under subparagraph (B) to the nearest multiple
19 of 5 kilograms of CO₂e per mmBTU, except
20 that, in the case of an emissions rate that is
21 less than 2.5 kilograms of CO₂e per mmBTU,
22 the Secretary may round such rate to zero.

23 “(D) PROVISIONAL EMISSIONS RATE.—In
24 the case of any transportation fuel for which an
25 emissions rate has not been established under

1 subparagraph (B), a taxpayer producing such
2 fuel may file a petition with the Secretary for
3 determination of the emissions rate with respect
4 to such fuel.

5 “(2) ROUNDING.—If any amount determined
6 under paragraph (1)(A) is not a multiple of 0.1,
7 such amount shall be rounded to the nearest mul-
8 tiple of 0.1.

9 “(c) INFLATION ADJUSTMENT.—

10 “(1) IN GENERAL.—In the case of calendar
11 years beginning after 2026, the 20 cent amount in
12 subsection (a)(2)(A), the \$1.00 amount in sub-
13 section (a)(2)(B), the 35 cent amount in subsection
14 (a)(3)(A)(i), and the \$1.75 amount in subsection
15 (a)(3)(A)(ii) shall each be adjusted by multiplying
16 such amount by the inflation adjustment factor for
17 the calendar year in which the sale of the transpor-
18 tation fuel occurs. If any amount as increased under
19 the preceding sentence is not a multiple of 1 cent,
20 such amount shall be rounded to the nearest mul-
21 tiple of 1 cent.

22 “(2) INFLATION ADJUSTMENT FACTOR.—For
23 purposes of paragraph (1), the inflation adjustment
24 factor shall be the inflation adjustment factor deter-
25 mined and published by the Secretary pursuant to

1 section 45AA(c), determined by substituting ‘cal-
2 endar year 2021’ for ‘calendar year 1992’ in para-
3 graph (3) thereof.

4 “(d) CREDIT PHASE-OUT.—

5 “(1) IN GENERAL.—The amount of the clean
6 fuel production credit under subsection (a) for any
7 transportation fuel sold during a taxable year de-
8 scribed in paragraph (2) shall be equal to the prod-
9 uct of—

10 “(A) the amount of the credit determined
11 under subsection (a) without regard to this sub-
12 section, multiplied by

13 “(B) the phase-out percentage under para-
14 graph (2).

15 “(2) PHASE-OUT PERCENTAGE.—The phase-out
16 percentage under this paragraph is equal to—

17 “(A) for any taxable year beginning in the
18 first calendar year following the applicable year,
19 100 percent,

20 “(B) for any taxable year beginning in the
21 second calendar year following the applicable
22 year, 75 percent,

23 “(C) for any taxable year beginning in the
24 third calendar year following the applicable
25 year, 50 percent, and

1 “(D) for any taxable year beginning in any
2 calendar year subsequent to the calendar year
3 described in subparagraph (C), 0 percent.

4 “(3) APPLICABLE YEAR.—For purposes of this
5 subsection, the term ‘applicable year’ means the
6 later of—

7 “(A) the calendar year in which the Sec-
8 retary determines that the greenhouse gas emis-
9 sions from the transportation of persons and
10 goods annually in the United States are equal
11 to or less than 25 percent of the greenhouse gas
12 emissions from the transportation of persons
13 and goods in the United States during calendar
14 year 2021, or

15 “(B) 2031.

16 “(e) DEFINITIONS.—In this section:

17 “(1) mmBTU.—The term ‘mmBTU’ means
18 1,000,000 British thermal units.

19 “(2) CO₂e.—The term ‘CO₂e’ means, with re-
20 spect to any greenhouse gas, the equivalent carbon
21 dioxide (as determined based on relative global
22 warming potential).

23 “(3) GREENHOUSE GAS.—The term ‘greenhouse
24 gas’ has the same meaning given that term under
25 section 211(o)(1)(G) of the Clean Air Act (42

1 U.S.C. 7545(o)(1)(G)), as in effect on the date of
2 the enactment of this section.

3 “(4) QUALIFIED FACILITY.—The term ‘quali-
4 fied facility’—

5 “(A) means a facility used for the produc-
6 tion of transportation fuels, and

7 “(B) does not include any facility for
8 which one of the following credits is allowed
9 under section 38 for the taxable year:

10 “(i) The credit for production of clean
11 hydrogen under section 45W.

12 “(ii) The credit determined under sec-
13 tion 46 to the extent that such credit is at-
14 tributable to the energy credit determined
15 under section 48 with respect to any speci-
16 fied clean hydrogen production facility for
17 which an election is made under subsection
18 (a)(16) of such section.

19 “(iii) The credit for carbon oxide se-
20 questration under section 45Q.

21 “(5) TRANSPORTATION FUEL.—The term
22 ‘transportation fuel’ means a fuel which—

23 “(A) is suitable for use as a fuel in a high-
24 way vehicle or aircraft,

661

1 “(B) has an emissions rate which is not
2 greater than—

3 “(i) in the case of a fuel which is not
4 a sustainable aviation fuel—

5 “(I) for any such fuel sold during
6 calendar years 2027 through 2030, 50
7 kilograms of CO₂e per mmBTU, and

8 “(II) for any such fuel sold dur-
9 ing any calendar year beginning after
10 December 31, 2030, 25 kilograms of
11 CO₂e per mmBTU, or

12 “(ii) in the case of a fuel which is a
13 sustainable aviation fuel—

14 “(I) for any such fuel sold during
15 any period before January 1, 2031,
16 35 kilograms of CO₂e per mmBTU,
17 and

18 “(II) for any such fuel sold dur-
19 ing any period after December 31,
20 2030, 25 kilograms of CO₂e per
21 mmBTU,

22 “(C) is not hydrogen fuel, and

23 “(D) in the case of fuel which is not avia-
24 tion fuel, is not derived from coprocessing bio-
25 mass with a feedstock which is not biomass.

1 For purposes of this paragraph, the term ‘bio-
2 mass’ has the meaning given such term in sec-
3 tion 45K(c)(3).

4 “(f) GUIDANCE.—Not later than January 1, 2026,
5 the Secretary shall issue guidance regarding implementa-
6 tion of this section, including calculation of emissions fac-
7 tors for transportation fuel, the table described in sub-
8 section (b)(1)(B)(i), and the determination of clean fuel
9 production credits under this section.

10 “(g) SPECIAL RULES.—

11 “(1) ONLY REGISTERED PRODUCTION IN THE
12 UNITED STATES TAKEN INTO ACCOUNT.—

13 “(A) IN GENERAL.—No clean fuel produc-
14 tion credit shall be determined under subsection
15 (a) with respect to any transportation fuel un-
16 less—

17 “(i) the taxpayer—

18 “(I) is registered as a producer
19 of clean fuel under section 4101 at
20 the time of production, and

21 “(II) in the case of any transpor-
22 tation fuel which is a sustainable avia-
23 tion fuel, provides—

24 “(aa) certification (in such
25 form and manner as the Sec-

663

1 retary shall prescribe) from an
2 unrelated party demonstrating
3 compliance with—

4 “(AA) any supply chain
5 traceability and information
6 transmission requirements
7 under subclause (I) of sub-
8 section (b)(1)(B)(iii), or

9 “(BB) any methodology
10 described in subclause (II)
11 of such subsection, and

12 “(bb) such other information
13 with respect to such fuel as the
14 Secretary may require for pur-
15 poses of carrying out this section,
16 and

17 “(ii) such fuel is produced in the
18 United States.

19 “(B) UNITED STATES.—For purposes of
20 this paragraph, the term ‘United States’ in-
21 cludes any possession of the United States.

22 “(2) PRODUCTION ATTRIBUTABLE TO THE TAX-
23 PAYER.—In the case of a facility in which more than
24 1 person has an ownership interest, except to the ex-
25 tent provided in regulations prescribed by the Sec-

1 retary, production from the facility shall be allocated
2 among such persons in proportion to their respective
3 ownership interests in the gross sales from such fa-
4 cility.

5 “(3) RELATED PERSONS.—Persons shall be
6 treated as related to each other if such persons
7 would be treated as a single employer under the reg-
8 ulations prescribed under section 52(b). In the case
9 of a corporation which is a member of an affiliated
10 group of corporations filing a consolidated return,
11 such corporation shall be treated as selling fuel to
12 an unrelated person if such fuel is sold to such a
13 person by another member of such group.

14 “(4) PASS-THRU IN THE CASE OF ESTATES AND
15 TRUSTS.—Under regulations prescribed by the Sec-
16 retary, rules similar to the rules of subsection (d) of
17 section 52 shall apply.

18 “(5) ALLOCATION OF CREDIT TO PATRONS OF
19 AGRICULTURAL COOPERATIVE.—

20 “(A) ELECTION TO ALLOCATE.—

21 “(i) IN GENERAL.—In the case of an
22 eligible cooperative organization, any por-
23 tion of the credit determined under sub-
24 section (a) for the taxable year may, at the
25 election of the organization, be apportioned

665

1 among patrons of the organization on the
2 basis of the amount of business done by
3 the patrons during the taxable year.

4 “(ii) FORM AND EFFECT OF ELEC-
5 TION.—An election under clause (i) for any
6 taxable year shall be made on a timely
7 filed return for such year. Such election,
8 once made, shall be irrevocable for such
9 taxable year. Such election shall not take
10 effect unless the organization designates
11 the apportionment as such in a written no-
12 tice mailed to its patrons during the pay-
13 ment period described in section 1382(d).

14 “(B) TREATMENT OF ORGANIZATIONS AND
15 PATRONS.—The amount of the credit appor-
16 tioned to any patrons under subparagraph
17 (A)—

18 “(i) shall not be included in the
19 amount determined under subsection (a)
20 with respect to the organization for the
21 taxable year, and

22 “(ii) shall be included in the amount
23 determined under subsection (a) for the
24 first taxable year of each patron ending on
25 or after the last day of the payment period

666

1 (as defined in section 1382(d)) for the tax-
2 able year of the organization or, if earlier,
3 for the taxable year of each patron ending
4 on or after the date on which the patron
5 receives notice from the cooperative of the
6 apportionment.

7 “(C) SPECIAL RULES FOR DECREASE IN
8 CREDITS FOR TAXABLE YEAR.—If the amount
9 of the credit of a cooperative organization de-
10 termined under subsection (a) for a taxable
11 year is less than the amount of such credit
12 shown on the return of the cooperative organi-
13 zation for such year, an amount equal to the
14 excess of—

15 “(i) such reduction, over

16 “(ii) the amount not apportioned to
17 such patrons under subparagraph (A) for
18 the taxable year,

19 shall be treated as an increase in tax imposed
20 by this chapter on the organization. Such in-
21 crease shall not be treated as tax imposed by
22 this chapter for purposes of determining the
23 amount of any credit under this chapter.

24 “(D) ELIGIBLE COOPERATIVE DEFINED.—
25 For purposes of this section the term ‘eligible

1 cooperative’ means a cooperative organization
2 described in section 1381(a) which is owned
3 more than 50 percent by agricultural producers
4 or by entities owned by agricultural producers.
5 For this purpose an entity owned by an agricul-
6 tural producer is one that is more than 50 per-
7 cent owned by agricultural producers.

8 “(6) PREVAILING WAGE REQUIREMENTS.—

9 “(A) IN GENERAL.—Subject to subpara-
10 graph (B), rules similar to the rules of section
11 45(b)(7) shall apply.

12 “(B) SPECIAL RULE FOR FACILITIES
13 PLACED IN SERVICE BEFORE JANUARY 1,
14 2027.—For purposes of subparagraph (A), in
15 the case of any qualified facility placed in serv-
16 ice before January 1, 2027—

17 “(i) clause (i) of section 45(b)(7)(A)
18 shall not apply, and

19 “(ii) clause (ii) of such section shall
20 be applied by substituting ‘with respect to
21 any taxable year beginning after December
22 31, 2026, for which the credit is allowed
23 under this section’ for ‘with respect to any
24 taxable year, for any portion of such tax-

1 able year which is within the period de-
2 scribed in subsection (a)(2)(A)(ii)'.
3

4 “(7) APPRENTICESHIP REQUIREMENTS.—Rules
5 similar to the rules of section 45(b)(8) shall apply.”.

6 (b) ELECTIVE PAYMENT OF CREDIT.—Section
7 6417(b), as amended by preceding provisions of this Act,
8 is amended by adding at the end the following new para-
9 graph:

10 “(14) The clean fuel production credit deter-
11 mined under section 45BB(a).”.

12 (c) CONFORMING AMENDMENTS.—

13 (1) Section 38(b), as amended by the preceding
14 provisions of this Act, is amended—

15 (A) in paragraph (41), by striking “plus”
16 at the end,

17 (B) in paragraph (42), by striking the pe-
18 riod at the end and inserting “, plus”, and

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

21 “(43) the clean fuel production credit deter-
22 mined under section 45BB(a).”.

23 (2) The table of sections for subpart D of part
24 IV of subchapter A of chapter 1, as amended by the
25 preceding provisions of this Act, is amended by add-
ing at the end the following new item:

“Sec. 45BB. Clean fuel production credit.”.

1 (3) Section 4101(a)(1), as amended by the pre-
2 ceding provisions of this Act, is amended by insert-
3 ing “every person producing a fuel eligible for the
4 clean fuel production credit (pursuant to section
5 45BB),” after “section 6426(k)(3),”.

6 (d) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to transportation fuel produced
8 after December 31, 2026.

9 **PART 9—APPROPRIATIONS**

10 **SEC. 126901. APPROPRIATIONS.**

11 Immediately upon the enactment of this Act, in addi-
12 tion to amounts otherwise available, there are appro-
13 priated for fiscal year 2022, out of any money in the
14 Treasury not otherwise appropriated, \$4,073,433,000 to
15 remain available until September 30, 2031, for necessary
16 expenses for the Internal Revenue Service to carry out this
17 subtitle (and the amendments made by this subtitle),
18 which shall supplement and not supplant any other appro-
19 priations that may be available for this purpose.

20 **Subtitle G—Social Safety Net**

21 **SEC. 127001. AMENDMENT OF 1986 CODE.**

22 Except as otherwise expressly provided, whenever in
23 this subtitle an amendment or repeal is expressed in terms
24 of an amendment to, or repeal of, a section or other provi-
25 sion, the reference shall be considered to be made to a

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

3 **PART 1—CHILD TAX CREDIT**

4 **SEC. 127101. MODIFICATIONS APPLICABLE BEGINNING IN**
5 **2021.**

6 (a) SAFE HARBOR EXCEPTION FOR FRAUD AND IN-
7 TENTIONAL DISREGARD OF RULES AND REGULATIONS.—
8 Section 24(j)(2)(B) is amended—

9 (1) by striking “qualified” each place it appears
10 in clause (iv)(II) and inserting “qualifying”, and

11 (2) by adding at the end the following new
12 clause:

13 “(v) EXCEPTION FOR FRAUD AND IN-
14 TENTIONAL DISREGARD OF RULES AND
15 REGULATIONS.—

16 “(I) IN GENERAL.—For purposes
17 of determining the safe harbor
18 amount under clause (iv) with respect
19 to any taxpayer, an individual shall
20 not be treated as taken into account
21 in determining the annual advance
22 amount of such taxpayer if the Sec-
23 retary determines that such individual
24 was so taken into account due to
25 fraud by the taxpayer or intentional

671

1 disregard of rules and regulations by
2 the taxpayer.

3 “(II) ARRANGEMENTS TO TAKE
4 INDIVIDUAL INTO ACCOUNT MORE
5 THAN ONCE.—For purposes of sub-
6 clause (I), a taxpayer shall not fail to
7 be treated as intentionally dis-
8 regarding rules and regulations with
9 respect to any individual taken into
10 account in determining the annual ad-
11 vance amount of such taxpayer if such
12 taxpayer entered into a plan or other
13 arrangement with, or expected, an-
14 other taxpayer to take such individual
15 into account in determining the credit
16 allowed under this section for the tax-
17 able year.”.

18 (b) RULES RELATING TO RECONCILIATION OF CRED-
19 IT AND ADVANCE CREDIT.—Section 24(j) is amended by
20 adding at the end the following new paragraphs:

21 “(3) JOINT RETURNS.—Except as otherwise
22 provided by the Secretary, in the case of an advance
23 payment made under section 7527A with respect to
24 a joint return, half of such payment shall be treated

1 as having been made to each individual filing such
2 return.

3 “(4) COORDINATION WITH POSSESSIONS OF
4 THE UNITED STATES.—For purposes of this sub-
5 section, payments made under section 7527A include
6 payments made by any jurisdiction other than the
7 United States under section 7527A of the income
8 tax law of such jurisdiction, and advance payments
9 made by American Samoa pursuant to a plan de-
10 scribed in subsection (k)(3)(B). In carrying out this
11 section, the Secretary shall coordinate with each pos-
12 session of the United States to prevent any applica-
13 tion of this paragraph that is inconsistent with the
14 purposes of this subsection.”

15 (c) ANNUAL ADVANCE AMOUNT.—Section 7527A(b)
16 is amended—

17 (1) in paragraph (1)—

18 (A) in subparagraph (A), by inserting “or
19 based on any other information known to the
20 Secretary” after “reference taxable year”,

21 (B) in subparagraph (C), by inserting “un-
22 less determined by the Secretary based on any
23 information known to the Secretary,” before
24 “the only children”, and

1 (C) in subparagraph (D), by inserting “un-
2 less determined by the Secretary based on any
3 information known to the Secretary,” before
4 “the ages of”, and

5 (2) in paragraph (3)(A)(ii), by striking “ pro-
6 vided by the taxpayer” and inserting “provided, or
7 known,”.

8 (d) DISCLOSURE OF INFORMATION RELATING TO
9 JOINT FILERS AND ADVANCE PAYMENT OF CHILD TAX
10 CREDIT.—Section 6103(e) is amended by adding at the
11 end the following new paragraph:

12 “(12) DISCLOSURE OF INFORMATION RELATING
13 TO JOINT FILERS AND ADVANCE PAYMENT OF CHILD
14 TAX CREDIT.—In the case of an individual to whom
15 the Secretary makes payments under section 7527A,
16 if the reference taxable year (as defined in section
17 7527A(b)(2)) that the Secretary uses to calculate
18 such payments is a year for which the individual
19 filed an income tax return jointly with another indi-
20 vidual, the Secretary may disclose to such individual
21 any return information of such other individual
22 which is relevant in determining the payment under
23 section 7527A and the individual’s eligibility for
24 such payment, including information regarding any
25 of the following:

1 “(A) The number of specified children, in-
2 cluding by reason of the birth of a child.

3 “(B) The name and TIN of specified chil-
4 dren.

5 “(C) Marital status.

6 “(D) Modified adjusted gross income.

7 “(E) Whether the individual’s principal
8 place of abode is in the United States for more
9 than one-half of the taxable year or whether the
10 individual is a bona fide resident of Puerto
11 Rico.

12 “(F) Any other factor which the Secretary
13 may provide pursuant to section 7527A(e).”.

14 (e) EFFECTIVE DATE.—

15 (1) IN GENERAL.—Except as otherwise pro-
16 vided in this subsection, the amendments made by
17 this section shall apply to taxable years beginning,
18 and payments made, after December 31, 2020.

19 (2) DISCLOSURE OF INFORMATION RELATING
20 TO JOINT FILERS AND ADVANCE PAYMENT OF CHILD
21 TAX CREDIT.—The amendment made by subsection
22 (d) shall take effect on the date of the enactment of
23 this Act.

1 **SEC. 127102. EXTENSIONS AND MODIFICATIONS APPLICA-**
2 **BLE BEGINNING IN 2022.**

3 (a) EXTENSIONS.—

4 (1) EXTENSION OF CHILD TAX CREDIT.—Sec-
5 tion 24(i) is amended—

6 (A) by striking “January 1, 2022” in the
7 matter preceding paragraph (1) and inserting
8 “January 1, 2023”, and

9 (B) by inserting “AND 2022” after “2021”
10 in the heading thereof.

11 (2) EXTENSION OF PROVISIONS RELATED TO
12 POSSESSIONS OF THE UNITED STATES.—

13 (A) Section 24(k)(2)(B) is amended—

14 (i) by striking “December 31, 2021”
15 in the matter preceding clause (i) and in-
16 serting “December 31, 2022”, and

17 (ii) by striking “AFTER 2021” in the
18 heading thereof and inserting “AFTER
19 2022”.

20 (B) Section 24(k)(3)(C)(ii) is amended—

21 (i) in subclause (I), by inserting “or
22 2022” after “2021”, and

23 (ii) in subclause (II), by striking “De-
24 cember 31, 2021” and inserting “Decem-
25 ber 31, 2022”.

1 (C) The heading of section 24(k)(2)(A) is
2 amended by inserting “AND 2022” after
3 “2021”.

4 (b) EXTENSION AND MODIFICATION OF ADVANCE
5 PAYMENT.—

6 (1) IN GENERAL.—Section 7527A is amend-
7 ed—

8 (A) in subsection (b)(1), by striking “50
9 percent of”,

10 (B) in clauses (i) and (ii) of subsection
11 (e)(4)(C), by inserting “or 2022” after “in
12 2021”, and

13 (C) in subsection (f), by striking “Decem-
14 ber 31, 2021” and inserting “December 31,
15 2022”.

16 (2) MONTHLY PAYMENTS.—

17 (A) IN GENERAL.—Section 7527A(a) is
18 amended to read as follows:

19 “(a) IN GENERAL.—The Secretary shall establish a
20 program for making monthly payments to taxpayers in
21 amounts equal to 1/12 of the annual advance amount with
22 respect to such taxpayer.”.

23 (B) MODIFICATIONS DURING CALENDAR
24 YEAR.—Section 7527A(b)(3), as amended by

1 the preceding provisions of this Act, is amend-
2 ed—

3 (i) by amending subparagraph (A)(ii)
4 to read as follows:

5 “(ii) any other information provided,
6 or known, to the Secretary which allows
7 the Secretary to more accurately estimate
8 the amount treated as allowed under sub-
9 part C of part IV of subchapter A of chap-
10 ter 1 by reason of section 24(i)(1) with re-
11 spect to the taxpayer for the reference tax-
12 able year.”, and

13 (ii) in subparagraph (B), by striking
14 “periodic payment” both places it appears
15 and inserting “monthly payment”.

16 (C) CONFORMING AMENDMENT.—Section
17 7527A(c)(2) is amended by striking “subsection
18 (b)(3)(B)” and inserting “subsection (b)(3)”.

19 (3) ELIGIBILITY FOR ADVANCE PAYMENTS LIM-
20 ITED BASED ON MODIFIED ADJUSTED GROSS IN-
21 COME.—Section 7527A(b) is amended by adding at
22 the end the following new paragraph:

23 “(6) LIMITATION BASED ON MODIFIED AD-
24 JUSTED GROSS INCOME.—

1 “(A) IN GENERAL.—If the modified ad-
2 justed gross income of the taxpayer for the ref-
3 erence taxable year exceeds the applicable
4 threshold amount with respect to such taxpayer
5 (as defined in section 24(i)(4)(B)), the annual
6 advance amount with respect to such taxpayer
7 shall be zero.

8 “(B) EXCEPTION FOR MODIFICATIONS
9 MADE DURING THE CALENDAR YEAR.—Sub-
10 paragraph (A) shall not apply to a reference
11 taxable year taken into account by reason of
12 paragraph (3)(A)(i) or subsection (c) if the tax-
13 payer received one or more payments under
14 subsection (a) for months in the calendar year
15 which precede the month for which such ref-
16 erence taxable year will be taken into account.”.

17 (4) ADVANCE PAYMENTS TO PUERTO RICO
18 RESIDENTS FOR 2022.—Section 7527A(e)(4) is
19 amended—

20 (A) in subparagraph (A), by striking “The
21 advance” and inserting “Except as provided in
22 subparagraph (D), the advance”, and

23 (B) by adding at the end the following new
24 subparagraph:

1 ‘safe harbor amount’ means, with respect
2 to any taxpayer for any taxable year, the
3 sum of—

4 “(I) an amount equal to the
5 product of \$3,600 multiplied by the
6 excess (if any) of the number of quali-
7 fying children who have not attained
8 age 6 as of the close of the calendar
9 year in which the taxable year of the
10 taxpayer begins, and who are taken
11 into account in determining the an-
12 nual advance amount with respect to
13 the taxpayer under section 7527A
14 with respect to months beginning in
15 such taxable year, over the number of
16 such qualifying children taken into ac-
17 count in determining the credit al-
18 lowed under this section for such tax-
19 able year, plus

20 “(II) an amount equal to the
21 product of \$3,000 multiplied by the
22 excess (if any) of the number of quali-
23 fying children not described in clause
24 (I), and who are taken into account in
25 determining the annual advance

1 amount with respect to the taxpayer
2 under section 7527A with respect to
3 months beginning in such taxable
4 year, over the number of such quali-
5 fying children taken into account in
6 determining the credit allowed under
7 this section for such taxable year.”.

8 (e) REPEAL OF SOCIAL SECURITY NUMBER RE-
9 QUIREMENT.—

10 (1) IN GENERAL.—Section 24(h) is amended by
11 striking paragraph (7).

12 (2) CONFORMING AMENDMENTS.—

13 (A) Section 24(h)(1) is amended by strik-
14 ing “paragraphs (2) through (7)” and inserting
15 “paragraphs (2) through (6)”.

16 (B) Section 24(h)(4) is amended by strik-
17 ing subparagraph (C).

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

21 **SEC. 127103. REFUNDABLE CHILD TAX CREDIT AFTER 2022.**

22 (a) IN GENERAL.—Section 24 is amended by adding
23 at the end the following new subsection:

24 “(l) REFUNDABLE CREDIT AFTER 2022.—In the
25 case of any taxable year beginning after December 31,

1 2022, if the taxpayer (in the case of a joint return, either
2 spouse) has a principal place of abode in the United States
3 (determined as provided in section 32) for more than one-
4 half of the taxable year or is a bona fide resident of Puerto
5 Rico (within the meaning of section 937(a)) for such tax-
6 able year—

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

8 “(2) so much of the credit determined under
9 subsection (a) (after application of paragraph (1))
10 as does not exceed the amount of such credit which
11 would be so determined without regard to subsection
12 (h)(4) shall be allowed under subpart C (and not al-
13 lowed under this subpart)”.

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

16 (1) PUERTO RICO.—Section 24(k)(2)(B), as
17 amended by the preceding provisions of this Act, is
18 amended to read as follows:

19 “(B) APPLICATION TO TAXABLE YEARS
20 AFTER 2022.—For application of refundable
21 credit to residents of Puerto Rico for taxable
22 years after 2022, see subsection (l).”.

23 (2) AMERICAN SAMOA.—Section
24 24(k)(3)(C)(ii)(II), as amended by the preceding
25 provisions of this Act, is amended to read as follows:

1 “(II) if such taxable year begins
2 after December 31, 2022, subsection
3 (l) shall be applied by substituting
4 ‘Puerto Rico or American Samoa’ for
5 ‘Puerto Rico’.”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to taxable years beginning after
8 December 31, 2022.

9 **SEC. 127104. APPROPRIATIONS.**

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

14 (1) \$3,963,300,000 to remain available until
15 September 30, 2026, for necessary expenses for the
16 Internal Revenue Service to administer the Child
17 Tax Credit, and advance payments of the Child Tax
18 Credit, including the costs of disbursing such pay-
19 ments, which shall supplement and not supplant any
20 other appropriations that may be available for this
21 purpose, and

22 (2) \$1,000,000,000 is appropriated to the De-
23 partment of the Treasury, to remain available until
24 September 30, 2026, to support efforts to increase
25 enrollment of eligible families in the Child Tax Cred-

1 it, for advance payments of the Child Tax Credit,
2 and for other tax benefits, including but not limited
3 to program outreach, costs of data sharing arrange-
4 ments, systems changes, forms changes, and related
5 efforts, and efforts to support the cross-enrollment
6 of beneficiaries of other programs in the Child Tax
7 Credit, and for advance payments of the Child Tax
8 Credit, including by establishing intergovernmental
9 cooperative agreements with states and local govern-
10 ments, the District of Columbia, tribal governments,
11 and possessions of the United States: Provided, that
12 such amount shall be available in addition to any
13 amounts otherwise available: Provided further, that
14 these funds may be awarded to state and local gov-
15 ernments, the District of Columbia, tribal govern-
16 ments, and possessions of the United States, and
17 private entities, including organizations dedicated to
18 free tax return preparation and low income taxpayer
19 clinics funded under section 7526 of the Internal
20 Revenue Code of 1986.

1 **PART 2—EARNED INCOME TAX CREDIT**

2 **SEC. 127201. CERTAIN IMPROVEMENTS TO THE EARNED IN-**
3 **COME TAX CREDIT EXTENDED THROUGH**
4 **2022.**

5 (a) IN GENERAL.—Section 32(n) is amended by
6 striking “January 1, 2022” and inserting “January 1,
7 2023”.

8 (b) INFLATION ADJUSTMENT.—Section 32(n)(4)(B)
9 is amended to read as follows:

10 “(B) INFLATION ADJUSTMENT.—In the
11 case of any taxable year beginning after 2021,
12 the \$9,820 and \$11,610 dollar amounts in sub-
13 paragraph (A) shall be increased by an amount
14 equal to—

15 “(i) such dollar amount, multiplied by

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

22 (c) ELECTION TO DETERMINE EARNED INCOME
23 BASED ON PRIOR TAXABLE YEAR.—Section 32, as
24 amended by subsection (f), is amended by adding at the
25 end the following new subsection:

1 “(o) ELECTION TO DETERMINE EARNED INCOME
2 BASED ON PRIOR TAXABLE YEAR.—

3 “(1) IN GENERAL.—In the case of a taxpayer
4 whose earned income for any taxable year beginning
5 after December 31, 2021, and before January 1,
6 2023, is less than the earned income of such tax-
7 payer for the preceding taxable year, if such tax-
8 payer elects (at such time and in such manner as
9 the Secretary may provide) the application of this
10 subsection for such taxable year, the earned income
11 of such taxpayer for such taxable year shall be treat-
12 ed for purposes of this section as being equal to the
13 earned income of such taxpayer for such preceding
14 taxable year.

15 “(2) JOINT RETURNS.—For purposes of this
16 subsection, in the case of a joint return, the earned
17 income of the taxpayer for the preceding taxable
18 year shall be the sum of the earned income of each
19 spouse for the preceding taxable year.

20 “(3) TREATMENT AS MATHEMATICAL OR CLER-
21 ICAL ERROR.—In the case of a taxpayer described in
22 paragraph (1) who makes the election described in
23 such paragraph, the use on the return for purposes
24 of this section of an amount of earned income for
25 the preceding taxable year which differs from the

1 amount of such earned income as shown in the elec-
2 tronic files of the Internal Revenue Service shall be
3 treated as a mathematical or clerical error for pur-
4 poses of section 6213.

5 “(4) TREATMENT OF REFERENCES.—Any pro-
6 vision of this title which defines or determines
7 earned income by reference to this section shall be
8 applied without regard to this subsection unless such
9 provision specifically provides otherwise.”.

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

13 **SEC. 127202. FUNDS FOR ADMINISTRATION OF EARNED IN-**
14 **COME TAX CREDITS IN THE TERRITORIES.**

15 (a) PUERTO RICO.—Section 7530(a)(1) is amended
16 by striking “plus” at the end of subparagraph (A), by
17 striking the period at the end of subparagraph (B) and
18 inserting “, plus”, and by adding at the end the following
19 new subparagraph:

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

23 (b) POSSESSIONS WITH MIRROR CODE TAX SYS-
24 TEMS.—Section 7530(b)(1) is amended by striking “plus”
25 at the end of subparagraph (A), by striking the period

1 at the end of subparagraph (B) and inserting “, plus”,
2 and by adding at the end the following new subparagraph:

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

6 (c) AMERICAN SAMOA.—Section 7530(c)(1) is
7 amended by striking “plus” at the end of subparagraph
8 (A), by striking the period at the end of subparagraph
9 (B) and inserting “, plus”, and by adding at the end the
10 following new subparagraph:

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

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

17 **PART 3—EXPANDING ACCESS TO HEALTH**

18 **COVERAGE AND LOWERING COSTS**

19 **SEC. 127301. IMPROVE AFFORDABILITY AND REDUCE PRE-**
20 **MIUM COSTS OF HEALTH INSURANCE FOR**
21 **CONSUMERS.**

22 (a) IN GENERAL.—Section 36B(b)(3)(A) is amend-
23 ed—

24 (1) by striking clause (ii) and redesignating
25 clause (iii) as clause (ii), and

1 (2) in clause (ii), as so redesignated, by striking
2 all that precedes the table contained therein and in-
3 serting the following:

4 “(ii) DETERMINING PERCENTAGES
5 FOR 2021 THROUGH 2026.—

6 “(I) IN GENERAL.—In the case
7 of a taxable year beginning after De-
8 cember 31, 2020, and before January
9 1, 2026, the following table shall be
10 applied in lieu of the table contained
11 in clause (i):”.

12 (b) EXTENSION THROUGH 2025 OF RULE TO ALLOW
13 CREDIT TO TAXPAYERS WHOSE HOUSEHOLD INCOME
14 EXCEEDS 400 PERCENT OF THE POVERTY LINE.—Sec-
15 tion 36B(c)(1)(E) is amended—

16 (1) by striking “in 2021 or 2022” and inserting
17 “after December 31, 2020, and before January 1,
18 2026”, and

19 (2) by striking “AND 2022” in the heading
20 thereof and inserting “THROUGH 2025”.

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

1 **SEC. 127302. MODIFICATION OF EMPLOYER-SPONSORED**
2 **COVERAGE AFFORDABILITY TEST IN HEALTH**
3 **INSURANCE PREMIUM TAX CREDIT.**

4 (a) IN GENERAL.—Section 36B(c)(2)(C)(i)(II) is
5 amended by inserting “(8.5 percent in the case of any tax-
6 able year beginning after December 31, 2021, and before
7 January 1, 2026)” after “9.5 percent”.

8 (b) QUALIFIED SMALL EMPLOYER HEALTH REIM-
9 BURSEMENT ARRANGEMENTS.—Section 36B(c)(4)(C)(ii)
10 is amended by inserting “(8.5 percent in the case of any
11 taxable year beginning after December 31, 2021, and be-
12 fore January 1, 2026)” after “9.5 percent”.

13 (c) PERCENTAGES DETERMINED WITHOUT REGARD
14 TO ADJUSTMENTS.—

15 (1) Section 36B(c)(2)(C) is amended by strik-
16 ing clause (iv).

17 (2) Section 36B(c)(4) is amended by striking
18 subparagraph (F).

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

22 **SEC. 127303. TREATMENT OF LUMP-SUM SOCIAL SECURITY**
23 **BENEFITS IN DETERMINING HOUSEHOLD IN-**
24 **COME.**

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

1 “(C) EXCLUSION OF PORTION OF LUMP-
2 SUM SOCIAL SECURITY BENEFITS.—

3 “(i) IN GENERAL.—The term ‘modi-
4 fied adjusted gross income’ shall not in-
5 clude so much of any lump-sum social se-
6 curity benefit payment as is attributable to
7 months ending before the beginning of the
8 taxable year.

9 “(ii) LUMP-SUM SOCIAL SECURITY
10 BENEFIT PAYMENT.—For purposes of this
11 subparagraph, the term ‘lump-sum social
12 security benefit payment’ means any pay-
13 ment of social security benefits (as defined
14 in section 86(d)(1)) which constitutes more
15 than 1 month of such benefits.

16 “(iii) ELECTION TO INCLUDE EX-
17 CLUDABLE AMOUNT.—With respect to any
18 taxable year beginning after December 31,
19 2025, a taxpayer may elect (at such time
20 and in such manner as the Secretary may
21 provide) to have this subparagraph not
22 apply for such taxable year.”.

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

1 **SEC. 127304. TEMPORARY EXPANSION OF HEALTH INSUR-**
2 **ANCE PREMIUM TAX CREDITS FOR CERTAIN**
3 **LOW-INCOME POPULATIONS.**

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

7 “(h) CERTAIN TEMPORARY RULES BEGINNING IN
8 2022.—With respect to any taxable year beginning after
9 December 31, 2021, and before January 1, 2026—

10 “(1) ELIGIBILITY FOR CREDIT NOT LIMITED
11 BASED ON INCOME.—Section 36B(c)(1)(A) shall be
12 disregarded in determining whether a taxpayer is an
13 applicable taxpayer.

14 “(2) CREDIT ALLOWED TO CERTAIN LOW-IN-
15 COME EMPLOYEES OFFERED EMPLOYER-PROVIDED
16 COVERAGE.—Subclause (II) of subsection
17 (c)(2)(C)(i) shall not apply if the taxpayer’s house-
18 hold income does not exceed 138 percent of the pov-
19 erty line for a family of the size involved. Subclause
20 (II) of subsection (c)(2)(C)(i) shall also not apply to
21 an individual described in the last sentence of such
22 subsection if the taxpayer’s household income does
23 not exceed 138 percent of the poverty line for a fam-
24 ily of the size involved.

25 “(3) CREDIT ALLOWED TO CERTAIN LOW-IN-
26 COME EMPLOYEES OFFERED QUALIFIED SMALL EM-

1 PLOYER HEALTH REIMBURSEMENT ARRANGE-
2 MENTS.—A qualified small employer health reim-
3 bursement arrangement shall not be treated as con-
4 stituting affordable coverage for an employee (or any
5 spouse or dependent of such employee) for any
6 months of a taxable year if the employee’s household
7 income for such taxable year does not exceed 138
8 percent of the poverty line for a family of the size
9 involved.

10 “(4) LIMITATIONS ON RECAPTURE.—

11 “(A) IN GENERAL.—In the case of a tax-
12 payer whose household income is less than 200
13 percent of the poverty line for the size of the
14 family involved for the taxable year, the amount
15 of the increase under subsection (f)(2)(A) shall
16 in no event exceed \$300 (one-half of such
17 amount in the case of a taxpayer whose tax is
18 determined under section 1(c) for the taxable
19 year).

20 “(B) LIMITATION ON INCREASE FOR CER-
21 TAIN NON-FILERS.—In the case of any taxpayer
22 who would not be required to file a return of
23 tax for the taxable year but for any require-
24 ment to reconcile advance credit payments
25 under subsection (f), if an Exchange established

1 under title I of the Patient Protection and Af-
2 fordable Care Act has determined that—

3 “(i) such taxpayer is eligible for ad-
4 vance payments under section 1412 of
5 such Act for any portion of such taxable
6 year, and

7 “(ii) such taxpayer’s household in-
8 come for such taxable year is projected to
9 not exceed 138 percent of the poverty line
10 for a family of the size involved,

11 subsection (f)(2)(A) shall not apply to such tax-
12 payer for such taxable year and such taxpayer
13 shall not be required to file such return of tax.

14 “(C) INFORMATION PROVIDED BY EX-
15 CHANGE.—The information required to be pro-
16 vided by an Exchange to the Secretary and to
17 the taxpayer under subsection (f)(3) shall in-
18 clude such information as is necessary to deter-
19 mine whether such Exchange has made the de-
20 terminations described in clauses (i) and (ii) of
21 subparagraph (B) with respect to such tax-
22 payer.”.

23 (b) EMPLOYER SHARED RESPONSIBILITY PROVISION
24 NOT APPLICABLE WITH RESPECT TO CERTAIN LOW-IN-

1 COME TAXPAYERS RECEIVING PREMIUM ASSISTANCE.—

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

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

5 “(A) IN GENERAL.—The term ‘applicable
6 premium tax credit and cost-sharing reduction’
7 means—

8 “(i) any premium tax credit allowed
9 under section 36B,

10 “(ii) any cost-sharing reduction under
11 section 1402 of the Patient Protection and
12 Affordable Care Act, and

13 “(iii) any advance payment of such
14 credit or reduction under section 1412 of
15 such Act.

16 “(B) EXCEPTION WITH RESPECT TO CER-
17 TAIN LOW-INCOME TAXPAYERS.—Such term
18 shall not include any premium tax credit, cost-
19 sharing reduction, or advance payment other-
20 wise described in subparagraph (A) if such
21 credit, reduction, or payment is allowed or paid
22 for a taxable year of an employee (beginning
23 after December 31, 2021, and before January
24 1, 2026) with respect to which—

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

8 “(ii) such employee’s household in-
9 come for such taxable year does not exceed
10 138 percent of the poverty line for a family
11 of the size involved.”.

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

15 **SEC. 127305. SPECIAL RULE FOR INDIVIDUALS RECEIVING**
16 **UNEMPLOYMENT COMPENSATION.**

17 (a) EXTENSION.—Section 36B(g)(1) is amended by
18 striking “during 2021,” and inserting “after December
19 31, 2020, and before January 1, 2023,”.

20 (b) MODIFICATION OF INCOME NOT TAKEN INTO AC-
21 COUNT.—Section 36B(g)(1)(B) is amended by striking
22 “133 percent” and inserting “150 percent (133 percent
23 in the case of any week beginning during 2021)”.

1 (c) CONFORMING AMENDMENT.—Section 36B(g) is
2 amended by inserting “THROUGH 2022” after “2021” in
3 the heading thereof.

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

7 **SEC. 127306. PERMANENT CREDIT FOR HEALTH INSURANCE**
8 **COSTS.**

9 (a) IN GENERAL.—Subparagraph (B) of section
10 35(b)(1) is amended by striking “, and before January
11 1, 2022”.

12 (b) INCREASE IN CREDIT PERCENTAGE.—Subsection
13 (a) of section 35 is amended by striking “72.5 percent”
14 and inserting “80 percent”.

15 (c) CONFORMING AMENDMENTS.—Subsections (b)
16 and (e)(1) of section 7527 are each amended by striking
17 “72.5 percent” and 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.

21 **SEC. 127307. EXCLUSION OF CERTAIN DEPENDENT INCOME**
22 **FOR PURPOSES OF PREMIUM TAX CREDIT.**

23 (a) IN GENERAL.—Paragraph (2) of section 36B(d),
24 as amended by this Act, is further amended by adding
25 at the end the following new subparagraph:

1 “(D) EXCEPTION FOR CERTAIN DEPEND-
2 ENT INCOME.—

3 “(i) IN GENERAL.—Solely for pur-
4 poses of determining the credit under this
5 section and eligibility for cost sharing re-
6 ductions under section 1402 of the Patient
7 Protection and Affordable Care Act, and
8 not for any other purpose (including any
9 determination of income for purposes of
10 the programs established under titles XIX
11 and XXI of the Social Security Act and
12 section 1331 of the Patient Protection and
13 Affordable Care Act), there shall not be
14 taken into account under subparagraph
15 (A)(ii) the modified adjusted gross income
16 of any dependent of the taxpayer who has
17 not attained age 24 as of the last day of
18 the calendar year in which the taxable year
19 of the taxpayer begins.

20 “(ii) LIMITATION.—Clause (i) shall
21 not apply to so much of the aggregate of
22 the modified adjusted gross income of all
23 dependents of the taxpayer who have not
24 attained the age described in such clause
25 as exceeds \$3,500.

1 “(iii) ELECTION TO HAVE SUBPARA-
2 GRAPH NOT APPLY.—In the case of any
3 taxable year beginning after December 31,
4 2025, a taxpayer may elect (at such time
5 and in such manner as the Secretary may
6 provide) to have this subparagraph not
7 apply with respect to the income of any de-
8 pendent of the taxpayer for such taxable
9 year.

10 “(iv) ADJUSTMENT FOR INFLATION.—
11 In the case of any taxable year beginning
12 after December 31, 2023, the \$3,500
13 amount in clause (ii) shall be increased by
14 an amount equal to—

15 “(I) such amount, multiplied by
16 “(II) the cost-of-living adjust-
17 ment determined under section 1(f)(3)
18 for the calendar year in which the tax-
19 able year begins, determined by sub-
20 stituting ‘calendar year 2022’ for ‘cal-
21 endar year 2016’ in subparagraph
22 (A)(ii) thereof.

23 If any increase determined under the pre-
24 ceding sentence is not a multiple of \$100,

1 such increase shall be rounded to the next
2 lowest multiple of \$100.

3 “(v) TERMINATION.—This subpara-
4 graph shall not apply to taxable years be-
5 ginning after December 31, 2026.”.

6 (b) CONFORMING AMENDMENTS.—

7 (1) Clause (ii) of section 36B(d)(2)(A) is
8 amended by inserting “, except as provided in sub-
9 paragraph (D),” after “individuals”.

10 (2) Paragraph (3) of section 1411(b) of the Pa-
11 tient Protection and Affordable Care Act (42 U.S.C.
12 18081) is amended by adding at the end the fol-
13 lowing new subparagraph:

14 “(D) INFORMATION REGARDING CERTAIN
15 DEPENDENTS.—In the case of taxable years be-
16 ginning before January 1, 2027, information
17 regarding whether section 36B(d)(2)(D) will
18 apply to any individuals taken into account as
19 members of the household of the enrollee, and
20 the amount of income of each such individual
21 for the taxable year described in subparagraph
22 (A).”.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to taxable years beginning after
25 December 31, 2022.

1 **SEC. 127308. FUNDING TO SUPPORT STATE APPLICATIONS**
2 **FOR SECTION 1332 WAIVERS AND ADMINIS-**
3 **TRATION.**

4 Section 1332 of the Patient Protection and Afford-
5 able Care Act (42 U.S.C. 18052) is amended by adding
6 at the end the following:

7 “(f) ADMINISTRATION AND PLANNING GRANTS.—

8 “(1) APPROPRIATION.—In addition to any other
9 amounts made available, there is appropriated to the
10 Secretary of Health and Human Services for fiscal
11 year 2022, out of any amounts in the Treasury not
12 otherwise appropriated, \$50,000,000, to remain
13 available until expended, for purposes of imple-
14 menting the grant program under paragraph (2) and
15 awarding grants under such paragraph.

16 “(2) GRANTS.—From the amount appropriated
17 under paragraph (1), the Secretary of Health and
18 Human Services shall award grants to States for
19 purposes of developing a new waiver application,
20 preparing an application for a waiver extension or
21 amendment, or implementing a State plan under
22 this section. The amount of a grant awarded to a
23 State under this subsection shall remain available
24 until expended.

1 “(3) LIMITATION.—Each grant awarded to a
2 State under this subsection shall be in an amount
3 not to exceed \$5,000,000.”.

4 **PART 4—PATHWAY TO PRACTICE TRAINING**
5 **PROGRAMS**

6 **SEC. 127401. ADMINISTRATIVE FUNDING OF THE RURAL**
7 **AND UNDERSERVED PATHWAY TO PRACTICE**
8 **TRAINING PROGRAMS FOR POST-BACCA-**
9 **LAUREATE STUDENTS, MEDICAL STUDENTS,**
10 **AND MEDICAL RESIDENTS.**

11 In addition to amounts otherwise available, there is
12 appropriated to the Secretary for fiscal year 2022, out of
13 any money in the Treasury not otherwise appropriated,
14 \$6,000,000 to remain available until September 30, 2031,
15 in addition to amounts otherwise available, to carry out
16 the administration of the Rural and Underserved Pathway
17 to Practice Training Program for Post-Baccalaureate and
18 Medical Students under section 1899C of such Act (42
19 U.S.C. 1395mm) and the Rural and Underserved Path-
20 way to Practice Training Programs for Medical Residents
21 under section 1886(h)(4)(H)(vii) of such Act (42 U.S.C.
22 1395ww(h)(4)(H)(vii)). Amounts transferred under the
23 preceding sentence shall remain available until expended.

1 **SEC. 127402. ESTABLISHING RURAL AND UNDERSERVED**
2 **PATHWAY TO PRACTICE TRAINING PRO-**
3 **GRAMS FOR POST-BACCALAUREATE STU-**
4 **DENTS AND MEDICAL STUDENTS.**

5 (a) PROGRAM.—

6 (1) IN GENERAL.—Title XVIII of the Social Se-
7 curity Act (42 U.S.C. 1395 et seq.) is amended by
8 adding at the end the following new section:

9 **“SEC. 1899C. RURAL AND UNDERSERVED PATHWAY TO**
10 **PRACTICE TRAINING PROGRAM FOR POST-**
11 **BACCALAUREATE AND MEDICAL STUDENTS.**

12 “(a) IN GENERAL.—Not later than October 1, 2023,
13 the Secretary shall, subject to the succeeding provisions
14 of this section, carry out the ‘Rural and Underserved
15 Pathway to Practice Training Program for Post-Bacca-
16 laurate and Medical Students’ (in this section, referred
17 to as the ‘Program’) under which the Secretary awards
18 Pathway to Practice medical scholarship vouchers to quali-
19 fying students described in subsection (b) for the purpose
20 of increasing the number of physicians practicing in rural
21 and underserved communities.

22 “(b) QUALIFYING STUDENT DESCRIBED.—For pur-
23 poses of this section, a qualifying student described in this
24 subsection is an individual who—

25 “(1) attests he or she—

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

4 “(B) was a Pell Grant recipient; or

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

9 “(2) has accepted enrollment in—

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

14 “(B) a qualifying medical school;

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

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

21 “(c) APPLICATIONS.—

22 “(1) IN GENERAL.—To be eligible to receive a
23 Pathway to Practice medical scholarship voucher
24 under this section, a qualifying student described in
25 subsection (b) shall submit to the Secretary an ap-

1 plication at such time, in such manner, and con-
2 taining such information as the Secretary may re-
3 quire.

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

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

14 “(1) NUMBER.—On an annual basis, the Sec-
15 retary shall award a Pathway to Practice medical
16 scholarship voucher under the Program to 1,000
17 qualifying students described in subsection (b).

18 “(2) SELECTION OF QUALIFYING STUDENTS.—
19 In determining whether to award a Pathway to
20 Practice medical scholarship voucher under the Pro-
21 gram to qualifying students described in subsection
22 (b), the Secretary shall consider whether such stu-
23 dent attests that he or she—

24 “(A) was a participant in the Health Re-
25 sources and Services Administration Health Ca-

1 reers Opportunity Program, Centers of Excel-
2 lence Program, or an Area Health Education
3 Center program;

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

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

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

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

24 “(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 for active service stipend
8 monthly rate; 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 to 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 each item specified
14 under paragraph (4), consent to any personally
15 identifying information being shared with the
16 Secretary 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 to a post-baccalaureate program that is not more
23 than 2 years and such school or program shall (as
24 a condition of, and prior to, such award being made
25 with 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 items specified under paragraph
5 (4) (except for subparagraph (D)) with respect
6 to such school or program, and

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

13 “(e) DEFINITIONS.—In this section:

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

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

22 “(3) MEDICALLY UNDERSERVED AREA.—The
23 term ‘medically underserved area’ means an area
24 designated pursuant to section 330(b)(3)(A) of the
25 Public Health Service Act.

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

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

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

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

21 “(B) requires qualifying students to enroll
22 in didactic coursework and clinical experience
23 applicable to practicing medicine in health pro-
24 fessional shortage areas, medically underserved
25 areas, or rural areas, including—

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

4 “(ii) coursework or training experi-
5 ences focused on effectively providing care
6 for populations belonging to diverse cul-
7 tural, social, and economic backgrounds;
8 and

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

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

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

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

24 (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) shall 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) shall 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) shall 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. 127403. 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, the qualified educational in-
17 stitutions 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 each such institution. Terms used in this
21 subparagraph shall have the same meaning as when used
22 in such section 36G.

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

1 **SEC. 127404. ESTABLISHING RURAL AND UNDERSERVED**
2 **PATHWAY TO PRACTICE PROGRAM FOR MED-**
3 **ICAL 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) EXCLUSION FROM FULL-TIME
12 EQUIVALENT LIMITATION FOR HOSPITALS
13 IMPLEMENTING RURAL AND UNDERSERVED
14 PATHWAY TO PRACTICE PROGRAM.—

15 “(I) IN GENERAL.—For cost re-
16 porting periods beginning on or after
17 October 1, 2026, during which a
18 qualifying resident (as defined in sub-
19 clause (II)) trains in an applicable
20 hospital (as defined in subclause
21 (III)), the Secretary shall, for such
22 cost reporting period by the number
23 of full-time equivalent residents so
24 trained within the applicable hospital
25 during such period, exclude from the
26 limitation under subparagraph (F).

1 “(II) QUALIFYING RESIDENT.—

2 For purposes of this clause, the term
3 ‘qualifying resident’ means a full-time
4 equivalent resident who—

5 “(aa) was a qualifying stu-
6 dent awarded a Pathway to Prac-
7 tice medical scholarship voucher
8 under section 1899C; and

9 “(bb) graduated from a
10 qualifying medical school.

11 “(III) APPLICABLE HOSPITAL.—

12 “(aa) IN GENERAL.—For
13 purposes of this clause, the term
14 ‘applicable hospital’ means any
15 hospital that—

16 “(AA) meets the re-
17 quirements of item (bb);

18 “(BB) agrees to pro-
19 vide data to the Secretary
20 with respect to where quali-
21 fying residents (as defined
22 in subclause (II)) practice
23 medicine or participate in
24 fellowships immediately fol-
25 lowing their residencies; and

1 “(CC) agrees to pro-
2 mote community-based
3 training of qualifying resi-
4 dents (as defined in sub-
5 clause (II)), as appropriate.

6 “(bb) OTHER REQUIRE-
7 MENTS.—For the purpose of item
8 (aa)(AA), an applicable hospital
9 shall also be a subsection (d) hos-
10 pital that has been recognized by
11 the Accreditation Council for
12 Graduate Medical Education as
13 meeting the following require-
14 ments:

15 “(AA) Such hospital
16 provides mentorships for
17 residents.

18 “(BB) Such hospital in-
19 cludes training for residents
20 on how to effectively provide
21 care for populations belong-
22 ing to diverse cultural, so-
23 cial, and economic back-
24 grounds.

1 “(CC) The hospital has
2 a demonstrated record of
3 training medical residents in
4 health professional shortage
5 areas, medically underserved
6 areas, public hospitals, or
7 rural areas.

8 “(IV) OTHER DEFINITIONS.—

9 “(aa) HEALTH PROFES-
10 SIONAL SHORTAGE AREA.—The
11 team ‘health professional short-
12 age area’ has the meaning given
13 such term in subparagraphs (A)
14 or (B) of section 332(a)(1) of the
15 Public Health Service Act.

16 “(bb) MEDICALLY UNDER-
17 SERVED AREA.—The term ‘medi-
18 cally underserved area’ means an
19 area designated pursuant to sec-
20 tion 330(b)(3)(A) of the Public
21 Health Service Act.

22 “(cc) QUALIFYING MEDICAL
23 SCHOOL.—The term ‘qualifying
24 medical school’ has the meaning

1 given such term in section
2 1899C(e)(6).

3 “(dd) QUALIFYING MEDICAL
4 STUDENT.—The term ‘qualifying
5 medical student’ has the meaning
6 given such term in section
7 1899C(b).

8 “(ee) RURAL AREA.—The
9 term ‘rural area’ has the mean-
10 ing given such term in section
11 1886(d)(2)(D).”.

12 **SEC. 127405. DISTRIBUTION OF ADDITIONAL RESIDENCY**
13 **POSITIONS.**

14 (a) IN GENERAL.—Section 1886(h) of the Social Se-
15 curity Act (42 U.S.C. 1395ww(h)) is amended—

16 (1) in paragraph (4)(F)(i), by striking “and
17 (9)” and inserting “(9), and (10)”;

18 (2) in paragraph (4)(H)(i), by striking “and
19 (9)” and inserting “(9), and (10)”;

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

22 “(10) DISTRIBUTION OF ADDITIONAL RESI-
23 DENCY POSITIONS.—

24 “(A) ADDITIONAL RESIDENCY POSI-
25 TIONS.—

1 “(i) IN GENERAL.—For fiscal years
2 2025 and 2026, and for each succeeding
3 fiscal year until the aggregate number of
4 full-time equivalent residency positions dis-
5 tributed under this paragraph is equal to
6 the aggregate number of such positions
7 made available (as specified in clause (ii)),
8 the Secretary shall, subject to the suc-
9 ceeding provisions of this paragraph, in-
10 crease the otherwise applicable resident
11 limit for each qualifying hospital (as de-
12 fined in subparagraph (F)) that submits a
13 timely application under this subparagraph
14 by such number as the Secretary may ap-
15 prove effective beginning July 1 of the fis-
16 cal year of the increase.

17 “(ii) NUMBER AVAILABLE FOR DIS-
18 TRIBUTION.—

19 “(I) TOTAL NUMBER AVAIL-
20 ABLE.—The aggregate number of
21 such positions made available under
22 this paragraph shall be equal to
23 4,000.

24 “(II) ANNUAL LIMIT.—The ag-
25 gregate number of such positions so

1 made available shall not exceed 2,000
2 for a fiscal year.

3 “(iii) ROUNDS OF APPLICATIONS.—

4 The Secretary shall initiate a separate
5 round of applications for an increase under
6 clause (i) for each fiscal year for which
7 such an increase is to be provided.

8 “(iv) DISTRIBUTION FOR PRIMARY
9 CARE, PSYCHIATRY, AND OTHER
10 RESIDENCIES.—

11 “(I) IN GENERAL.—Except as
12 provided under subclause (II), of the
13 positions made available under this
14 paragraph—

15 “(aa) not less than 25 per-
16 cent shall be in a primary care
17 residency (as defined in subpara-
18 graph (F)) or obstetrics and gyn-
19 ecology residency; and

20 “(bb) not less than 15 per-
21 cent shall be in a psychiatry resi-
22 dency (as defined in such sub-
23 paragraph).

24 “(II) DISTRIBUTION FOR OTHER
25 RESIDENCIES.—The requirement

1 under subclause (I) shall not apply
2 with respect to any positions made
3 available under this paragraph that
4 are not distributed to a qualifying
5 hospital by July 1, 2027, and such
6 positions shall be distributed to hos-
7 pitals in accordance with subpara-
8 graph (B), without regard to spe-
9 cialty.

10 “(v) CLARIFICATION REGARDING
11 AVAILABILITY OF OTHER INCREASE.—A
12 qualifying hospital may apply for, and re-
13 ceive, an increase under this paragraph
14 and paragraph (9) for a fiscal year.

15 “(B) DISTRIBUTION.—For purposes of
16 providing an increase in the otherwise applica-
17 ble resident limit under subparagraph (A), the
18 following shall apply:

19 “(i) ELIGIBLE HOSPITALS.—With re-
20 spect to the aggregate number of such po-
21 sitions available for distribution under this
22 paragraph, the Secretary shall distribute
23 30 percent of such aggregate number to
24 the category of hospitals described in sub-
25 clause (II) of clause (ii), 20 percent of

1 such aggregate number to each of the cat-
2 egories of hospitals described in subclauses
3 (I), (III), and (IV) of such clause, and 10
4 percent of such aggregate number to the
5 category of hospitals described in subclause
6 (V) of such clause, subject to clauses (iii)
7 and (iv).

8 “(ii) CATEGORIES OF HOSPITALS DE-
9 SCRIBED.—The following categories of hos-
10 pitals are described in this clause:

11 “(I) Hospitals that are located in
12 a rural area (as defined in subsection
13 (d)(2)(D)) or are treated as being lo-
14 cated in a rural area pursuant to sub-
15 section (d)(8)(E), hospitals that are
16 located in a census tract assigned a
17 rural-urban commuting area code of 4
18 or greater, and hospitals that are a
19 sole community hospital (as defined in
20 subsection (d)(5)(D)(iii)).

21 “(II) Hospitals in which the ref-
22 erence resident level of the hospital
23 (as specified in subparagraph (F)(v))
24 is greater than the otherwise applica-
25 ble resident limit.

1 “(III) Hospitals in States with—
2 “(aa) a new medical school
3 that received ‘Candidate School’
4 status from the Liaison Com-
5 mittee on Medical Education or
6 ‘Pre-Accreditation’ status from
7 the American Osteopathic Asso-
8 ciation Commission on Osteo-
9 pathic College Accreditation on
10 or after January 1, 2000, and
11 achieved or continued to progress
12 toward ‘Full Accreditation’ status
13 (as such term is defined by the
14 Liaison Committee on Medical
15 Education) or toward ‘Accredita-
16 tion’ status (as such term is de-
17 fined by the American Osteo-
18 pathic Association Commission
19 on Osteopathic College Accredita-
20 tion); or
21 “(bb) an additional location
22 or branch campus established on
23 or after January 1, 2000, by a
24 medical school with ‘Full Accredi-
25 tation’ status (as such term is

730

1 defined by the Liaison Committee
2 on Medical Education) or ‘Ac-
3 creditation’ status (as such term
4 is defined by the American Os-
5 teopathic Association Commission
6 on Osteopathic College Accredita-
7 tion).

8 “(IV) Hospitals that are located
9 in or serve an area designated as a
10 health professional shortage area
11 under section 332(a)(1)(A) of the
12 Public Health Service Act or serve a
13 population group designated under
14 section 332(a)(1)(B) of such Act, as
15 determined by the Secretary.

16 “(V) Hospitals located in States
17 in the lowest quartile for resident-to-
18 population ratios, as defined by the
19 Secretary.

20 “(iii) DISTRIBUTION TO OTHER HOS-
21 PITALS.—Any positions made available
22 under this paragraph that are not distrib-
23 uted to a qualifying hospital in accordance
24 with clause (i) by July 1, 2027, shall be
25 distributed to other hospitals, subject to

1 the requirement under clause (iv). In car-
2 rying out the preceding sentence, the Sec-
3 retary shall ensure that such positions are
4 first offered to qualifying hospitals in cat-
5 egories described in clause (ii) before being
6 distributed to other hospitals.

7 “(iv) REQUIREMENT.—A hospital
8 shall only be eligible to receive positions
9 made available under this paragraph if the
10 hospital demonstrates to the Secretary that
11 the hospital is likely to—

12 “(I) fill such positions within the
13 first 5 training years beginning after
14 the date the increase would be effec-
15 tive, as determined by the Secretary;
16 and

17 “(II) use some portion (as speci-
18 fied by the Secretary) of such posi-
19 tions for the residencies described in
20 (A)(iv).

21 “(C) CONDITIONS OF DISTRIBUTION.—

22 “(i) IN GENERAL.—Subject to clause
23 (iv), a hospital that receives an increase in
24 the otherwise applicable resident limit
25 under this paragraph shall ensure, during

1 the 5-year period beginning on the date of
2 such increase, that the numbers of full-
3 time equivalent residents in a primary care
4 or psychiatry residency (as those terms are
5 defined in subparagraph (F)), excluding
6 any additional positions attributable to an
7 increase under this paragraph, are not less
8 than the average numbers of full-time
9 equivalent residents in a primary care or
10 psychiatry residency (as so defined) during
11 the 3 most recent cost reporting periods
12 ending prior to the date of enactment of
13 this paragraph.

14 “(ii) REPORTING REQUIREMENTS.—
15 Subject to clause (iv), a hospital that re-
16 ceives an increase in the otherwise applica-
17 ble resident limit under this paragraph
18 shall, after making a good faith attempt to
19 collect information from former residents,
20 report to the Secretary in a time and man-
21 ner specified by the Secretary the following
22 information for each year (beginning with
23 the first year for which the hospital re-
24 ceives an increase in the otherwise applica-

1 ble resident limit under this paragraph), as
2 applicable:

3 “(I) Race and ethnicity of resi-
4 dents.

5 “(II) The practice patterns of
6 residents one and two years after
7 completion of their residency, includ-
8 ing the number and percent of resi-
9 dents who—

10 “(aa) practice in a primary
11 care, psychiatry, or other spe-
12 cialty;

13 “(bb) primarily serve or are
14 located in a health professional
15 shortage area with a designation
16 in effect under section 332 of the
17 Public Health Service Act; or

18 “(cc) primarily serve or are
19 located in a rural area (as de-
20 fined in subsection (d)(2)(D)).

21 “(iii) REQUIREMENT FOR RURAL HOS-
22 PITALS TO EXPAND EXISTING PRO-
23 GRAMS.—Subject to clause (iv), if a hos-
24 pital that receives an increase in the other-
25 wise applicable resident limit under this

1 paragraph would be eligible for an adjust-
2 ment to the otherwise applicable resident
3 limit for participation in a new medical
4 residency training program under section
5 413.79(e)(3) of title 42, Code of Federal
6 Regulations (or any successor regulation),
7 the hospital shall ensure that any positions
8 made available under this paragraph are
9 used to expand an existing program of the
10 hospital, and not for participation in a new
11 medical residency training program.

12 “(iv) REDISTRIBUTION OF POSITIONS
13 IF HOSPITAL NO LONGER MEETS CERTAIN
14 REQUIREMENTS.—In the case where the
15 Secretary determines that a hospital that
16 receives an increase in the otherwise appli-
17 cable resident limit under this paragraph
18 does not meet either of the requirements
19 under clause (i), the reporting require-
20 ments under clause (ii), or, if applicable,
21 the requirement under clause (iii), the Sec-
22 retary shall—

23 “(I) reduce the otherwise applica-
24 ble resident limit of the hospital by

1 the amount by which such limit was
2 increased under this paragraph; and

3 “(II) provide for the distribution
4 of positions attributable to such re-
5 duction to other qualifying hospitals
6 in accordance with the requirements
7 of this paragraph.

8 “(v) LIMITATION.—A hospital may
9 not receive more than 25 additional full-
10 time equivalent residency positions under
11 this paragraph.

12 “(D) APPLICATION OF PER RESIDENT
13 AMOUNTS FOR PRIMARY CARE AND NONPRI-
14 MARY CARE.—With respect to additional resi-
15 dency positions in a hospital attributable to the
16 increase provided under this paragraph, the ap-
17 proved FTE per resident amounts are deemed
18 to be equal to the hospital per resident amounts
19 for primary care and nonprimary care com-
20 puted under paragraph (2)(D) for that hospital.

21 “(E) PERMITTING FACILITIES TO APPLY
22 AGGREGATION RULES.—The Secretary shall
23 permit hospitals receiving additional residency
24 positions attributable to the increase provided
25 under this paragraph to, beginning in the fifth

1 year after the effective date of such increase,
2 apply such positions to the limitation amount
3 under paragraph (4)(F) that may be aggre-
4 gated pursuant to paragraph (4)(H) among
5 members of the same affiliated group.

6 “(F) DEFINITIONS.—In this paragraph:

7 “(i) OTHERWISE APPLICABLE RESI-
8 DENT LIMIT.—The term ‘otherwise appli-
9 cable resident limit’ means, with respect to
10 a hospital, the limit otherwise applicable
11 under subparagraphs (F)(i) and (H) of
12 paragraph (4) on the resident level for the
13 hospital determined without regard to this
14 paragraph but taking into account para-
15 graphs (7)(A), (7)(B), (8)(A), (8)(B), or
16 (9)(A).

17 “(ii) PRIMARY CARE RESIDENCY.—
18 The term ‘primary care residency’ means a
19 residency training program described in
20 paragraph (5)(H).

21 “(iii) PSYCHIATRY RESIDENCY.—The
22 term ‘psychiatry residency’ means a resi-
23 dency in psychiatry, addiction medicine,
24 addiction psychiatry, pain medicine, child
25 and adolescent psychiatry, consultation-li-

1 aision psychiatry, geriatric psychiatry, brain
2 injury medicine, forensic psychiatry, hos-
3 pice and palliative medicine, and sleep
4 medicine. Such term includes a residency
5 in a program that is a prerequisite (as de-
6 termined by the Secretary) for a residency
7 described in the preceding sentence.

8 “(iv) QUALIFYING HOSPITAL.—The
9 term ‘qualifying hospital’ means a hospital
10 described in any of subclauses (I) through
11 (V) of subparagraph (B)(ii).

12 “(v) REFERENCE RESIDENT LEVEL.—
13 The term ‘reference resident level’ means,
14 with respect to a hospital, the resident
15 level for the most recent cost reporting pe-
16 riod of the hospital ending on or before the
17 date of enactment of this paragraph, for
18 which a cost report has been settled (or, if
19 not, submitted (subject to audit)), as de-
20 termined by the Secretary.

21 “(vi) RESIDENT LEVEL.—The term
22 ‘resident level’ has the meaning given such
23 term in paragraph (7)(C)(i).

24 “(G) FUNDING.—There is appropriated to
25 the Secretary, out of any amounts in the Treas-

1 ury not otherwise appropriated, \$10,000,000, to
2 remain available until expended, for purposes of
3 carrying out this paragraph and subsection
4 (d)(5)(B)(xiii).”.

5 (b) IME.—Section 1886(d)(5)(B) of the Social Secu-
6 rity Act (42 U.S.C. 1395ww(d)(5)(B)) is amended—

7 (1) in clause (v), in the third sentence, by strik-
8 ing “and (h)(9)” and inserting “(h)(9), and
9 (h)(10)”;

10 (2) by adding at the end the following new
11 clause:

12 “(xiii) For discharges occurring on or after
13 July 1, 2024, insofar as an additional payment
14 amount under this subparagraph is attributable to
15 resident positions distributed to a hospital under
16 subsection (h)(10), the indirect teaching adjustment
17 factor shall be computed in the same manner as pro-
18 vided under clause (ii) with respect to such resident
19 positions.”.

20 **PART 5—HIGHER EDUCATION**

21 **SEC. 127501. 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-

1 visions of this Act, is amended by adding at the end the
2 following new section:

3 **“SEC. 45CC. PUBLIC UNIVERSITY RESEARCH INFRASTRUC-**
4 **TURE CREDIT.**

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

10 “(b) QUALIFIED CASH CONTRIBUTION.—

11 “(1) IN GENERAL.—

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

20 “(B) QUALIFIED CASH CONTRIBUTIONS
21 TAKEN INTO ACCOUNT FOR PURPOSES OF
22 CHARITABLE CONTRIBUTION LIMITATIONS.—
23 Any qualified cash contributions made by a tax-
24 payer under this section shall be taken into ac-

1 count for purposes of determining the percent-
2 age limitations under section 170(b).

3 “(2) DESIGNATION REQUIRED.—A contribution
4 shall only be treated as a qualified cash contribution
5 to the extent that it is designated as such by a cer-
6 tified educational institution under subsection (d).

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

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

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

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

19 “(A) an institution of higher education (as
20 such term is defined in section 101 or 102(e)
21 of the Higher Education Act of 1965) that is
22 a college or university described in section
23 511(a)(2)(B), or

24 “(B) an organization described in section
25 170(b)(1)(A)(iv), section 170(b)(1)(A)(vi), or

1 section 509(a)(3) to which authority has been
2 delegated by an institution described in sub-
3 paragraph (A) for purposes of applying for or
4 administering credit amounts on behalf of such
5 institution.

6 “(4) CERTIFIED EDUCATIONAL INSTITUTION.—

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

10 “(A) has received a certification for such
11 project by submitting an application as required
12 under subsection (d)(2), and

13 “(B) designates credit amounts to tax-
14 payers for qualifying cash contributions toward
15 such project under subsection (d)(4).

16 “(d) QUALIFYING UNIVERSITY RESEARCH INFRA-
17 STRUCTURE PROGRAM.—

18 “(1) ESTABLISHMENT.—

19 “(A) IN GENERAL.—Not later than 180
20 days after the date of the enactment of this sec-
21 tion, the Secretary shall establish a program
22 to—

23 “(i) certify and allocate credit
24 amounts for qualifying projects to eligible
25 educational institutions, and

1 “(ii) allow certified educational insti-
2 tutions to designate cash contributions for
3 qualifying projects of such certified edu-
4 cational institutions as qualified cash con-
5 tributions.

6 “(B) LIMITATIONS.—

7 “(i) ALLOCATION LIMITATION PER IN-
8 STITUTION.—The credit amounts allocated
9 to a certified educational institution under
10 subparagraph (A)(i) for all projects shall
11 not exceed \$50,000,000 per calendar year.

12 “(ii) OVERALL ALLOCATION LIMITA-
13 TION.—

14 “(I) IN GENERAL.—The total
15 amount of qualifying project credit
16 amounts that may be allocated under
17 subparagraph (A)(i) shall not ex-
18 ceed—

19 “(aa) \$500,000,000 for each
20 of calendar years 2022, 2023,
21 2024, 2025, and 2026, and

22 “(bb) \$0 for each subse-
23 quent year.

24 “(II) ROLLOVER OF
25 UNALLOCATED CREDIT AMOUNTS.—

1 Any credit amounts described in sub-
2 clause (I) that are unallocated during
3 a calendar year shall be carried to the
4 succeeding calendar year and added to
5 the limitation allowable under such
6 subclause for such succeeding cal-
7 endar year.

8 “(iii) DESIGNATION LIMITATION.—

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

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

22 “(3) SELECTION CRITERIA FOR ALLOCATIONS
23 TO ELIGIBLE EDUCATIONAL INSTITUTIONS.—The
24 Secretary shall select applications from eligible edu-
25 cational institutions—

1 “(A) based on the extent of the expected
2 expansion of an eligible educational institution’s
3 targeted research within disciplines in science,
4 mathematics, engineering, and technology, and

5 “(B) in a manner that ensures consider-
6 ation is given to eligible educational institutions
7 with full-time student populations of less than
8 12,000.

9 “(4) DESIGNATION OF QUALIFIED CASH CON-
10 TRIBUTIONS TO TAXPAYERS.—The Secretary shall
11 establish a process by which certified educational in-
12 stitutions shall designate cash contributions to such
13 institutions as qualified cash contributions.

14 “(e) REGULATIONS AND GUIDANCE.—The Secretary
15 shall prescribe such regulations and guidance as may be
16 necessary or appropriate to carry out the purposes of this
17 section, including regulations or other guidance for—

18 “(1) prevention of abuse,

19 “(2) establishment of reporting requirements,
20 and

21 “(3) establishment of selection criteria for ap-
22 plications.

23 “(f) PENALTY FOR NONCOMPLIANCE.—

24 “(1) IN GENERAL.—If at any time during the
25 5-year period beginning on the date of the allocation

1 of credit amounts to a certified educational institu-
2 tion under subsection (d)(1)(A)(i) there is a non-
3 compliance event with respect to such credit
4 amounts, then the following rules shall apply:

5 “(A) GENERAL RULE.—Any cash contribu-
6 tion designated as a qualifying cash contribu-
7 tion with respect to a qualifying project for
8 which such credit amounts were allocated under
9 subsection (d)(1)(A)(ii) shall be treated as un-
10 related business taxable income (as defined in
11 section 512) of such certified educational insti-
12 tution.

13 “(B) RULE FOR UNUSED CREDIT
14 AMOUNTS.—In the case of credit amounts de-
15 scribed under paragraph (2)(A) which are un-
16 used and identified pursuant to subsection (g),
17 the Secretary shall reallocate any portion of
18 such credit amounts that are unused to cer-
19 tified educational institutions in lieu of impos-
20 ing the general rule under subparagraph (A).

21 “(2) NONCOMPLIANCE EVENT.—For purposes
22 of this subsection, the term ‘noncompliance event’
23 means, with respect to a credit amount allocated to
24 a certified educational institution—

1 “(A) cash contributions equaling the
2 amount of such credit amount are not des-
3 ignated as qualifying cash contributions within
4 2 years after December 31 of the year such
5 credit amount is allocated,

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

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

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

13 “(C) the research infrastructure property
14 placed in service as part of a qualifying project
15 with respect to which such credit amount was
16 allocated ceases to be used for research within
17 five years after such property is placed in serv-
18 ice.

19 “(g) REVIEW AND REALLOCATION OF CREDIT
20 AMOUNTS.—

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

25 “(2) REALLOCATION.—

1 “(A) IN GENERAL.—The Secretary shall
2 reallocate credit amounts allocated under this
3 section, as appropriate, if the Secretary deter-
4 mines, as of the date of the review in paragraph
5 (1), that such credit amounts are subject to a
6 noncompliance event.

7 “(B) ADDITIONAL PROGRAM.—If the Sec-
8 retary determines that credits under this sec-
9 tion are available for reallocation pursuant to
10 the requirements set forth in subparagraph (A),
11 the Secretary is authorized to conduct an addi-
12 tional program for applications for certification.

13 “(C) DEADLINE FOR REALLOCATION.—
14 The Secretary shall not certify any project, or
15 reallocate any credit amount, pursuant to this
16 paragraph after December 31, 2031.

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

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

1 “(j) TERMINATION.—This section shall not apply to
2 qualified cash contributions made after December 31,
3 2033.”.

4 (b) CREDIT MADE PART OF GENERAL BUSINESS
5 CREDIT.—Section 38(b), as amended by the preceding
6 provisions of this Act, is amended by striking “plus” at
7 the end of paragraph (42), by striking the period at the
8 end of paragraph (43) and inserting “, plus”, and by add-
9 ing at the end the following new paragraph:

10 “(44) the public university research infrastruc-
11 ture credit determined under section 45CC.”.

12 (c) CLERICAL AMENDMENT.—The table of sections
13 for subpart D of part IV of subchapter A of chapter 1,
14 as amended by the preceding provisions of this Act, is
15 amended by adding at the end the following new item:

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

16 (d) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to qualified cash contributions
18 made after December 31, 2021.

19 **SEC. 127502. TREATMENT OF FEDERAL PELL GRANTS FOR**
20 **INCOME TAX PURPOSES.**

21 (a) EXCLUSION FROM GROSS INCOME.—Section
22 117(b)(1) is amended by striking “means any amount”
23 and all that follows and inserting “means—

24 “(A) any amount received by an individual
25 as a scholarship or fellowship grant to the ex-

1 tent the individual establishes that, in accord-
2 ance with the conditions of the grant, such
3 amount was used for qualified tuition and re-
4 lated expenses, and

5 “(B) any amount received by an individual
6 after December 31, 2021, and before January
7 1, 2026, as a Federal Pell Grant under section
8 401 of the Higher Education Act of 1965.”.

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

12 (1) in subparagraph (A), by inserting “de-
13 scribed in section 117(b)(1)(A)” after “a qualified
14 scholarship”, and

15 (2) in subparagraph (C), by inserting “or
16 amount described in section 117(b)(1)(B)” after
17 “within the meaning of section 102(a)”.

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

21 **SEC. 127503. REPEAL OF DENIAL OF AMERICAN OPPOR-**
22 **TUNITY TAX CREDIT ON BASIS OF FELONY**
23 **DRUG CONVICTION.**

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

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

4 **PART 6—DEDUCTION FOR STATE AND LOCAL**
5 **TAXES, ETC.**

6 **SEC. 127601. [PLACEHOLDER FOR COMPROMISE ON DEDUC-**
7 **TION FOR STATE AND LOCAL TAXES].**

8 **Subtitle H—Responsibly Funding**
9 **Our Priorities**

10 **SEC. 128001. AMENDMENT OF 1986 CODE.**

11 Except as otherwise expressly provided, whenever in
12 this subtitle an amendment or repeal is expressed in terms
13 of an amendment to, or repeal of, a section or other provi-
14 sion, the reference shall be considered to be made to a
15 section or other provision of the Internal Revenue Code
16 of 1986.

17 **PART 1—CORPORATE AND INTERNATIONAL TAX**
18 **REFORMS**

19 **Subpart A—Corporate Provisions**

20 **SEC. 128101. CORPORATE ALTERNATIVE MINIMUM TAX.**

21 (a) IMPOSITION OF TAX.—

22 (1) IN GENERAL.—Paragraph (2) of section
23 55(b) is amended to read as follows:

24 “(2) CORPORATIONS.—

751

1 “(A) APPLICABLE CORPORATIONS.—In the
2 case of an applicable corporation, the tentative
3 minimum tax for the taxable year shall be the
4 excess of—

5 “(i) 15 percent of the adjusted finan-
6 cial statement income for the taxable year
7 (as determined under section 56A), over

8 “(ii) the corporate AMT foreign tax
9 credit for the taxable year.

10 “(B) OTHER CORPORATIONS.—In the case
11 of any corporation which is not an applicable
12 corporation, the tentative minimum tax for the
13 taxable year shall be zero.”.

14 (2) APPLICABLE CORPORATION.—Section 59 is
15 amended by adding at the end the following new
16 subsection:

17 “(k) APPLICABLE CORPORATION.—For purposes of
18 this part—

19 “(1) APPLICABLE CORPORATION DEFINED.—

20 “(A) IN GENERAL.—The term ‘applicable
21 corporation’ means, with respect to any taxable
22 year, any corporation (other than an S corpora-
23 tion, a regulated investment company, or a real
24 estate investment trust) which meets the aver-
25 age annual adjusted financial statement income

1 test of subparagraph (B) for one or more tax-
2 able years which—

3 “(i) are prior to such taxable year,
4 and

5 “(ii) end after December 31, 2021.

6 “(B) AVERAGE ANNUAL ADJUSTED FINAN-
7 CIAL STATEMENT INCOME TEST.—For purposes
8 of this subsection—

9 “(i) a corporation meets the average
10 annual adjusted financial statement income
11 test for a taxable year if the average an-
12 nual adjusted financial statement income
13 of such corporation for the 3-taxable-year
14 period ending with such taxable year ex-
15 ceeds \$1,000,000,000, and

16 “(ii) in the case of a corporation de-
17 scribed in paragraph (2), such corporation
18 meets the average annual adjusted finan-
19 cial statement income test for a taxable
20 year if—

21 “(I) the corporation meets the re-
22 quirements of clause (i) for such tax-
23 able year (determined after the appli-
24 cation of paragraph (2)), and

753

1 “(II) the average annual adjusted
2 financial statement income of such
3 corporation (determined without re-
4 gard to the application of paragraph
5 (2)) for the 3-taxable-year-period end-
6 ing with such taxable year is
7 \$100,000,000 or more.

8 “(C) EXCEPTION.—Notwithstanding sub-
9 paragraph (A), the term ‘applicable corporation’
10 shall not include any corporation which other-
11 wise meets the requirements of subparagraph
12 (A) if—

13 “(i) such corporation—

14 “(I) has a change in ownership,
15 or

16 “(II) has a specified number (to
17 be determined by the Secretary and
18 which shall, as appropriate, take into
19 account the facts and circumstances
20 of the taxpayer) of consecutive taxable
21 years, including the most recent tax-
22 able year, in which the corporation
23 does not meet the average annual ad-
24 justed financial statement income test
25 of subparagraph (B), and

1 “(ii) the Secretary determines that it
2 would not be appropriate to continue to
3 treat such corporation as an applicable cor-
4 poration.

5 The preceding sentence shall not apply to any
6 corporation if, after the Secretary makes the
7 determination described in clause (ii), such cor-
8 poration meets the average annual adjusted fi-
9 nancial statement income test of subparagraph
10 (B) for any taxable year beginning after the
11 first taxable year for which such determination
12 applies.

13 “(D) SPECIAL RULES FOR DETERMINING
14 APPLICABLE CORPORATION STATUS.—Solely for
15 purposes of determining whether a corporation
16 is an applicable corporation under paragraph
17 (1), all adjusted financial statement income of
18 persons treated as a single employer with such
19 corporation under subsection (a) or (b) of sec-
20 tion 52 shall be treated as adjusted financial
21 statement of income of such corporation, and
22 adjusted financial statement income of such
23 corporation shall be determined without regard
24 to paragraphs (2)(D)(i) and (11) of section
25 56A(c).

1 “(E) OTHER SPECIAL RULES.—

2 “(i) CORPORATIONS IN EXISTENCE
3 FOR LESS THAN 3 YEARS.—If the corpora-
4 tion was in existence for less than 3-tax-
5 able years, subparagraph (B) shall be ap-
6 plied on the basis of the period during
7 which such corporation was in existence.

8 “(ii) SHORT TAXABLE YEARS.—Ad-
9 justed financial statement income for any
10 taxable year of less than 12 months shall
11 be annualized by multiplying the adjusted
12 financial statement income for the short
13 period by 12 and dividing the result by the
14 number of months in the short period.

15 “(iii) TREATMENT OF PREDE-
16 CESSORS.—Any reference in this subpara-
17 graph to a corporation shall include a ref-
18 erence to any predecessor of such corpora-
19 tion.

20 “(2) SPECIAL RULE FOR FOREIGN-PARENTED
21 CORPORATIONS.—

22 “(A) IN GENERAL.—Solely for purposes of
23 determining whether a corporation meets the
24 average annual adjusted financial statement in-
25 come test under paragraph (1)(B)(ii)(I), in the

1 case of any corporation which for any taxable
2 year is a member of an international financial
3 reporting group the common parent of which is
4 a foreign corporation, such corporation shall in-
5 clude in the adjusted financial statement in-
6 come of such corporation for such taxable year
7 the adjusted financial statement income of all
8 foreign members of such group. Solely for pur-
9 poses of this subparagraph, adjusted financial
10 statement income shall be determined without
11 regard to paragraphs (2)(D)(i), (3), (4), and
12 (11) of section 56A(c).

13 “(B) INTERNATIONAL FINANCIAL REPORT-
14 ING GROUP.—For purposes of subparagraph
15 (A), the term ‘international financial reporting
16 group’ shall have the meaning given such term
17 by section 163(n)(3).

18 “(C) COMMON PARENT.—For purposes of
19 subparagraph (A), the term ‘common parent’
20 has the meaning given such term under section
21 163(n)(5).

22 “(3) REGULATIONS OR OTHER GUIDANCE.—
23 The Secretary shall provide regulations or other
24 guidance for the purposes of carrying out this sub-
25 section, including regulations or other guidance—

1 “(A) providing a simplified method for de-
2 termining whether a corporation meets the re-
3 quirements of paragraph (1), and

4 “(B) addressing the application of this
5 subsection to a corporation that experiences a
6 change in ownership.”.

7 (3) REDUCTION FOR BASE EROSION AND ANTI-
8 ABUSE TAX.—Section 55(a)(2) is amended by insert-
9 ing “plus, in the case of an applicable corporation,
10 the tax imposed by section 59A” before the period
11 at the end.

12 (4) CONFORMING AMENDMENTS.—

13 (A) Section 55(a) is amended by striking
14 “In the case of a taxpayer other than a cor-
15 poration, there” and inserting “There”.

16 (B)(i) Section 55(b)(1) is amended—

17 (I) by striking so much as precedes
18 subparagraph (A) and inserting the fol-
19 lowing:

20 “(1) NONCORPORATE TAXPAYERS.—In the case
21 of a taxpayer other than a corporation—”, and

22 (II) by adding at the end the fol-
23 lowing new subparagraph:

24 “(D) ALTERNATIVE MINIMUM TAXABLE IN-
25 COME.—The term ‘alternative minimum taxable

1 income' means the taxable income of the tax-
2 payer for the taxable year—

3 “(i) determined with the adjustments
4 provided in section 56 and section 58, and

5 “(ii) increased by the amount of the
6 items of tax preference described in section
7 57.

8 If a taxpayer is subject to the regular tax, such
9 taxpayer shall be subject to the tax imposed by
10 this section (and, if the regular tax is deter-
11 mined by reference to an amount other than
12 taxable income, such amount shall be treated as
13 the taxable income of such taxpayer for pur-
14 poses of the preceding sentence).”.

15 (ii) Section 860E(a)(4) is amended by
16 striking “55(b)(2)” and inserting
17 “55(b)(1)(D)”.

18 (iii) Section 897(a)(2)(A)(i) is amended by
19 striking “55(b)(2)” and inserting
20 “55(b)(1)(D)”.

21 (C) Section 11(d) is amended by striking
22 “the tax imposed by subsection (a)” and insert-
23 ing “the taxes imposed by subsection (a) and
24 section 55”.

1 (D) Section 12 is amended by adding at
2 the end the following new paragraph:

3 “(5) For alternative minimum tax, see section
4 55.”.

5 (E) Section 882(a)(1) is amended by in-
6 serting “, 55,” after “section 11”.

7 (F) Section 6425(c)(1)(A) is amended to
8 read as follows:

9 “(A) the sum of—

10 “(i) the tax imposed by section 11 or
11 subchapter L of chapter 1, whichever is
12 applicable, plus

13 “(ii) the tax imposed by section 55,
14 plus

15 “(iii) the tax imposed by section 59A,
16 over”.

17 (G) Section 6655(e)(2) is amended by in-
18 serting “, adjusted financial statement income
19 (as defined in section 56A),” before “and modi-
20 fied taxable income” each place it appears in
21 subparagraphs (A)(i) and (B)(i).

22 (H) Section 6655(g)(1)(A) is amended by
23 redesignating clauses (ii) and (iii) as clauses
24 (iii) and (iv), respectively, and by inserting
25 after clause (i) the following new clause:

1 “(ii) the tax imposed by section 55,”.

2 (b) ADJUSTED FINANCIAL STATEMENT INCOME.—

3 (1) IN GENERAL.—Part VI of subchapter A of
4 chapter 1 is amended by inserting after section 56
5 the following new section:

6 **“SEC. 56A. ADJUSTED FINANCIAL STATEMENT INCOME.**

7 “(a) IN GENERAL.—For purposes of this part, the
8 term ‘adjusted financial statement income’ means, with re-
9 spect to any corporation for any taxable year, the net in-
10 come or loss of the taxpayer set forth on the taxpayer’s
11 applicable financial statement for such taxable year, ad-
12 justed as provided in this section.

13 “(b) APPLICABLE FINANCIAL STATEMENT.—For
14 purposes of this section, the term ‘applicable financial
15 statement’ means, with respect to any taxable year, an ap-
16 plicable financial statement (as defined in section
17 451(b)(3) or as specified by the Secretary in regulations
18 or other guidance) which covers such taxable year.

19 “(c) GENERAL ADJUSTMENTS.—

20 “(1) STATEMENTS COVERING DIFFERENT TAX-
21 ABLE YEARS.—Appropriate adjustments shall be
22 made in adjusted financial statement income in any
23 case in which an applicable financial statement cov-
24 ers a period other than the taxable year.

761

1 “(2) SPECIAL RULES FOR RELATED ENTI-
2 TIES.—

3 “(A) CONSOLIDATED FINANCIAL STATE-
4 MENTS.—If the financial results of a taxpayer
5 are reported on the applicable financial state-
6 ment for a group of entities, rules similar to the
7 rules of section 451(b)(5) shall apply.

8 “(B) CONSOLIDATED RETURNS.—Except
9 as provided in regulations prescribed by the
10 Secretary, if the taxpayer is part of an affili-
11 ated group of corporations filing a consolidated
12 return for any taxable year, adjusted financial
13 statement income for such group for such tax-
14 able year shall take into account items on the
15 group’s applicable financial statement which are
16 properly allocable to members of such group.

17 “(C) TREATMENT OF DIVIDENDS AND
18 OTHER AMOUNTS.—In the case of any corpora-
19 tion which is not included on a consolidated re-
20 turn with the taxpayer, adjusted financial state-
21 ment income of the taxpayer shall take into ac-
22 count the earnings of such other corporation
23 only to the extent of the sum of the dividends
24 received from such other corporation (reduced
25 to the extent provided by the Secretary in regu-

1 lations or other guidance) and other amounts
2 required to be included in gross income under
3 this chapter (other than amounts required to be
4 included under sections 951 and 951A) in re-
5 spect of the earnings of such other corporation.

6 “(D) TREATMENT OF PARTNERSHIPS.—

7 “(i) IN GENERAL.—Except as pro-
8 vided by the Secretary, if the taxpayer is
9 a partner in a partnership, adjusted finan-
10 cial statement income of the taxpayer shall
11 be adjusted to only take into account the
12 taxpayer’s distributive share of adjusted fi-
13 nancial statement income of such partner-
14 ship.

15 “(ii) ADJUSTED FINANCIAL STATE-
16 MENT INCOME OF PARTNERSHIPS.—For
17 the purposes of this part, the adjusted fi-
18 nancial statement income of a partnership
19 shall be the partnership’s net income or
20 loss set forth on such partnership’s appli-
21 cable financial statement (adjusted under
22 rules similar to the rules of this section).

23 “(3) ADJUSTMENTS TO TAKE INTO ACCOUNT
24 CERTAIN ITEMS OF FOREIGN INCOME.—

1 “(A) IN GENERAL.—If, for any taxable
2 year, a taxpayer is a United States shareholder
3 of one or more controlled foreign corporations,
4 the adjusted financial statement income of such
5 taxpayer shall be adjusted to take into account
6 such taxpayer’s pro rata share (determined
7 under rules similar to the rules under section
8 951(a)(2)) of items taken into account in com-
9 puting the net income or loss set forth on the
10 applicable financial statement (as adjusted
11 under rules similar to those that apply in deter-
12 mining adjusted financial statement income) of
13 each such controlled foreign corporation with
14 respect to which such taxpayer is a United
15 States shareholder.

16 “(B) NEGATIVE ADJUSTMENTS.—In any
17 case in which the adjustment determined under
18 subparagraph (A) would result in a negative ad-
19 justment for such taxable year—

20 “(i) no adjustment shall be made
21 under this paragraph for such taxable
22 year, and

23 “(ii) the amount of the adjustment
24 determined under this paragraph for the
25 succeeding taxable year (determined with-

1 out regard to this paragraph) shall be re-
2 duced by an amount equal to the negative
3 adjustment for such taxable year.

4 “(4) EFFECTIVELY CONNECTED INCOME.—In
5 the case of a foreign corporation, to determine ad-
6 justed financial statement income, the principles of
7 section 882 shall apply.

8 “(5) ADJUSTMENTS FOR CERTAIN TAXES.—Ad-
9 justed financial statement income shall be appro-
10 priately adjusted to disregard any Federal income
11 taxes, or income, war profits, or excess profits taxes
12 (within the meaning of section 901) with respect to
13 a foreign country or possession of the United States,
14 which are taken into account on the taxpayer’s ap-
15 plicable financial statement. To the extent provided
16 by the Secretary, the preceding sentence shall not
17 apply to income, war profits, or excess profits taxes
18 (within the meaning of section 901) that are im-
19 posed by a foreign country or possession of the
20 United States and taken into account on the tax-
21 payer’s applicable financial statement if the taxpayer
22 does not choose to have the benefits of subpart A of
23 part III of subchapter N for the taxable year. The
24 Secretary shall prescribe such regulations or other
25 guidance as may be necessary and appropriate to

1 provide for the proper treatment of current and de-
2 ferred taxes for purposes of this paragraph, includ-
3 ing the time at which such taxes are properly taken
4 into account.

5 “(6) ADJUSTMENT WITH RESPECT TO DIS-
6 REGARDED ENTITIES.—Adjusted financial statement
7 income shall be adjusted to take into account any
8 adjusted financial statement income of a disregarded
9 entity owned by the taxpayer.

10 “(7) SPECIAL RULE FOR COOPERATIVES.—In
11 the case of a cooperative to which section 1381 ap-
12 plies, the adjusted financial statement income (deter-
13 mined without regard to this paragraph) shall be re-
14 duced by the amounts referred to in section 1382(b)
15 (relating to patronage dividends and per-unit retain
16 allocations) to the extent such amounts were not
17 otherwise taken into account in determining ad-
18 justed financial statement income.

19 “(8) RULES FOR ALASKA NATIVE CORPORA-
20 TIONS.—Adjusted financial statement income shall
21 be appropriately adjusted to allow—

22 “(A) cost recovery and depletion attrib-
23 utable to property the basis of which is deter-
24 mined under section 21(c) of the Alaska Native

1 Claims Settlement Act (43 U.S.C. 1620(c)),
2 and

3 “(B) deductions for amounts payable made
4 pursuant to section 7(i) or section 7(j) of such
5 Act (43 U.S.C. 1606(i) and 1606(j)) only at
6 such time as the deductions are allowed for tax
7 purposes.

8 “(9) AMOUNTS ATTRIBUTABLE TO ELECTIONS
9 FOR DIRECT PAYMENT OF CERTAIN CREDITS.—Ad-
10 justed financial statement income shall be appro-
11 priately adjusted to disregard any amount treated as
12 a payment against the tax imposed by subtitle A
13 pursuant to an election under section 6417, to the
14 extent such amount was not otherwise taken into ac-
15 count under paragraph (5).

16 “(10) CONSISTENT TREATMENT OF MORTGAGE
17 SERVICING INCOME OF TAXPAYER OTHER THAN A
18 REGULATED INVESTMENT COMPANY.—

19 “(A) IN GENERAL.—Adjusted financial
20 statement income shall be adjusted so as not to
21 include any item of income in connection with
22 a mortgage servicing contract any earlier than
23 when such income is included in gross income
24 under any other provision of this chapter.

1 “(B) RULES FOR AMOUNTS NOT REP-
2 RESENTING REASONABLE COMPENSATION.—
3 The Secretary shall provide regulations to pre-
4 vent the avoidance of taxes imposed by this
5 chapter with respect to amounts not rep-
6 resenting reasonable compensation (as deter-
7 mined by the Secretary) with respect to a mort-
8 gage servicing contract.

9 “(11) ADJUSTMENT WITH RESPECT TO DE-
10 FINED BENEFIT PENSIONS.—

11 “(A) IN GENERAL.—Except as otherwise
12 provided in rules prescribed by the Secretary in
13 regulations or other guidance, adjusted finan-
14 cial statement income shall be—

15 “(i) adjusted to disregard any amount
16 of income, cost, or expense that would oth-
17 erwise be included on the applicable finan-
18 cial statement in connection with any cov-
19 ered benefit plan,

20 “(ii) increased by any amount of in-
21 come in connection with any such covered
22 benefit plan that is included in the gross
23 income of the corporation under any other
24 provision of this chapter, and

1 “(iii) reduced by deductions allowed
2 under any other provision of this chapter
3 with respect to any such covered benefit
4 plan.

5 “(B) COVERED BENEFIT PLAN.—For pur-
6 poses of this paragraph, the term ‘covered ben-
7 efit plan’ means—

8 “(i) a defined benefit plan (other than
9 a multiemployer plan described in section
10 414(f)) if the trust which is part of such
11 plan is an employees’ trust described in
12 section 401(a) which is exempt from tax
13 under section 501(a),

14 “(ii) any qualified foreign plan (as de-
15 fined in section 404A(e)), or

16 “(iii) any other defined benefit plan
17 which provides post-employment benefits
18 other than pension benefits.

19 “(12) TAX-EXEMPT ENTITIES.—In the case of
20 an organization subject to tax under section 511, ad-
21 justed financial statement income shall be appro-
22 priately adjusted to only take into account any ad-
23 justed financial statement income—

24 “(A) of an unrelated trade or business (as
25 defined in section 513) of such organization, or

1 “(B) derived from debt-financed property
2 (as defined in section 514) to the extent that
3 income from such property is treated as unre-
4 lated business taxable income.

5 “(13) SECRETARIAL AUTHORITY TO ADJUST
6 ITEMS.—The Secretary shall issue regulations or
7 other guidance to provide for such adjustments to
8 adjusted financial statement income as the Secretary
9 determines necessary to carry out the purposes of
10 this section, including adjustments—

11 “(A) to prevent the omission or duplication
12 of any item, and

13 “(B) to carry out the principles of part II
14 of subchapter C of this chapter (relating to cor-
15 porate liquidations), part III of subchapter C of
16 this chapter (relating to corporate organizations
17 and reorganizations), and part II of subchapter
18 K of this chapter (relating to partnership con-
19 tributions and distributions).

20 “(d) DEDUCTION FOR FINANCIAL STATEMENT NET
21 OPERATING LOSS.—

22 “(1) IN GENERAL.—Adjusted financial state-
23 ment income (determined after application of sub-
24 section (c) and without regard to this subsection)

1 shall be reduced by an amount equal to the lesser
2 of—

3 “(A) the aggregate amount of financial
4 statement net operating loss carryovers to the
5 taxable year, or

6 “(B) 80 percent of adjusted financial
7 statement income computed without regard to
8 the deduction allowable under this subsection.

9 “(2) FINANCIAL STATEMENT NET OPERATING
10 LOSS CARRYOVER.—A financial statement net oper-
11 ating loss for any taxable year shall be a financial
12 statement net operating loss carryover to each tax-
13 able year following the taxable year of the loss. The
14 portion of such loss which shall be carried to subse-
15 quent taxable years shall be the amount of such loss
16 remaining (if any) after the application of paragraph
17 (1).

18 “(3) FINANCIAL STATEMENT NET OPERATING
19 LOSS DEFINED.—For purposes of this subsection,
20 the term ‘financial statement net operating loss’
21 means the amount of the net loss (if any) set forth
22 on the corporation’s applicable financial statement
23 (determined after application of subsection (c) and
24 without regard to this subsection) for taxable years
25 ending after December 31, 2019.

1 “(e) REGULATIONS AND OTHER GUIDANCE.—The
2 Secretary shall provide for such regulations and other
3 guidance as necessary to carry out the purposes of this
4 section, including regulations and other guidance relating
5 to the effect of the rules of this section on partnerships
6 with income taken into account by an applicable corpora-
7 tion.”.

8 (2) CLERICAL AMENDMENT.—The table of sec-
9 tions for part VI of subchapter A of chapter 1 is
10 amended by inserting after the item relating to sec-
11 tion 56 the following new item:

“Sec. 56A. Adjusted financial statement income.”.

12 (c) CORPORATE AMT FOREIGN TAX CREDIT.—Sec-
13 tion 59, as amended by this section, is amended by adding
14 at the end the following new subsection:

15 “(1) CORPORATE AMT FOREIGN TAX CREDIT.—

16 “(1) IN GENERAL.—For purposes of this part,
17 if an applicable corporation chooses to have the ben-
18 efits of subpart A of part III of subchapter N for
19 any taxable year, the corporate AMT foreign tax
20 credit for the taxable year of the applicable corpora-
21 tion is an amount equal to sum of—

22 “(A) the lesser of—

23 “(i) the aggregate of the applicable
24 corporation’s pro rata share (as deter-
25 mined under section 56A(c)(3)) of the

1 amount of income, war profits, and excess
2 profits taxes (within the meaning of sec-
3 tion 901) imposed by any foreign country
4 or possession of the United States which
5 are—

6 “(I) taken into account on the
7 applicable financial statement of each
8 controlled foreign corporation with re-
9 spect to which the applicable corpora-
10 tion is a United States shareholder,
11 and

12 “(II) paid or accrued (for Fed-
13 eral income tax purposes) by each
14 such controlled foreign corporation, or

15 “(ii) the product of the amount of the
16 adjustment under section 56A(c)(3) and
17 the percentage specified in section
18 55(b)(2)(A)(i), and

19 “(B) in the case of an applicable corpora-
20 tion that is a domestic corporation, the amount
21 of income, war profits, and excess profits taxes
22 (within the meaning of section 901) imposed by
23 any foreign country or possession of the United
24 States to the extent such taxes are—

1 percent of the taxpayer’s net income tax as
2 exceeds \$25,000’ for ‘the greater of’ and
3 all that follows,

4 “(ii) paragraph (2)(A) shall be applied
5 without regard to clause (ii)(I) thereof,
6 and

7 “(iii) paragraph (4)(A) shall be ap-
8 plied without regard to clause (ii)(I) there-
9 of.”.

10 (e) CREDIT FOR PRIOR YEAR MINIMUM TAX LIABIL-
11 ITY.—

12 (1) IN GENERAL.—Section 53(e) is amended to
13 read as follows:

14 “(e) APPLICATION TO APPLICABLE CORPORA-
15 TIONS.—In the case of a corporation—

16 “(1) subsection (b)(1) shall be applied by sub-
17 stituting ‘the net minimum tax for all prior taxable
18 years beginning after 2022’ for ‘the adjusted net
19 minimum tax imposed for all prior taxable years be-
20 ginning after 1986’, and

21 “(2) the amount determined under subsection
22 (c)(1) shall be increased by the amount of tax im-
23 posed under section 59A for the taxable year.”.

24 (2) CONFORMING AMENDMENTS.—Section
25 53(d) is amended—

1 (A) in paragraph (2), by striking “, except
2 that in the case” and all that follows through
3 “treated as zero”, and

4 (B) by striking paragraph (3).

5 (f) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to taxable years beginning after
7 December 31, 2022.

8 **SEC. 128102. EXCISE TAX ON REPURCHASE OF CORPORATE**
9 **STOCK.**

10 (a) IN GENERAL.—Subtitle D is amended by insert-
11 ing after chapter 36 the following new chapter:

12 **“CHAPTER 37—REPURCHASE OF**
13 **CORPORATE STOCK**

“Sec. 4501. Repurchase of corporate stock.

14 **“SEC. 4501. REPURCHASE OF CORPORATE STOCK.**

15 “(a) GENERAL RULE.—There is hereby imposed on
16 each covered corporation a tax equal to 1 percent of the
17 fair market value of any stock of the corporation which
18 is repurchased by such corporation during the taxable
19 year.

20 “(b) COVERED CORPORATION.—For purposes of this
21 section, the term ‘covered corporation’ means any domes-
22 tic corporation the stock of which is traded on an estab-
23 lished securities market (within the meaning of section
24 7704(b)(1)).

1 “(c) REPURCHASE.—For purposes of this section—

2 “(1) IN GENERAL.—The term ‘repurchase’
3 means—

4 “(A) a redemption within the meaning of
5 section 317(b) with regard to the stock of a
6 covered corporation, and

7 “(B) any transaction determined by the
8 Secretary to be economically similar to a trans-
9 action described in subparagraph (A).

10 “(2) TREATMENT OF PURCHASES BY SPECIFIED
11 AFFILIATES.—

12 “(A) IN GENERAL.—The acquisition of
13 stock of a covered corporation by a specified af-
14 filiate of such covered corporation, from a per-
15 son who is not the covered corporation or a
16 specified affiliate of such covered corporation,
17 shall be treated as a repurchase of the stock of
18 the covered corporation by such covered cor-
19 poration.

20 “(B) SPECIFIED AFFILIATE.—For pur-
21 poses of this section, the term ‘specified affil-
22 iate’ means, with respect to any corporation—

23 “(i) any corporation more than 50
24 percent of the stock of which is owned (by

1 vote or by value), directly or indirectly, by
2 such corporation, and

3 “(ii) any partnership more than 50
4 percent of the capital interests or profits
5 interests of which is held, directly or indi-
6 rectly, by such corporation.

7 “(3) ADJUSTMENT.—The amount taken into
8 account under subsection (a) with respect to any
9 stock repurchased by a covered corporation shall be
10 reduced by the fair market value of any stock issued
11 by the covered corporation during the taxable year,
12 including the fair market value of any stock issued
13 or provided to employees of such covered corporation
14 or a specified affiliate of such covered corporation
15 during the taxable year, whether or not such stock
16 is issued or provided in response to the exercise of
17 an option to purchase such stock.

18 “(d) SPECIAL RULES FOR ACQUISITION OF STOCK OF
19 CERTAIN FOREIGN CORPORATIONS.—

20 “(1) IN GENERAL.—In the case of an acquisi-
21 tion of stock of an applicable foreign corporation by
22 a specified affiliate of such corporation (other than
23 a foreign corporation or a foreign partnership (un-
24 less such partnership has a domestic entity as a di-
25 rect or indirect partner)) from a person who is not

1 the applicable foreign corporation or a specified affil-
2 iate of such applicable foreign corporation, for pur-
3 poses of this section—

4 “(A) such specified affiliate shall be treat-
5 ed as a covered corporation with respect to such
6 acquisition,

7 “(B) such acquisition shall be treated as a
8 repurchase of stock of a covered corporation by
9 such covered corporation, and

10 “(C) the adjustment under subsection
11 (c)(3) shall be determined only with respect to
12 stock issued or provided by such specified affil-
13 iate to employees of the specified affiliate.

14 “(2) SURROGATE FOREIGN CORPORATIONS.—In
15 the case of a repurchase of stock of a covered surro-
16 gate foreign corporation by such covered surrogate
17 foreign corporation, or an acquisition of stock of a
18 covered surrogate foreign corporation by a specified
19 affiliate of such corporation, for purposes of this sec-
20 tion—

21 “(A) the expatriated entity with respect to
22 such covered surrogate foreign corporation shall
23 be treated as a covered corporation with respect
24 to such repurchase or acquisition,

1 “(B) such repurchase or acquisition shall
2 be treated as a repurchase of stock of a covered
3 corporation by such covered corporation, and

4 “(C) the adjustment under subsection
5 (c)(3) shall be determined only with respect to
6 stock issued or provided by such expatriated en-
7 tity to employees of the expatriated entity.

8 “(3) DEFINITIONS.—For purposes of this sub-
9 section—

10 “(A) APPLICABLE FOREIGN CORPORA-
11 TION.—The term ‘applicable foreign corpora-
12 tion’ means any foreign corporation the stock of
13 which is traded on an established securities
14 market (within the meaning of section
15 7704(b)(1)).

16 “(B) COVERED SURROGATE FOREIGN COR-
17 PORATION.—The term ‘covered surrogate for-
18 eign corporation’ means any surrogate foreign
19 corporation (as determined under section
20 7874(a)(2)(B) by substituting ‘September 20,
21 2021’ for ‘March 4, 2003’ each place it ap-
22 pears) the stock of which is traded on an estab-
23 lished securities market (within the meaning of
24 section 7704(b)(1)), but only with respect to
25 taxable years which include any portion of the

1 applicable period with respect to such corpora-
2 tion under section 7874(d)(1).

3 “(C) EXPATRIATED ENTITY.—The term
4 ‘expatriated entity’ has the meaning given such
5 term by section 7874(a)(2)(A).

6 “(e) EXCEPTIONS.—Subsection (a) shall not apply—

7 “(1) to the extent that the repurchase is part
8 of a reorganization (within the meaning of section
9 368(a)) and no gain or loss is recognized on such re-
10 purchase by the shareholder under chapter 1 by rea-
11 son of such reorganization,

12 “(2) in any case in which the stock repurchased
13 is, or an amount of stock equal to the value of the
14 stock repurchased is, contributed to an employer-
15 sponsored retirement plan, employee stock ownership
16 plan, or similar plan,

17 “(3) in any case in which the total value of the
18 stock repurchased during the taxable year does not
19 exceed \$1,000,000,

20 “(4) under regulations prescribed by the Sec-
21 retary, in cases in which the repurchase is by a deal-
22 er in securities in the ordinary course of business,

23 “(5) to repurchases by a regulated investment
24 company (as defined in section 851) or a real estate
25 investment trust, or

1 “(6) to the extent that the repurchase is treated
2 as a dividend for purposes of this title.

3 “(f) REGULATIONS AND GUIDANCE.—The Secretary
4 shall prescribe such regulations and other guidance as are
5 necessary or appropriate to administer and to prevent the
6 avoidance of the purposes of this section, including regula-
7 tions and other guidance—

8 “(1) to prevent the abuse of the exceptions pro-
9 vided by subsection (e),

10 “(2) to address special classes of stock and pre-
11 ferred stock, and

12 “(3) for the application of the rules under sub-
13 section (d).”.

14 (b) TAX NOT DEDUCTIBLE.—Paragraph (6) of sec-
15 tion 275(a) is amended by inserting “37,” before “41”.

16 (c) CLERICAL AMENDMENT.—The table of chapters
17 for subtitle D is amended by inserting after the item relat-
18 ing to chapter 36 the following new item:

 “CHAPTER 37—REPURCHASE OF CORPORATE STOCK”.

19 (d) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to repurchases (within the meaning
21 of section 4501(c) of the Internal Revenue Code of 1986,
22 as added by this section) of stock after December 31,
23 2021.

1 “(I) the average amount of inter-
2 est paid or accrued by such corpora-
3 tion during the 3-taxable-year period
4 ending with the taxable year to which
5 paragraph (1) applies, over

6 “(II) the average amount of in-
7 terest includible in the gross income
8 of such corporation for such 3-tax-
9 able-year period,

10 does not exceed \$12,000,000,

11 “(ii) any corporation to which para-
12 graph (1) of section 163(j) does not apply
13 by reason of paragraph (3) of such section
14 (determined without regard to paragraph
15 (4)(B) of such section), and

16 “(iii) any S corporation, real estate
17 investment trust, or regulated investment
18 company.

19 “(B) AGGREGATION RULE.—For purposes
20 of clauses (i) and (ii) of subparagraph (A), all
21 domestic corporations which are members of the
22 same international financial reporting group
23 shall be treated as a single corporation.

24 “(C) FOREIGN CORPORATIONS ENGAGED
25 IN TRADE OR BUSINESS WITHIN THE UNITED

1 STATES.—If a foreign corporation is engaged in
2 a trade or business within the United States,
3 such foreign corporation shall be treated as a
4 domestic corporation with respect to the items
5 that are effectively connected with such trade or
6 business.

7 “(3) INTERNATIONAL FINANCIAL REPORTING
8 GROUP.—For purposes of this subsection—

9 “(A) IN GENERAL.—The term ‘inter-
10 national financial reporting group’ means, with
11 respect to any reporting year, two or more enti-
12 ties if—

13 “(i) either—

14 “(I) at least one entity is a for-
15 eign corporation engaged in a trade or
16 business within the United States, or

17 “(II) at least one entity is a do-
18 mestic corporation and another entity
19 is a foreign corporation, and

20 “(ii) such entities are included in the
21 same applicable financial statement with
22 respect to such year.

23 “(B) ELECTION TO INCLUDE ELIGIBLE
24 CORPORATIONS IN GROUP.—

1 “(i) IN GENERAL.—To the extent pro-
2 vided by the Secretary in regulations or
3 other guidance, an international financial
4 reporting group may elect (at such time
5 and in such manner as the Secretary may
6 provide) to treat all eligible corporations
7 with respect to such group as members of
8 such group for purposes of this subsection.
9 As a condition of such election, all such eli-
10 gible corporations must maintain (and pro-
11 vide access to) such books and records as
12 the Secretary determines are satisfactory
13 to allow for the application of this sub-
14 section with respect to such eligible cor-
15 porations. Such election may be revoked
16 only with the consent of the Secretary.

17 “(ii) ELIGIBLE CORPORATION.—The
18 term ‘eligible corporation’ means, with re-
19 spect to any international financial report-
20 ing group, any corporation if at least 20
21 percent of the stock of such corporation
22 (determined by vote and value) is held (di-
23 rectly or indirectly) by members of such
24 international financial reporting group (de-

1 terminated without regard to this subpara-
2 graph).

3 “(4) ALLOWABLE PERCENTAGE.—For purposes
4 of this subsection—

5 “(A) IN GENERAL.—The term ‘allowable
6 percentage’ means, with respect to any specified
7 domestic corporation for any taxable year, the
8 ratio (expressed as a percentage and not great-
9 er than 100 percent) of—

10 “(i) such corporation’s allocable share
11 of the international financial reporting
12 group’s reported net interest expense for
13 the reporting year of such group which
14 ends in or with such taxable year of such
15 corporation, over

16 “(ii) such corporation’s reported net
17 interest expense for such reporting year of
18 such group.

19 “(B) REPORTED NET INTEREST EX-
20 PENSE.—The term ‘reported net interest ex-
21 pense’ means—

22 “(i) with respect to any international
23 financial reporting group for any reporting
24 year, the excess of—

787

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) as determined in the books
21 and records of the international finan-
22 cial reporting group which are used in
23 preparing such statements if not de-
24 termined in such statements.

1 “(ii) DETERMINATION OF EBITDA OF
2 A SPECIFIED DOMESTIC CORPORATION.—
3 The EBITDA of any specified domestic
4 corporation shall be determined without re-
5 gard to any distribution received by such
6 corporation from any other member of the
7 international financial 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) ELECTION FOR USE OF ALTERNATIVE CAL-
22 CULATION OF REPORTED NET INTEREST EX-
23 PENSE.—

24 “(A) IN GENERAL.—

1 “(i) USE OF ADJUSTED BASES OF AS-
2 SETS.—Under rules prescribed by the Sec-
3 retary, if an election is in effect under this
4 paragraph with respect to an international
5 financial reporting group, paragraph
6 (4)(C) shall be applied by substituting ‘ag-
7 gregate adjusted bases of the assets’ for
8 ‘EBITDA’ in clauses (i) and (ii) thereof.

9 “(ii) ELECTION.—An election, or ter-
10 mination of an election, under this para-
11 graph—

12 “(I) shall be made by the com-
13 mon parent of the international finan-
14 cial reporting group (or such specified
15 domestic corporation of such group as
16 determined by the Secretary),

17 “(II) shall be made at such time
18 and in such manner as the Secretary
19 shall prescribe, and

20 “(III) shall apply to all members
21 of the international financial reporting
22 group.

23 “(iii) OTHER RULES.—An election
24 under this paragraph shall—

791

1 “(I) be made before the due date
2 (including extensions) for the return
3 of tax for the first taxable year to
4 which such election applies, and

5 “(II) once made, may not be ter-
6 minated before such election has been
7 in effect for 5 taxable years.

8 If an election under this paragraph with
9 respect to an international financial report-
10 ing group is terminated, no subsequent
11 election may be made under this paragraph
12 with respect to such group (or any suc-
13 cessor) before the sixth taxable year fol-
14 lowing the first taxable year to which the
15 termination first applies.

16 “(B) DETERMINATION OF ADJUSTED
17 BASES.—

18 “(i) IN GENERAL.—Except as pro-
19 vided in clause (ii), the aggregate adjusted
20 bases of assets of any specified domestic
21 corporation and international financial re-
22 porting group of which it is a member
23 shall be determined in the same manner as
24 such determination is made for purposes of
25 this chapter.

1 “(ii) GROUPS WITH FOREIGN COMMON
2 PARENT.—If the election under subpara-
3 graph (A)(ii) is made with respect to an
4 international financial reporting group and
5 the common parent of such group is a for-
6 eign corporation, the adjusted bases of as-
7 sets for all members of such group shall be
8 determined on the basis of the amounts re-
9 ported in such group’s applicable financial
10 statement for such year.

11 “(iii) CERTAIN ASSETS NOT TAKEN
12 INTO ACCOUNT.—In determining the ag-
13 gregate adjusted bases of assets of any
14 specified domestic corporation and inter-
15 national financial reporting group of which
16 it is a member, there shall not be taken
17 into account any asset held by any member
18 of such group which consists of stock in a
19 member of such group (or, in the case of
20 a member of such group which is a part-
21 nership, any interest in such partnership).

22 “(C) TREATMENT OF RESEARCH AND EX-
23 PERIMENTAL EXPENDITURES AND DEPRECI-
24 ATION.—Solely for purposes of applying subpara-
25 graph (B)(i) for purposes of this subsection—

1 “(i) research and experimental ex-
2 penditures under section 174 shall be
3 treated as creating an intangible asset that
4 is amortizable ratably over the 5-year pe-
5 riod beginning with the mid-point of the
6 taxable year during which such expendi-
7 tures are paid or incurred, and

8 “(ii) the adjusted basis of any tan-
9 gible property of a character subject to an
10 allowance for depreciation under section
11 167 shall be determined by using section
12 168(g).

13 “(D) COMMON PARENT.— The Secretary
14 shall provide rules for the determination of the
15 common parent of an international financial re-
16 porting group for purposes of this paragraph.

17 “(6) APPLICABLE FINANCIAL STATEMENT.—
18 For purposes of this subsection, the term ‘applicable
19 financial statement’ means, with respect to any re-
20 porting year, an applicable financial statement (as
21 defined in section 451(b)(3) or as specified by the
22 Secretary in regulations or other guidance) which
23 covers such reporting year.

24 “(7) REPORTING YEAR.—For purposes of this
25 subsection, the term ‘reporting year’ means any year

1 for which an applicable financial statement is pre-
2 pared or required to be prepared.

3 “(8) REGULATIONS.—The Secretary may issue
4 such regulations or other guidance as are necessary
5 or appropriate to carry out the purposes of this sub-
6 section, including regulations or other guidance
7 which—

8 “(A) allows or requires the adjustment of
9 amounts reported on applicable financial state-
10 ments,

11 “(B) allows or requires any corporation to
12 be included or excluded as a member of any
13 international financial reporting group for pur-
14 poses of any determination or calculation under
15 this subsection,

16 “(C) treats interest income of a controlled
17 foreign corporation which is subpart F income,
18 and any interest expense of such corporation
19 which is related to subpart F income, as inter-
20 est income and interest expense, respectively, of
21 a specified domestic corporation for purposes of
22 this subsection,

23 “(D) prevents the omission, inclusion, or
24 duplication of any item or amount of interest
25 income or interest expense,

1 “(E) provides rules to carry out the pur-
2 poses of paragraph (5), including regulations or
3 other guidance for determining the adjusted
4 basis of an asset, determining whether an asset
5 is taken into account, and determining whether
6 an asset is that of a specified domestic corpora-
7 tion or another member of an international fi-
8 nancial reporting group, and

9 “(F) provides rules for the application of
10 this subsection with respect to—

11 “(i) a domestic corporation that is a
12 partner (directly or indirectly) in a part-
13 nership,

14 “(ii) a domestic corporation that owns
15 (directly or indirectly) an interest in an en-
16 tity that is fiscally transparent in one or
17 more jurisdictions, and

18 “(iii) a foreign corporation to which
19 this subsection applies by reason of para-
20 graph (2)(C).”.

21 (b) MODIFICATION OF APPLICATION OF LIMITATION
22 ON BUSINESS INTEREST TO PARTNERSHIPS AND S COR-
23 PORATIONS.—

24 (1) IN GENERAL.—Section 163(j)(4) is amend-
25 ed to read as follows:

1 “(4) APPLICATION TO PARTNERSHIPS AND S
2 CORPORATION.—

3 “(A) IN GENERAL.—In the case of any
4 partnership or S corporation, this subsection
5 shall be applied at the partner or shareholder
6 level, respectively.

7 “(B) APPLICATION OF EXEMPTION FOR
8 CERTAIN SMALL BUSINESSES.—In the case of
9 any partnership or S corporation which does
10 not meet the gross receipts test of section
11 448(c) for any taxable year, paragraph (3) shall
12 not apply with respect to any distributive, or
13 pro rata, share of business interest and other
14 items under this subsection of such partnership
15 or S corporation.

16 “(C) REGULATIONS.— The Secretary shall
17 prescribe such regulations or other guidance as
18 may be necessary or appropriate to carry out
19 the purposes of this section, including regula-
20 tions or other guidance—

21 “(i) for requiring or restricting the al-
22 location of business interest and other
23 items under this subsection,

1 “(ii) to provide for such reporting re-
2 quirements as the Secretary determines
3 appropriate, and

4 “(iii) for the application of this sub-
5 section in the case of tiered structures or
6 trades or businesses described in para-
7 graph (7).”.

8 (2) CONFORMING AMENDMENT.—Section
9 163(j)(3) is amended by inserting “except to the ex-
10 tent provided in paragraph (4)(B)” after “to such
11 taxpayer for such taxable year”.

12 (c) CARRYFORWARD OF DISALLOWED INTEREST.—

13 (1) IN GENERAL.—Section 163 is amended by
14 inserting after subsection (n), as added by sub-
15 section (a), the following new subsection:

16 “(o) CARRYFORWARD OF CERTAIN DISALLOWED IN-
17 TEREST.—The amount of any interest not allowed as a
18 deduction for any taxable year by reason of subsection (j)
19 or (n)(1) (whichever imposes the lower limitation with re-
20 spect to such taxable year) shall be treated as interest
21 (and as business interest for purposes of subsection (j)
22 to the extent such amount is properly attributable to a
23 trade or business as defined in subsection (j)(7)) paid or
24 accrued in the succeeding taxable year.”.

25 (2) CONFORMING AMENDMENTS.—

1 (A) Section 163(j)(2) is amended to read
2 as follows:

3 “(2) CARRYFORWARD CROSS-REFERENCE.—For
4 carryforward treatment, see subsection (o).”.

5 (B) Section 381(c)(20) is amended to read
6 as follows:

7 “(20) CARRYFORWARD OF DISALLOWED INTER-
8 EST.—The carryover of disallowed interest described
9 in section 163(o) to taxable years ending after the
10 date of distribution or transfer.”.

11 (C) Section 382(d)(3) is amended to read
12 as follows:

13 “(3) APPLICATION TO CARRYFORWARD OF DIS-
14 ALLOWED INTEREST.—The term ‘pre-change loss’
15 shall include any carryover of disallowed interest de-
16 scribed in section 163(o) under rules similar to the
17 rules of paragraph (1).”.

18 (d) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to taxable years beginning after
20 December 31, 2022.

21 (e) TRANSITION RULE.—In the case of a partner’s
22 first succeeding taxable year described in subclause (II)
23 of section 163(j)(4)(B)(ii) of the Internal Revenue Code
24 of 1986 (as in effect before the amendment made by sub-
25 section (b)) which begins after December 31, 2022, the

1 amount of excess business interest which would (but for
2 such amendment) be carried to such taxable year under
3 such subclause shall be treated as interest (and as busi-
4 ness interest for purposes of section 163(j) of such Code,
5 as amended by this section) paid or accrued in such tax-
6 able year. A rule similar to the rule in the preceding sen-
7 tence shall apply in the case of an S corporation and its
8 shareholders. For carryover of any such interest dis-
9 allowed for such taxable year, see section 163(o) of such
10 Code, as amended by this section.

11 **Subpart C—Outbound International Provisions**

12 **SEC. 128121. MODIFICATIONS TO DEDUCTION FOR FOR-**
13 **EIGN-DERIVED INTANGIBLE INCOME AND**
14 **GLOBAL INTANGIBLE LOW-TAXED INCOME.**

15 (a) IN GENERAL.—Section 250(a) is amended to
16 read as follows:

17 “(a) IN GENERAL.—In the case of a domestic cor-
18 poration for any taxable year, there shall be allowed as
19 a deduction an amount equal to the sum of—

20 “(1) 24.8 percent of the foreign-derived intan-
21 gible income of such domestic corporation for such
22 taxable year, plus

23 “(2) 28.5 percent of—

24 “(A) the global intangible low-taxed income
25 (if any) which is included in the gross income

1 of such domestic corporation under section
2 951A for such taxable year, and

3 “(B) the amount treated as a dividend re-
4 ceived by such corporation under section 78
5 which is attributable to the amount described in
6 subparagraph (A).”.

7 (b) DEDUCTION TAKEN INTO ACCOUNT IN DETER-
8 MINING NET OPERATING LOSS DEDUCTION.—Section
9 172(d) is amended by striking paragraph (9).

10 (c) CERTAIN OTHER MODIFICATIONS.—

11 (1) Section 250(b)(3) is amended—

12 (A) in subparagraph (A)(i)—

13 (i) by striking “and” at the end of
14 subclause (V),

15 (ii) by striking “over” at the end of
16 subclause (VI), and

17 (iii) by adding at the end the fol-
18 lowing new subclauses:

19 “(VII) any income described in
20 clause (i) or (ii) of section
21 904(d)(2)(B), determined without re-
22 gard to clause (iii)(II) thereof,

23 “(VIII) except as otherwise pro-
24 vided by the Secretary, any income
25 and gain from the sale or other dis-

1 position (including the deemed sale or
2 other deemed disposition) of property
3 giving rise to rents or royalties de-
4 rived in the active conduct of a trade
5 or business, and

6 “(IX) any disqualified
7 extraterritorial income, over”, and

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

10 “(C) DISQUALIFIED EXTRATERRITORIAL
11 INCOME.—

12 “(i) IN GENERAL.—For purposes of
13 subparagraph (A)(i)(IX), the term ‘dis-
14 qualified extraterritorial income’ means
15 any amount included in the gross income
16 of the corporation with respect to any
17 transaction for any taxable year if any
18 amount could (determined after application
19 of clause (ii) but without regard to any
20 election under section 942(a)(3) as in ef-
21 fect before its repeal) be excluded from the
22 gross income of the corporation with re-
23 spect to such transaction for such taxable
24 year by reason of section 114 pursuant to
25 the application of subsection (d) or (f) of

1 section 101 of the American Jobs Creation
2 Act of 2004.

3 “(ii) ELECTION OUT OF
4 EXTRATERRITORIAL INCOME BENEFITS.—

5 “(I) IN GENERAL.—Except as
6 provided in subclause (II), the cor-
7 poration referred to in clause (i) may
8 make an irrevocable election (at such
9 time and in such form and manner as
10 the Secretary may provide) to have
11 subsections (d) and (f) of section 101
12 of the American Jobs Creation Act of
13 2004 not apply with respect to such
14 corporation for the taxable year for
15 which such election is made and all
16 succeeding taxable years (applicable
17 with respect to all transactions, in-
18 cluding transactions occurring before
19 such taxable year).

20 “(II) EXPANDED AFFILIATED
21 GROUPS.—In the case of any corpora-
22 tion which is a member of an ex-
23 panded affiliated group, the election
24 described in subclause (I) may be
25 made only by the common parent of

1 such group (or, in the case of a com-
2 mon parent which is not required to
3 file a return of tax under this chapter,
4 the delegate of such common parent)
5 and shall apply with respect to all
6 members of such group. For purposes
7 of the preceding sentence, the term
8 ‘expanded affiliated group’ means an
9 affiliated group as defined in section
10 1504(a), determined without regard to
11 section 1504(b)(3) and by sub-
12 stituting ‘more than 50 percent’ for
13 ‘at least 80 percent’ each place it ap-
14 pears.”.

15 (C) Section 250(b)(5)(E) is amended by
16 inserting “(other than paragraph
17 (3)(A)(i)(VIII))” after “For purposes of this
18 subsection”.

19 (2) Section 613A(d)(1) is amended by striking
20 “and” at the end of subparagraph (D), by striking
21 the period at the end of subparagraph (E) and in-
22 serting “, and”, and by inserting after subparagraph
23 (E) the following new subparagraph:

24 “(F) any deduction allowable under section
25 250.”.

1 (d) EFFECTIVE DATE.—

2 (1) IN GENERAL.—Except as provided in para-
3 graph (2), the amendments made by this section
4 shall apply to taxable years beginning after Decem-
5 ber 31, 2022.

6 (2) CERTAIN MODIFICATIONS.—The amend-
7 ments made by subsection (c) shall apply to taxable
8 years beginning after the date of the enactment of
9 this Act.

10 (e) NO INFERENCE REGARDING CERTAIN MODIFICA-
11 TIONS.—The amendments made by subsection (c) shall
12 not be construed to create any inference with respect to
13 the proper application of any provision of the Internal
14 Revenue Code of 1986 with respect to any taxable year
15 beginning before the taxable years to which such amend-
16 ments apply.

17 (f) TRANSITION RULE FOR ACCELERATED PERCENT-
18 AGE REDUCTION.—

19 (1) IN GENERAL.—In the case of any taxable
20 year which includes December 31, 2022 (other than
21 a taxable year with respect to which such date is the
22 last day of such taxable year)—

23 (A) the percentage in effect under section
24 250(a)(1)(A) of the Internal Revenue Code of

1 1986 shall be treated as being equal to the sum
2 of—

3 (i) the pre-effective date percentage of
4 37.5 percent, plus

5 (ii) the post-effective date percentage
6 of 24.8 percent, and

7 (B) the percentage in effect under section
8 250(a)(1)(B) of such Code shall be treated as
9 being equal to the sum of—

10 (i) the pre-effective date percentage of
11 50 percent, plus

12 (ii) the post-effective date percentage
13 of 28.5 percent.

14 (2) PRE- AND POST-EFFECTIVE DATE PER-
15 CENTAGES.—For purposes of this subsection, with
16 respect to any taxable year—

17 (A) the term “pre-effective date percent-
18 age” means the ratio that the number of days
19 in such taxable year which are before January
20 1, 2023, bears to the number of days in such
21 taxable year, and

22 (B) the term “post-effective date percent-
23 age” means the ratio that the number of days
24 in such taxable year which are after December

1 31, 2022, bears to the number of days in such
2 taxable year.

3 **SEC. 128122. REPEAL OF ELECTION FOR 1-MONTH DEFER-**
4 **RAL IN DETERMINATION OF TAXABLE YEAR**
5 **OF SPECIFIED FOREIGN CORPORATIONS.**

6 (a) IN GENERAL.—Section 898(c) is amended by
7 striking paragraph (2) and redesignating paragraph (3)
8 as paragraph (2).

9 (b) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to taxable years of specified foreign
11 corporations beginning after November 30, 2022.

12 (c) TRANSITION RULE.—In the case of a corporation
13 that is a specified foreign corporation as of November 30,
14 2022, such corporation's first taxable year beginning after
15 such date shall end at the same time as the first required
16 year (within the meaning of section 898(c)(1) of the Inter-
17 nal Revenue Code of 1986) ending after such date. If any
18 specified foreign corporation is required by this section (or
19 the amendments made by this section) to change its tax-
20 able year for its first taxable year beginning after Novem-
21 ber 30, 2022—

22 (1) such change shall be treated as initiated by
23 such corporation,

24 (2) such change shall be treated as having been
25 made with the consent of the Secretary, and

1 (3) the Secretary (including the Secretary's del-
2 egate in the case of any reference to the Secretary
3 in this paragraph) shall issue regulations or other
4 guidance for allocating foreign taxes that accrue in
5 such first taxable year between such taxable year
6 and the prior taxable year, including such adjust-
7 ments as the Secretary determines are necessary or
8 appropriate to carry out the purposes of this section.

9 **SEC. 128123. 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 redес-
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 not
9 in excess of the amount determined under subpara-
10 graph (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 (or any political subdivi-
20 sion, agency, or instrumentality thereof).

21 “(3) GENERALLY APPLICABLE INCOME TAX.—
22 For purposes of this subsection, the term ‘generally
23 applicable income tax’ means an income tax (or a se-
24 ries of income taxes) which is generally imposed
25 under the laws of a foreign country or possession of

1 the United States on residents of such foreign coun-
2 try or possession that are not dual capacity tax-
3 payers.”.

4 (b) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to amounts paid or accrued after
6 December 31, 2021.

7 **SEC. 128124. MODIFICATIONS TO FOREIGN TAX CREDIT**
8 **LIMITATIONS.**

9 (a) COUNTRY-BY-COUNTRY APPLICATION OF LIMITA-
10 TION ON FOREIGN TAX CREDIT BASED ON TAXABLE
11 UNITS.—

12 (1) IN GENERAL.—Section 904 is amended by
13 inserting after subsection (d) the following new sub-
14 section:

15 “(e) COUNTRY-BY-COUNTRY APPLICATION BASED ON
16 TAXABLE UNITS.—

17 “(1) IN GENERAL.—Subsection (d) (and the
18 provisions of this title referred to in paragraph (1)
19 of such subsection) shall be applied separately with
20 respect to each country by taking into account the
21 aggregate income properly attributable or otherwise
22 allocable to a taxable unit of the taxpayer which is
23 a tax resident of (or, in the case of a branch, is lo-
24 cated in) 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) CERTAIN FOREIGN CORPORA-
14 TIONS.—Each foreign corporation with re-
15 spect to which the taxpayer is a United
16 States shareholder.

17 “(iii) INTERESTS IN PASS-THROUGH
18 ENTITIES.—Each interest held (directly or
19 indirectly) by the taxpayer or any foreign
20 corporation referred to in clause (ii) in a
21 pass-through entity if such pass-through
22 entity is a tax resident of a country other
23 than the country with respect to which
24 such taxpayer or foreign corporation (as
25 the case may be) is a tax resident.

1 “(iv) BRANCHES.—Each branch (or
2 portion thereof) the activities of which are
3 directly or indirectly carried on by the tax-
4 payer or any foreign corporation referred
5 to in clause (ii) and which give rise to a
6 taxable presence in a country other than
7 the country with respect to which such tax-
8 payer or foreign corporation (as the case
9 may be) is a tax resident.

10 “(3) DEFINITIONS AND SPECIAL RULES.—For
11 purposes of this subsection—

12 “(A) TAX RESIDENT.—Except as otherwise
13 provided by the Secretary, the term ‘tax resi-
14 dent’ means a person or entity subject to tax
15 under the tax law of a country as a resident. If
16 an entity is organized under the law of a coun-
17 try, or resident in a country, that does not im-
18 pose an income tax with respect to such enti-
19 ties, such entity shall, except as provided by the
20 Secretary, be treated as subject to tax under
21 the tax law of such country for the purposes of
22 the preceding sentence.

23 “(B) PASS-THROUGH ENTITY.—Except as
24 otherwise provided by the Secretary, the term
25 ‘pass-through entity’ includes any partnership

1 or other entity to the extent that income, gain,
2 deduction, or loss of the entity is taken into ac-
3 count in determining the income or loss of a
4 person that owns (directly or indirectly) an in-
5 terest in such entity.

6 “(C) BRANCH.—Except as otherwise pro-
7 vided by the Secretary, the term ‘branch’ means
8 a taxable presence of a tax resident in a coun-
9 try other than its country of residence as deter-
10 mined under such other country’s tax law. The
11 Secretary shall provide regulations or other
12 guidance applying such term to activities in a
13 country that do not give rise to a taxable pres-
14 ence.

15 “(D) TREATMENT OF FISCALLY AUTONO-
16 MOUS JURISDICTIONS.—Any fiscally autono-
17 mous jurisdiction shall be treated as a separate
18 country. Any possession of the United States
19 shall also be treated as a separate country.

20 “(E) POSSESSION OF THE UNITED
21 STATES.—The term ‘possession of the United
22 States’ means each of American Samoa, the
23 Commonwealth of the Northern Mariana Is-
24 lands, the Commonwealth of Puerto Rico,
25 Guam, and the Virgin Islands.

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

6 “(A) providing for the application of this
7 subsection to an entity or arrangement that is
8 considered a tax resident of more than one
9 country or of no country,

10 “(B) providing for the application of this
11 subsection to hybrid entities or hybrid trans-
12 actions (as such terms are used for purposes of
13 section 267A), pass-through entities, passive
14 foreign investment companies, trusts, and other
15 entities or arrangements not otherwise de-
16 scribed in this subsection, and

17 “(C) providing for the assignment of any
18 item (including foreign taxes and deductions) to
19 taxable units, including in the case of amounts
20 not otherwise taken into account in determining
21 taxable income under this chapter.”.

22 (2) APPLICATION OF SEPARATE LIMITATION
23 LOSSES WITH RESPECT TO GLOBAL INTANGIBLE
24 LOW-TAXED INCOME.—

1 (A) IN GENERAL.—Section 904(f)(5)(B) is
2 amended to read as follows:

3 “(B) ALLOCATION OF LOSSES.—Except as
4 otherwise provided in this subparagraph, the
5 separate limitation losses for any taxable year
6 (to the extent such losses do not exceed the sep-
7 arate limitation incomes for such year) shall be
8 allocated among (and operate to reduce) such
9 incomes on a proportionate basis. In the case of
10 a separate limitation loss for any taxable year
11 in any category other than subparagraph
12 (d)(1)(A), the amount of such separate limita-
13 tion loss shall be allocated among (and operate
14 to reduce) separate limitation income in any
15 category other than income described in sub-
16 paragraph (d)(1)(A) on a proportionate basis
17 (without regard to income described in subpara-
18 graph (d)(1)(A)). The remaining separate limi-
19 tation losses may reduce separate limitation in-
20 come described in subparagraph (d)(1)(A) only
21 to the extent that the aggregate amount of such
22 losses exceeds the aggregate amount of separate
23 limitation incomes (other than income described
24 in subparagraph (d)(1)(A)) for such taxable
25 year.”.

1 (B) INCOME CATEGORY.—Section
2 904(f)(5)(E)(i) is amended to read as follows:

3 “(i) INCOME CATEGORY.—The term
4 ‘income category’ means each category of
5 income with respect to which this section is
6 required to be applied separately by reason
7 of any provision of this title.”.

8 (C) SEPARATE LIMITATION LOSS.—Section
9 904(f)(5)(E)(iii) is amended to read as follows:

10 “(iii) SEPARATE LIMITATION LOSS.—
11 The term ‘separate limitation loss’ means,
12 with respect to any income category, the
13 amount by which the gross income from
14 sources outside the United States is ex-
15 ceeded by the sum of the deductions prop-
16 erly allocated and apportioned thereto.”.

17 (3) TREATMENT OF INADEQUATE SUBSTAN-
18 TIATION.—Section 904(d)(4)(C)(ii) is amended by
19 striking “paragraph (1)(A)” and inserting “para-
20 graph (1)(C)”.

21 (b) REPEAL OF SEPARATE APPLICATION TO FOR-
22 EIGN BRANCH INCOME.—

23 (1) IN GENERAL.—Section 904(d)(1) is amend-
24 ed by striking subparagraph (B) and redesignating

1 subparagraphs (C) and (D) as subparagraph (B)
2 and (C).

3 (2) COORDINATION WITH DEDUCTION FOR FOR-
4 EIGN-DERIVED INTANGIBLE INCOME.—Section
5 250(b)(3)(A), as amended by the preceding provi-
6 sions of this Act, is amended—

7 (A) by striking subclause (VI) of clause (i)
8 and inserting the following new subclause:

9 “(VI) the income which is attrib-
10 utable to 1 or more branches (within
11 the meaning of section 904(e)(3)(C))
12 or pass-through entities (within the
13 meaning of section 904(e)(3)(B)) in 1
14 or more foreign countries,” and

15 (B) by adding at the end the following
16 flush sentence:

17 “For purposes of clause (i)(VI), the amount of
18 income attributable to a branch or pass-through
19 entity shall be determined under rules estab-
20 lished by the Secretary.”.

21 (3) AMENDMENTS.—

22 (A) Section 904(d)(2)(A)(ii) is amended by
23 striking “, foreign branch income,”.

24 (B) Section 904(d)(2)(H) is amended to
25 read as follows:

1 “(H) TREATMENT OF INCOME TAX BASE
2 DIFFERENCES.—The Secretary shall issue regu-
3 lations or other guidance assigning to the prop-
4 er category of income any tax imposed under
5 the law of a foreign country or possession of the
6 United States on an amount which does not
7 constitute income under United States tax prin-
8 ciples.”.

9 (C) Section 904(d)(2) is amended by strik-
10 ing subparagraph (J).

11 (D) Section 904(d)(4)(C)(ii), as amended
12 by the preceding provisions of this Act, is
13 amended by striking “paragraph (1)(C)” and
14 inserting “paragraph (1)(B)”.

15 (c) MODIFICATION OF FOREIGN TAX CREDIT
16 CARRYBACK AND CARRYFORWARD.—

17 (1) REPEAL OF CARRYBACK.—Section 904(c) is
18 amended—

19 (A) by striking “in the first preceding tax-
20 able year, and”,

21 (B) by striking “preceding or” each place
22 it appears, and

23 (C) by striking “CARRYBACK AND” in the
24 heading thereof.

1 (2) APPLICATION TO LIMITATION ON FOREIGN
2 OIL AND GAS TAXES.—Section 907(f) is amended—

3 (A) in paragraph (1), by striking “in the
4 first preceding taxable year and”,

5 (B) in paragraph (2), by striking “pre-
6 ceding or” in the matter preceding subpara-
7 graph (A),

8 (C) in paragraph (3)(B)—

9 (i) by striking “in a preceding or suc-
10 ceeding” and inserting “in a succeeding”,
11 and

12 (ii) by striking “in such preceding or
13 succeeding” both places it appears and in-
14 serting “in such succeeding”, and

15 (D) in the heading, by striking
16 “CARRYBACK AND”.

17 (3) APPLICATION OF CARRYFORWARD TO TAXES
18 ON GLOBAL INTANGIBLE LOW-TAXED INCOME.—

19 (A) IN GENERAL.—Section 904(c) is
20 amended by striking the last sentence.

21 (B) TEMPORARY LIMITATION OF
22 CARRYFORWARD TO 5 TAXABLE YEARS.—Sec-
23 tion 904(c), as amended by the preceding provi-
24 sions of this Act, is amended—

1 (i) by striking “Any amount by which
2 all taxes” and all that precedes it and in-
3 serting the following:

4 “(c) CARRYBACK AND CARRYOVER OF EXCESS TAX
5 PAID.—

6 “(1) IN GENERAL.—Any amount by which all
7 taxes”, and

8 (ii) by adding at the end the following
9 new paragraph:

10 “(2) TEMPORARY LIMITATION ON
11 CARRYFORWARD OF TAXES ON GLOBAL INTANGIBLE
12 LOW-TAXED INCOME.—

13 “(A) IN GENERAL.—In the case of taxes
14 paid or accrued with respect to amounts de-
15 scribed in subsection (d)(1)(A), paragraph (1)
16 shall be applied by substituting ‘5 succeeding
17 taxable years’ for ‘10 succeeding taxable years’.

18 “(B) TERMINATION.—Subparagraph (A)
19 shall not apply to any tax paid or accrued in a
20 taxable year beginning after December 31,
21 2030.”.

22 (d) TREATMENT OF CERTAIN TAX-EXEMPT DIVI-
23 DENDS.—

24 (1) CERTAIN TAX-EXEMPT DIVIDENDS TAKEN
25 INTO ACCOUNT IN APPLYING LIMITATIONS ON FOR-

1 EIGN TAX CREDITS.—Section 904(b) is amended by
2 striking paragraph (4).

3 (2) CERTAIN TAX-EXEMPT DIVIDENDS NOT
4 TAKEN INTO ACCOUNT IN ALLOCATING INTEREST
5 EXPENSE.—Section 864(e)(3) is amended by strik-
6 ing “or 245(a)” and inserting “, 245(a), or 245A”.

7 (e) RULES FOR ALLOCATION OF CERTAIN DEDUC-
8 TIONS TO FOREIGN SOURCE GLOBAL INTANGIBLE LOW-
9 TAXED INCOME FOR PURPOSES OF FOREIGN TAX CREDIT
10 LIMITATION.—Section 904(b), as amended by the pre-
11 ceding provisions of this Act, is amended by adding at the
12 end the following new paragraph:

13 “(4) DEDUCTIONS TREATED AS ALLOCABLE TO
14 FOREIGN SOURCE GLOBAL INTANGIBLE LOW-TAXED
15 INCOME.—In the case of a domestic corporation and
16 solely for purposes of the application of subsection
17 (a) with respect to amounts described in subsection
18 (d)(1)(A), the taxpayer’s taxable income from
19 sources without the United States shall be deter-
20 mined—

21 “(A) by allocating and apportioning any
22 deduction allowed under section 250(a)(2) (and
23 any deduction allowed under section 164(a)(3)
24 for taxes imposed on amounts described in sec-
25 tion 250(a)(2)) to such income, and

1 “(B) by allocating and apportioning any
2 other deduction to such income only if the Sec-
3 retary determines that such deduction is di-
4 rectly allocable to such income.

5 Any deduction which would (but for subparagraph
6 (B)) have been allocated or apportioned to such in-
7 come shall only be allocated or apportioned to in-
8 come which is from sources within the United
9 States.”.

10 (f) TREATMENT OF CERTAIN ASSET DISPOSI-
11 TIONS.—Section 904(b), as amended by the preceding pro-
12 visions of this Act, is amended by adding at the end the
13 following new paragraph:

14 “(5) TREATMENT OF CERTAIN ASSET DISPOSI-
15 TIONS.—

16 “(A) IN GENERAL.—Except as otherwise
17 provided by the Secretary, in the case of any
18 covered asset disposition, the principles of sec-
19 tion 338(h)(16) shall apply in determining the
20 source and character of any item for purposes
21 of this subpart.

22 “(B) COVERED ASSET DISPOSITION.—For
23 purposes of this paragraph, the term ‘covered
24 asset disposition’ means any transaction
25 which—

1 “(E) there is any other change in the
2 amount, or treatment, of taxes, which affects
3 the taxpayer’s tax liability under this chapter,”,

4 (B) in paragraph (2)(B), by striking “Any
5 such taxes” and inserting “Except as otherwise
6 provided by the Secretary, any such taxes”, and

7 (C) by striking “ACCRUED” in the heading
8 thereof.

9 (2) MODIFICATION TO TIME FOR CLAIMING
10 CREDIT OR DEDUCTION.—Section 901(a) is amended
11 by striking the second sentence and inserting the fol-
12 lowing: “ Such choice for any taxable year may be
13 made or changed at any time before the expiration
14 of the applicable period prescribed by section 6511
15 for making a claim for credit or refund of an over-
16 payment of the tax imposed by this chapter for such
17 taxable year that is attributable to such amounts.”.

18 (3) MODIFICATION TO SPECIAL PERIOD OF LIM-
19 ITATION.—Section 6511(d)(3) is amended—

20 (A) in subparagraph (A)—

21 (i) by inserting “a change in the li-
22 ability for” before “any taxes paid or ac-
23 crued”,

1 (ii) by striking “actually paid” and in-
2 serting “paid (or deemed paid under sec-
3 tion 960)”, and

4 (iii) by inserting “CHANGE IN THE LI-
5 ABILITY FOR” before “FOREIGN TAXES” in
6 the heading thereof, and

7 (B) in subparagraph (B), by striking “the
8 allowance of a credit for the taxes” and insert-
9 ing “the allowance of an additional credit by
10 reason of the change in liability for the taxes”.

11 (h) EFFECTIVE DATES.—

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

16 (2) MODIFICATION OF FOREIGN TAX CREDIT
17 CARRYBACK AND CARRYFORWARD.—The amend-
18 ments made by subsection (c) shall apply to taxes
19 paid or accrued in taxable years beginning after De-
20 cember 31, 2022.

21 (3) TREATMENT OF CERTAIN ASSET DISPOSI-
22 TIONS.—

23 (A) IN GENERAL.—The amendment made
24 by subsection (f) shall apply to transactions
25 after the date of the enactment of this Act.

1 (B) BINDING CONTRACT EXCEPTION.—The
2 amendment made by subsection (f) shall not
3 apply to any transaction which is made pursu-
4 ant to a written binding contract which was in
5 effect on September 13, 2021, and is not modi-
6 fied in any material respect thereafter.

7 (4) REDETERMINATION OF FOREIGN TAXES
8 AND RELATED CLAIMS.—

9 (A) IN GENERAL.—Except as otherwise
10 provided in this paragraph, the amendments
11 made by subsection (g) shall apply to taxes paid
12 or accrued in taxable years beginning after De-
13 cember 31, 2021.

14 (B) CERTAIN CHANGES.—The amendments
15 made by subparagraphs (A) and (C) of sub-
16 section (g)(1) shall apply to changes that occur
17 on or after the date which is 60 days after the
18 date of the enactment of this Act.

19 (C) MODIFICATION TO SPECIAL PERIOD OF
20 LIMITATION.—The amendments made by sub-
21 section (g)(3) shall apply to taxes paid, accrued,
22 or deemed paid in taxable years beginning after
23 December 31, 2021.

24 (i) REGULATIONS.—The Secretary shall issue regula-
25 tions or other guidance providing for the application of

1 subsections (d), (e), (f), and (g) of section 904 of the In-
2 ternal Revenue Code of 1986 (as amended by this section)
3 with respect to amounts carried over under subsections
4 (c), (f), or (g) from a taxable year with respect to which
5 subsection (e) of such section does not apply to a taxable
6 year with respect to which such subsection (e) does apply
7 and from a taxable year with respect to which subsection
8 (d)(1)(B) of such section (determined without regard to
9 the amendments made by this section) applies to a taxable
10 year with respect to which such section does not apply.

11 **SEC. 128125. FOREIGN OIL AND GAS EXTRACTION INCOME**
12 **AND FOREIGN OIL RELATED INCOME TO IN-**
13 **CLUDE OIL SHALE AND TAR SANDS.**

14 (a) IN GENERAL.—Paragraphs (1)(A) and (2)(A) of
15 section 907(c) are each amended by inserting “(or oil
16 shale or tar sands)” after “oil or gas wells”.

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

20 **SEC. 128126. MODIFICATIONS TO INCLUSION OF GLOBAL IN-**
21 **TANGIBLE LOW-TAXED INCOME.**

22 (a) COUNTRY-BY-COUNTRY APPLICATION OF SEC-
23 TION BASED ON CFC TAXABLE UNITS.—Section 951A is
24 amended by adding at the end the following new sub-
25 section:

1 “(g) COUNTRY-BY-COUNTRY APPLICATION OF SEC-
2 TION BASED ON CFC TAXABLE UNITS.—

3 “(1) IN GENERAL.—If any CFC taxable unit of
4 a United States shareholder is a tax resident of (or,
5 in the case of a branch, is located in) a country
6 which is different from the country with respect to
7 which any other CFC taxable unit of such United
8 States shareholder is a tax resident (or, in the case
9 of a branch, is located in)—

10 “(A) such shareholder’s global intangible
11 low-taxed income for purposes of subsection (a)
12 shall be the sum of the amounts of global intan-
13 gible low-taxed income determined separately
14 with respect to each such country, and

15 “(B) for purposes of determining such sep-
16 arate amounts of global intangible low-taxed in-
17 come—

18 “(i) except as otherwise provided by
19 the Secretary, any reference in subsection
20 (b), (c), or (d) to a controlled foreign cor-
21 poration of such shareholder shall be treat-
22 ed as reference to a CFC taxable unit of
23 such shareholder, and

24 “(ii) net CFC tested income, net
25 deemed tangible income return, qualified

1 business asset investment, interest expense
2 described in subsection (b)(2)(B), and such
3 other items and amounts as the Secretary
4 may provide, shall be determined sepa-
5 rately with respect to each such country by
6 determining such amounts with respect to
7 the CFC taxable units of such shareholder
8 which are a tax resident of such country.

9 “(2) DEFINITIONS.—For purposes of this sub-
10 section—

11 “(A) CFC TAXABLE UNIT.—The term
12 ‘CFC taxable unit’ means any taxable unit de-
13 scribed in clause (ii), (iii), or (iv) of section
14 904(e)(2)(B), determined—

15 “(i) by substituting ‘controlled foreign
16 corporation’ for ‘foreign corporation’ each
17 place it appears in such clauses, and

18 “(ii) without regard to the references
19 to the taxpayer in clauses (iii) and (iv) of
20 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 section 904(e).

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,

4 “(3) appropriate adjustments to the basis of
5 stock and other ownership interests, and to earnings
6 and profits, to reflect tested losses (whether or not
7 taken into account in determining global intangible
8 low-taxed income),

9 “(4) rules similar to the rules provided under
10 the regulations or guidance issued under section
11 904(e)(4),

12 “(5) other appropriate basis adjustments,

13 “(6) appropriate adjustments to be made, and
14 appropriate tax attributes and records to be main-
15 tained, separately with respect to CFC taxable units,
16 and

17 “(7) appropriate adjustments in determining
18 tested income or tested loss if property is trans-
19 ferred between related parties or amounts are paid
20 or accrued between related parties.”.

21 (2) CONFORMING AMENDMENT.—Section
22 951A(d) is amended—

23 (A) by striking paragraph (4), and

1 (B) by redesignating the second paragraph
2 (3) (relating to partnership property) as para-
3 graph (4).

4 (c) CARRYOVER OF NET CFC TESTED LOSS.—

5 (1) IN GENERAL.—Section 951A(c) is amended
6 by adding at the end the following new paragraph:

7 “(3) CARRYOVER OF NET CFC TESTED LOSS.—

8 “(A) IN GENERAL.—If the amount de-
9 scribed in paragraph (1)(B) with respect to any
10 United States shareholder for any taxable year
11 of such United States shareholder (determined
12 after the application of this paragraph with re-
13 spect to amounts arising in preceding taxable
14 years) exceeds the amount described in para-
15 graph (1)(A) with respect to such shareholder
16 of such taxable year, the amount otherwise de-
17 scribed in paragraph (1)(B) with respect to
18 such shareholder for the succeeding taxable
19 year shall be increased by the amount of such
20 excess.

21 “(B) PROPER ADJUSTMENT IN ALLOCA-
22 TIONS OF GLOBAL INTANGIBLE LOW-TAXED IN-
23 COME TO CONTROLLED FOREIGN CORPORA-
24 TIONS.—Proper adjustments shall be made in
25 the application of subsection (f)(2)(B) to take

1 into account any decrease in global intangible
2 low-taxed income by reason of the application of
3 subparagraph (A).”.

4 (2) COORDINATION WITH COUNTRY-BY-COUN-
5 TRY APPLICATION.—Section 951A(g)(1)(B)(ii), as
6 added by subsection (a), is amended by inserting
7 “any increase determined under subsection
8 (c)(3)(A),” after “interest expense described in sub-
9 section (b)(2)(B),”.

10 (3) APPLICATION OF RULES WITH RESPECT TO
11 OWNERSHIP CHANGES.—Section 382(d) is amended
12 by adding at the end the following new paragraph:

13 “(4) APPLICATION TO CARRYOVER OF NET CFC
14 TESTED LOSS.—The term ‘pre-change loss’ shall in-
15 clude any excess carried over under section
16 951A(c)(3) under rules similar to the rules of para-
17 graph (1).”.

18 (d) REDUCTION IN NET DEEMED TANGIBLE INCOME
19 RETURN FOR PURPOSES OF DETERMINING GLOBAL IN-
20 TANGIBLE LOW-TAXED INCOME.—

21 (1) IN GENERAL.—Section 951A(b)(2)(A) is
22 amended by striking “10 percent” and inserting “5
23 percent”.

24 (2) APPLICATION TO ASSETS LOCATED IN POS-
25 SESSIONS OF THE UNITED STATES.—Section

1 951A(b) is amended by adding at the end the fol-
2 lowing new paragraph:

3 “(3) APPLICATION TO ASSETS LOCATED IN POS-
4 SESSIONS OF THE UNITED STATES.—In the case of
5 any specified tangible property located in a posses-
6 sion of the United States, paragraph (2)(A) and
7 subsection (d) shall be applied by substituting ‘10
8 percent’ for ‘5 percent’ in paragraph (2)(A).”.

9 (e) INCLUSION OF FOREIGN OIL AND GAS EXTRAC-
10 TION INCOME IN DETERMINING TESTED INCOME AND
11 LOSS.—Section 951A(c)(2)(A)(i) is amended by inserting
12 “and” at the end of subclause (III), by striking “and”
13 at the end of subclause (IV) and inserting “over”, and
14 by striking subclause (V).

15 (f) COORDINATION WITH OTHER PROVISIONS.—Sec-
16 tion 951A(f)(1) is amended by adding at the end the fol-
17 lowing new subparagraph:

18 “(C) TREATMENT OF CERTAIN REF-
19 ERENCES.—Except as otherwise provided by the
20 Secretary, references to section 951 or section
21 951(a) in sections 959, 961, 962, and such
22 other provisions as the Secretary may identify
23 shall include references to section 951A or sec-
24 tion 951A(a), respectively.”.

25 (g) EFFECTIVE DATE.—

1 (1) IN GENERAL.—Except as otherwise pro-
2 vided in this subsection, the amendments made by
3 this section shall apply to taxable years of foreign
4 corporations beginning after December 31, 2022,
5 and to taxable years of United States shareholders
6 in which or with which such taxable years of foreign
7 corporations end.

8 (2) REGULATORY AUTHORITY AND COORDINA-
9 TION WITH OTHER PROVISIONS.—The amendments
10 made by subsections (b) and (f) shall apply to tax-
11 able years of foreign corporations beginning after
12 the date of the enactment of this Act, and to taxable
13 years of United States shareholders in which or with
14 which such taxable years of foreign corporations
15 end.

16 (h) NO INFERENCE REGARDING CERTAIN MODIFICA-
17 TIONS.—The amendments made by subsections (b) and (f)
18 shall not be construed to create any inference with respect
19 to the proper application of any provision of the Internal
20 Revenue Code of 1986 with respect to any taxable year
21 beginning before the taxable years to which such amend-
22 ments apply.

1 **SEC. 128127. MODIFICATIONS TO DETERMINATION OF**
2 **DEEMED PAID CREDIT FOR TAXES PROPERLY**
3 **ATTRIBUTABLE TO TESTED INCOME.**

4 (a) INCREASE IN DEEMED PAID CREDIT.—

5 (1) IN GENERAL.—Section 960(d)(1) is amend-
6 ed by striking “80 percent” and inserting “95 per-
7 cent (100 percent in the case of tested foreign in-
8 come taxes paid or accrued to a possession of the
9 United States)”.

10 (2) CONFORMING AMENDMENT.—Section 78 is
11 amended by striking “(determined without regard to
12 the phrase ‘80 percent of’ in subsection (d)(1) there-
13 of)” and inserting “(determined by substituting ‘100
14 percent’ for ‘95 percent’ in subsection (d)(1) there-
15 of)”.

16 (b) INCLUSION OF TAXES PROPERLY ATTRIBUTABLE
17 TO TESTED LOSS.—

18 (1) IN GENERAL.—Section 960(d)(3) is amend-
19 ed to read as follows:

20 “(3) TESTED FOREIGN INCOME TAXES.—For
21 purposes of paragraph (1), the term ‘tested foreign
22 income taxes’ means, with respect to any domestic
23 corporation which is a United States shareholder of
24 a controlled foreign corporation—

25 “(A) the foreign income taxes paid or ac-
26 crued by such foreign corporation which are

1 properly attributable to the tested income or
2 tested loss of such foreign corporation taken
3 into account by such domestic corporation
4 under section 951A, and

5 “(B) solely to the extent provided in regu-
6 lations prescribed by the Secretary, the foreign
7 income taxes (as so defined) paid or accrued by
8 a foreign corporation (other than a controlled
9 foreign corporation) which owns, directly or in-
10 directly, 80 percent or more (by vote or value)
11 of the stock in such domestic corporation but
12 only if—

13 “(i) such foreign income taxes are
14 properly attributable to amounts of such
15 controlled foreign corporation taken into
16 account in determining tested income or
17 tested loss under section 951A(e)(2), and

18 “(ii) no credit is allowed, in whole or
19 in part, for such foreign taxes in any for-
20 eign jurisdiction.”.

21 (2) CONFORMING AMENDMENT.—Section
22 960(d)(2)(B) is amended by striking “the aggregate
23 amount described in section 951A(c)(1)(A)” and in-
24 serting “the net CFC tested income (as defined in
25 section 951A(c)(1))”.

1 (c) APPLICATION OF FOREIGN TAX CREDIT LIMITA-
2 TION TO AMOUNTS INCLUDED UNDER SECTION 78.—

3 (1) Section 904(d)(2), as amended by the pre-
4 ceding provisions of this Act, is amended by insert-
5 ing after subparagraph (I) the following new sub-
6 paragraph:

7 “(L) AMOUNTS INCLUDIBLE UNDER SEC-
8 TION 78.—Any amount includible in gross in-
9 come under section 78 shall be treated as in-
10 come in the same separate category as the re-
11 lated foreign taxes deemed paid.”.

12 (2) Section 904(d)(3)(G) is amended by strik-
13 ing the second sentence and inserting the following:
14 “Any amount included in gross income under section
15 78 shall not be treated as a dividend.”.

16 (d) DISALLOWANCE OF FOREIGN TAX CREDIT WITH
17 RESPECT TO DISTRIBUTIONS OF PREVIOUSLY TAXED
18 GLOBAL INTANGIBLE LOW-TAXED INCOME.—Section
19 960(d) is amended by adding at the end the following new
20 paragraph:

21 “(4) DISALLOWANCE OF FOREIGN TAX CREDIT
22 WITH RESPECT TO DISTRIBUTIONS OF PREVIOUSLY
23 TAXED GLOBAL INTANGIBLE LOW-TAXED INCOME.—
24 No credit shall be allowed under section 901 for 20
25 percent of any foreign income taxes paid or accrued

1 (or deemed paid under section 960(b)(1)) with re-
2 spect to any amount excluded from gross income
3 under section 959(a) by reason of an inclusion in
4 gross income under section 951A(a).”.

5 (e) MODIFICATION OF DISALLOWANCE OF FOREIGN
6 TAX CREDIT WITH RESPECT TO DISTRIBUTIONS OF PRE-
7 VIOUSLY TAXED GLOBAL INTANGIBLE LOW-TAXED IN-
8 COME.—Section 960(d)(4), as added by subsection (d), is
9 amended—

10 (1) by striking “20 percent” and inserting “5
11 percent”, and

12 (2) by adding at the end the following new sen-
13 tence: “The preceding sentence shall not apply with
14 respect to foreign income taxes paid or accrued to a
15 possession of the United States.”.

16 (f) EFFECTIVE DATES.—

17 (1) IN GENERAL.—Except as otherwise pro-
18 vided in this subsection, the amendments made by
19 this section shall apply to taxable years of foreign
20 corporations beginning after December 31, 2022,
21 and to taxable years of United States shareholders
22 in which or with which such taxable years of foreign
23 corporations end.

24 (2) SUBSECTIONS (c) AND (d).—The amend-
25 ments made by subsections (c) and (d) shall apply

1 to taxable years of foreign corporations beginning
2 after the date of the enactment of this Act, and to
3 taxable years of United States shareholders in which
4 or with which such taxable years of foreign corpora-
5 tions end.

6 (g) NO INFERENCE REGARDING CERTAIN MODIFICA-
7 TIONS.—The amendments made by subsections (c) and
8 (d) shall not be construed to create any inference with re-
9 spect to the proper application of any provision of the In-
10 ternal Revenue Code of 1986 with respect to any taxable
11 year beginning before the taxable years to which such
12 amendments apply.

13 **SEC. 128128. MODIFICATIONS RELATED TO DEDUCTION**
14 **FOR FOREIGN-SOURCE PORTION OF DIVI-**
15 **DENDS AND CONTROLLED FOREIGN COR-**
16 **PORATIONS STATUS.**

17 (a) IN GENERAL.—

18 (1) DEDUCTION.—Section 245A(a) is amend-
19 ed—

20 (A) by striking “In the case” and inserting
21 the following:

22 “(1) DEDUCTION ALLOWED.—In the case”,

23 (B) by inserting “the applicable percentage
24 of” after “equal to”, and

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

3 “(2) APPLICABLE PERCENTAGE.—For purposes
4 of paragraph (1), the applicable percentage is—

5 “(A) in the case of any specified 10-per-
6 cent owned foreign corporation which is a con-
7 trolled foreign corporation, 100 percent, and

8 “(B) in the case of any specified 10-per-
9 cent owned foreign corporation which is not a
10 controlled foreign corporation, the percentage
11 applicable under section 243(a)(1) with respect
12 to a 20-percent owned corporation (as defined
13 in section 243(c)(2)).”.

14 (2) FOREIGN TAX CREDIT.—Section 245A(d)(1)
15 is amended by inserting “the applicable percentage
16 (as defined in subsection (a)(2)) of” before “any
17 taxes”.

18 (3) TREATMENT OF CERTAIN DIVIDENDS RE-
19 CEIVED BY CONTROLLED FOREIGN CORPORATIONS
20 FROM SPECIFIED 10-PERCENT OWNED FOREIGN COR-
21 PORATIONS.—Section 245A is amended by redesign-
22 ating subsection (g) as subsection (h) and by in-
23 serting after subsection (f) the following new sub-
24 section:

1 “(g) APPLICATION TO CERTAIN DIVIDENDS RE-
2 CEIVED BY CONTROLLED FOREIGN CORPORATIONS FROM
3 SPECIFIED 10-PERCENT OWNED FOREIGN CORPORA-
4 TIONS.—Except as otherwise provided by the Secretary in
5 regulations or other guidance, if a controlled foreign cor-
6 poration with respect to which a domestic corporation is
7 a United States shareholder receives a dividend (other
8 than a hybrid dividend) from a specified 10-percent owned
9 foreign corporation with respect to which such domestic
10 corporation is also a United States shareholder, the
11 amount includible in the gross income of such United
12 States shareholder under section 951(a)(1)(A) by reason
13 of the foreign-source portion of such dividend shall be
14 treated for purposes of this section in the same manner
15 as if such amount were the foreign-source portion of a div-
16 idend received by such United States shareholder from
17 such specified 10-percent owned foreign corporation.”.

18 (b) MODIFICATIONS RELATED TO DETERMINATION
19 OF STATUS AS A CONTROLLED FOREIGN CORPORA-
20 TION.—

21 (1) Subpart F of part III of subchapter N of
22 chapter 1 is amended by inserting after section
23 951A the following new section:

1 **“SEC. 951B. AMOUNTS INCLUDED IN GROSS INCOME OF**
2 **FOREIGN CONTROLLED UNITED STATES**
3 **SHAREHOLDERS.**

4 “(a) IN GENERAL.—In the case of any foreign con-
5 trolled United States shareholder of a foreign controlled
6 foreign corporation—

7 “(1) this subpart (other than sections 951A,
8 951(b), and 957) shall be applied with respect to
9 such shareholder (separately from, and in addition
10 to, the application of this subpart without regard to
11 this section)—

12 “(A) by substituting ‘foreign controlled
13 United States shareholder’ for ‘United States
14 shareholder’ each place it appears therein, and

15 “(B) by substituting ‘foreign controlled
16 foreign corporation’ for ‘controlled foreign cor-
17 poration’ each place it appears therein, and

18 “(2) section 951A shall be applied with respect
19 to such shareholder —

20 “(A) by treating each reference to ‘United
21 States shareholder’ in such section as including
22 a reference to such shareholder, and

23 “(B) by treating each reference to ‘con-
24 trolled foreign corporation’ in such section as
25 including a reference to such foreign controlled
26 foreign corporation.

1 “(b) FOREIGN CONTROLLED UNITED STATES
2 SHAREHOLDER.—For purposes of this section, the term
3 ‘foreign controlled United States shareholder’ means, with
4 respect to any foreign corporation, any United States per-
5 son which would be a United States shareholder with re-
6 spect to such foreign corporation if—

7 “(1) section 951(b) were applied by substituting
8 ‘more than 50 percent’ for ‘10 percent or more’, and

9 “(2) section 958(b) were applied without regard
10 to paragraph (4) thereof.

11 “(c) FOREIGN CONTROLLED FOREIGN CORPORA-
12 TION.—For purposes of this section, the term ‘foreign con-
13 trolled foreign corporation’ means a foreign corporation,
14 other than a controlled foreign corporation, which would
15 be a controlled foreign corporation if section 957(a)(1)
16 were applied—

17 “(1) by substituting ‘foreign controlled United
18 States shareholders’ for ‘United States share-
19 holders’, and

20 “(2) by substituting ‘section 958(b) (other than
21 paragraph (4) thereof)’ for ‘section 958(b)’.

22 “(d) REGULATIONS.—The Secretary shall prescribe
23 such regulations or other guidance as may be necessary
24 or appropriate to carry out the purposes of this section,
25 including regulations or other guidance—

1 “(1) to treat a foreign controlled United States
2 shareholder or a foreign controlled foreign corpora-
3 tion as a United States shareholder or as a con-
4 trolled foreign corporation, respectively, for purposes
5 of provisions of this title other than this subpart,
6 and

7 “(2) to prevent the avoidance of the purposes of
8 this section.”.

9 (2) Section 957(a) is amended to read as fol-
10 lows:

11 “(a) CONTROLLED FOREIGN CORPORATION.—For
12 purposes of this title—

13 “(1) IN GENERAL.—The term ‘controlled for-
14 eign corporation’ means any foreign corporation if
15 more than 50 percent of—

16 “(A) the total combined voting power of all
17 classes of stock of such corporation entitled to
18 vote, or

19 “(B) the total value of the stock of such
20 corporation,

21 is owned (within the meaning of section 958(a)), or
22 is considered as owned by applying the rules of own-
23 ership of section 958(b), by United States share-
24 holders on any day during the taxable year of such
25 foreign corporation.

1 “(2) ELECTION TO TREAT A FOREIGN COR-
2 PORATION AS A CONTROLLED FOREIGN CORPORA-
3 TION FOR CERTAIN PURPOSES.—

4 “(A) IN GENERAL.—In the case of a for-
5 eign corporation with respect to which an elec-
6 tion is in effect under this paragraph, such for-
7 eign corporation shall be treated as a controlled
8 foreign corporation for purposes of this title.

9 “(B) EXCEPTIONS.—Notwithstanding any
10 other provision of this paragraph, a foreign cor-
11 poration shall not be treated as a controlled for-
12 eign corporation by reason of this paragraph
13 for purposes of any provision of this title if the
14 Secretary determines that treatment of such
15 foreign corporation as a controlled foreign cor-
16 poration for purposes of such provision would
17 be inconsistent with the purposes of this sub-
18 chapter.

19 “(C) ELECTION.—

20 “(i) BY WHOM.—An election under
21 subparagraph (A) shall be effective only if
22 made by the foreign corporation and by all
23 United States shareholders of such foreign
24 corporation. For purposes of the preceding
25 sentence, the determination of whether any

1 person is a United States shareholder shall
2 be determined—

3 “(I) as of the time of such elec-
4 tion by such foreign corporation, and

5 “(II) except as otherwise pro-
6 vided by the Secretary, without regard
7 to section 958(b).

8 “(ii) WITH RESPECT TO WHOM.—Any
9 election under this paragraph, once effec-
10 tive, shall apply to such foreign corporation
11 and to all United States shareholders of
12 such foreign corporation (including any
13 person who becomes a United States
14 shareholder of such foreign corporation
15 after such election takes effect).

16 “(iii) TIME, MANNER, ETC.—The elec-
17 tion under this paragraph shall be made at
18 such time and in such manner as the Sec-
19 retary may provide and, once effective,
20 may be revoked only with the consent of
21 the Secretary.

22 “(D) REGULATIONS.—The Secretary shall
23 issue such regulations or other guidance as may
24 be necessary or appropriate to carry out the
25 purposes of this paragraph, including regula-

1 tions or other guidance for the application of
2 this paragraph to an acquisition described in
3 section 381(a) with respect to any corporation
4 to which an election under this paragraph ap-
5 plies.”.

6 (3) Section 958(b) is amended—

7 (A) by inserting after paragraph (3) the
8 following:

9 “(4) Subparagraphs (A), (B), and (C) of sec-
10 tion 318(a)(3) shall not be applied so as to consider
11 a United States person as owning stock which is
12 owned by a person who is not a United States per-
13 son.”, and

14 (B) by striking “Paragraph (1)” in the
15 last sentence and inserting “Paragraphs (1)
16 and (4)”.

17 (4) Section 959(b) is amended—

18 (A) by striking “the earnings and profits
19 of a controlled foreign corporation” and insert-
20 ing “the earnings and profits of a foreign cor-
21 poration”,

22 (B) by striking “another controlled foreign
23 corporation” and inserting “a controlled foreign
24 corporation”,

1 (C) by striking “such other controlled for-
2 eign corporation” and inserting “such con-
3 trolled foreign corporation”, and

4 (D) by striking “of such United States
5 shareholder in the controlled foreign corpora-
6 tion” and inserting “of such United States
7 shareholder in the foreign corporation”.

8 (5) The table of sections for subpart F of part
9 III of subchapter N of chapter 1 is amended by in-
10 sserting after the item relating to section 951A the
11 following new item:

“Sec. 951B. Amounts included in gross income of foreign controlled United
States shareholders.”.

12 (c) CERTAIN OTHER MODIFICATIONS.—

13 (1) Section 245A(e)(4) is amended by striking
14 “an amount received” and all that follows through
15 “for which the controlled foreign corporation re-
16 ceived a deduction” and inserting “any dividend re-
17 ceived from a controlled foreign corporation for
18 which such controlled foreign corporation received a
19 deduction”.

20 (2) Section 245A(h), as redesignated by sub-
21 section (a)(3), is amended to read as follows:

22 “(g) REGULATIONS.—The Secretary shall prescribe
23 such regulations or other guidance as may be necessary

1 or appropriate to carry out the purposes of this section,
2 including regulations or other guidance for—

3 “(1) the treatment of United States share-
4 holders owning stock of a specified 10-percent owned
5 foreign corporation through a partnership, and

6 “(2) the denial of all or a portion of the deduc-
7 tion under this section with respect to dividends re-
8 ceived from foreign corporations in situations in
9 which—

10 “(A) any portion of the dividend is out of
11 earnings and profits arising from transactions
12 with related parties which—

13 “(i) do not occur in the ordinary
14 course of a trade or business, and

15 “(ii) occur on or after January 1,
16 2018, and during a taxable year to which
17 section 951A did not apply, or

18 “(B) a transfer or issuance of stock on or
19 after January 1, 2018, results in a reduction in
20 a United States shareholder’s pro rata share of
21 a controlled foreign corporation’s subpart F in-
22 come or tested income (as defined in section
23 951A).”.

24 (d) EFFECTIVE DATES.—

1 (1) IN GENERAL.—Except as otherwise pro-
2 vided in this subsection, the amendments made by
3 this section shall apply to 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 taxable years of foreign corpora-
9 tions beginning after the date of the enactment of
10 this Act, and taxable years of United States persons
11 in which or with which such taxable years of foreign
12 corporations end.

13 (e) NO INFERENCE REGARDING CERTAIN MODIFICA-
14 TIONS.—The amendments made by subsections (a)(3),
15 (b)(1), (b)(3), (b)(5), and (c) shall not be construed to
16 create any inference with respect to the proper application
17 of any provision of the Internal Revenue Code of 1986
18 with respect to distributions made, or taxable years begin-
19 ning, respectively, before the distributions or taxable
20 years, respectively, to which such amendments apply.

21 **SEC. 128129. LIMITATION ON FOREIGN BASE COMPANY**
22 **SALES AND SERVICES INCOME.**

23 (a) FOREIGN BASE COMPANY SALES INCOME.—

24 (1) IN GENERAL.—Section 954(d)(2) is amend-
25 ed to read as follows:

1 “(2) LIMITATION AND REGULATORY AUTHOR-
2 ITY.—

3 “(A) IN GENERAL.—For purposes of this
4 subsection, the term ‘related person’ shall not
5 include any person unless such person is—

6 “(i) a taxable unit which is a tax resi-
7 dent of (or, in the case of a branch, is lo-
8 cated in) the United States, or

9 “(ii) is subject to tax under this chap-
10 ter by reason of such person’s activities in
11 the United States.

12 “(B) REGULATIONS.—The Secretary shall
13 issue such regulations or other guidance as may
14 be necessary or appropriate to carry out the
15 purposes of this subsection (and subsection (e)),
16 including—

17 “(i) regulations or other guidance pro-
18 viding for the proper application of sub-
19 paragraph (A) in the case of a transaction
20 (or series of transactions) in which a per-
21 son described in subparagraph (A) is a
22 party, and

23 “(ii) regulations or other guidance
24 providing that a pass-through entity or
25 branch held directly or indirectly by a con-

1 trolled foreign corporation (whether tax
2 resident or located inside or outside the
3 country in which the controlled foreign cor-
4 poration is a tax resident) shall be treated
5 as a wholly owned subsidiary of the con-
6 trolled foreign corporation.

7 “(C) CERTAIN TERMS.—Any term used in
8 this subsection or subsection (e) which is also
9 used in section 904(e) shall have the same
10 meaning as when used in such section.”.

11 (2) CONFORMING AMENDMENT.—Section
12 954(d)(1)(A) is amended by striking “under the
13 laws of which the controlled foreign corporation is
14 created or organized” and inserting “in which the
15 controlled foreign corporation is a tax resident”.

16 (b) FOREIGN BASE COMPANY SERVICES INCOME.—

17 (1) IN GENERAL.—Section 954(e)(1)(A) is
18 amended by striking “subsection (d)(3)” and insert-
19 ing “subsection (d)”.

20 (2) CONFORMING AMENDMENT.—Section
21 954(e)(1)(B) is amended by striking “under the
22 laws of which the controlled foreign corporation is
23 created or organized” and inserting “in which the
24 controlled foreign corporation is a tax resident”.

25 (c) CERTAIN OTHER MODIFICATIONS.—

1 (1) Section 78 is amended by striking “, (b),”.

2 (2)(A) Section 951(a) is amended to read as
3 follows:

4 “(a) AMOUNTS INCLUDED.—

5 “(1) IN GENERAL.—If a foreign corporation is
6 a controlled foreign corporation on any day during
7 a taxable year, every person who is a United States
8 shareholder of such corporation, and who owns
9 (within the meaning of section 958(a)) stock in such
10 corporation on any such day, shall include in such
11 shareholder’s gross income for such shareholder’s
12 taxable year in which or with which such taxable
13 year of such corporation ends—

14 “(A) his pro rata share (determined under
15 paragraph (2)) of the corporation’s subpart F
16 income for such year, and

17 “(B) if such shareholder owns (within the
18 meaning of section 958(a)) stock of such for-
19 eign corporation as of the close of the last rel-
20 evant day of such foreign corporation’s taxable
21 year, the amount determined under section 956
22 with respect to such shareholder for such year
23 (but only to the extent not excluded from gross
24 income under section 959(a)(2)).

1 “(2) PRO RATA SHARE OF SUBPART F IN-
2 COME.—In the case of any United States share-
3 holder with respect to a foreign corporation, the pro
4 rata share referred to in paragraph (1)(A) is the
5 sum of—

6 “(A) if such shareholder owns (within the
7 meaning of section 958(a)) stock of such for-
8 eign corporation as of the close of the last rel-
9 evant day of such foreign corporation’s taxable
10 year, such shareholder’s general pro rata share
11 determined under paragraph (3), plus

12 “(B) if such shareholder owns (within the
13 meaning of section 958(a)) stock of such for-
14 eign corporation during such taxable year but
15 does not own (within the meaning of section
16 958(a)) such stock as of the close of such last
17 relevant day, such shareholder’s nontaxed cur-
18 rent dividend share determined under para-
19 graph (4).

20 “(3) GENERAL PRO RATA SHARE.—

21 “(A) IN GENERAL.—In the case of any
22 United States shareholder with respect to a for-
23 eign corporation, the general pro rata share de-
24 termined under this paragraph is the excess (if
25 any) of—

1 “(i) the pro rata current earnings per-
2 centage of the amount which bears the
3 same ratio to such corporation’s subpart F
4 income for the taxable year (reduced by
5 the aggregate nontaxed current dividend
6 shares determined under paragraph (4)
7 with respect to such shareholder or any
8 other United States shareholder) as the
9 part of such year during which such cor-
10 poration is a controlled foreign corporation
11 bears to the entire year, over

12 “(ii) the lesser of—

13 “(I) the amount of any pre-hold-
14 ing period dividends with respect to
15 stock of such foreign corporation
16 which such shareholder owns (within
17 the meaning of section 958(a)) as of
18 the close of the last relevant day of
19 such foreign corporation’s taxable
20 year, or

21 “(II) the amount which bears the
22 same ratio to the subpart F income of
23 such corporation for the taxable year
24 (reduced by the aggregate nontaxed
25 current dividend shares determined

1 under paragraph (4) with respect to
2 such shareholder or any other United
3 States shareholder) as the part of
4 such year during which such share-
5 holder did not own (within the mean-
6 ing of section 958(a)) such stock
7 bears to the entire year.

8 “(B) PRO RATA CURRENT EARNINGS PER-
9 CENTAGE.—For purposes of subparagraph
10 (A)(i), the term ‘pro rata current earnings per-
11 centage’ means, in the case of any United
12 States shareholder with respect to a foreign cor-
13 poration for any taxable year of such foreign
14 corporation, the ratio (expressed as a percent-
15 age) of—

16 “(i) the amount which would have
17 been distributed with respect to the stock
18 which such shareholder owns (within the
19 meaning of section 958(a)) in such cor-
20 poration if on the last relevant day of such
21 taxable year it had distributed its earnings
22 and profits for such taxable year (com-
23 puted as of the close of such taxable year
24 without diminution by reason of any dis-

1 tributions made during such taxable year),
2 divided by

3 “(ii) such corporation’s earnings and
4 profits for such taxable year (as so com-
5 puted).

6 “(C) PRE-HOLDING PERIOD DIVIDENDS.—

7 For purposes of subparagraph (A)(ii)(I), the
8 term ‘pre-holding period dividends’ means, in
9 the case of any United States shareholder with
10 respect to a foreign corporation for any taxable
11 year of such foreign corporation, dividends
12 which are—

13 “(i) made out of such corporation’s
14 earnings and profits for the taxable year
15 (other than nontaxed current dividends as
16 defined in paragraph (4)(C)), and

17 “(ii) received—

18 “(I) by any other United States
19 person with respect to stock of such
20 foreign corporation which such share-
21 holder owns (within the meaning of
22 section 958(a)) as of the close of the
23 last relevant day of such foreign cor-
24 poration’s taxable year, and

1 “(II) while such foreign corpora-
2 tion was a controlled foreign corpora-
3 tion and before such shareholder
4 owned (within the meaning of section
5 958(a)) such stock.

6 “(4) NONTAXED CURRENT DIVIDEND SHARE.—

7 “(A) IN GENERAL.—In the case of any
8 United States shareholder with respect to a for-
9 eign corporation, the nontaxed current dividend
10 share determined under this paragraph is the
11 nontaxed current dividend percentage of the
12 subpart F income of such foreign corporation
13 for the taxable year.

14 “(B) NONTAXED CURRENT DIVIDEND PER-
15 CENTAGE.—For purposes of this paragraph, the
16 term ‘nontaxed current dividend percentage’
17 means, in the case of any United States share-
18 holder with respect to a foreign corporation for
19 any taxable year of such foreign corporation,
20 the ratio (expressed as a percentage) of—

21 “(i) the amount of nontaxed current
22 dividends with respect to such taxable year
23 received with respect to the stock of such
24 foreign corporation which such shareholder
25 owns (within the meaning of section

1 958(a)) at the time of the dividend on a
2 day in which such corporation is a con-
3 trolled foreign corporation, divided by

4 “ (ii) such foreign corporation’s earn-
5 ings and profits for such taxable year
6 (computed as of the close of such taxable
7 year without diminution by reason of any
8 distributions made during such taxable
9 year).

10 “(C) NONTAXED CURRENT DIVIDENDS.—

11 For purposes of this paragraph, the term
12 ‘nontaxed current dividends’ means the portion
13 of any amount received with respect to stock to
14 the extent such amount (without regard to
15 amounts included in the gross income of a
16 United States shareholder for the taxable year
17 by reason of this subpart)—

18 “(i) would result in a dividend out of
19 the corporation’s earnings and profits for
20 the taxable year (including a dividend
21 under section 1248 attributable to earn-
22 ings and profits for the taxable year), and

23 “(ii) either—

24 “(I) would give rise to a deduc-
25 tion under section 245A(a), or

1 “(II) in the case of a dividend
2 paid directly or indirectly to a con-
3 trolled foreign corporation with re-
4 spect to stock owned by the share-
5 holder within the meaning of section
6 958(a)(2), would not result in subpart
7 F income with respect to such con-
8 trolled foreign corporation by reason
9 of subsection (b)(4), (c)(3), or (c)(6)
10 of section 954.

11 “(5) LAST RELEVANT DAY OF TAXABLE YEAR
12 OF A CONTROLLED FOREIGN CORPORATION.—For
13 purposes of this subsection, the term ‘last relevant
14 day’ means, with respect to any taxable year of a
15 foreign corporation, the last day of such taxable year
16 on which such corporation is a controlled foreign
17 corporation.

18 “(6) REGULATIONS.—The Secretary shall pre-
19 scribe such regulations or other guidance as may be
20 necessary or appropriate to carry out the purposes
21 of this subsection, including regulations or other
22 guidance—

23 “(A) to treat a partnership as an aggre-
24 gate of its partners,

1 “(B) to provide rules allowing a foreign
2 corporation to close its taxable year upon a
3 change in ownership, and

4 “(C) to treat a distribution followed by an
5 issuance of stock to a shareholder not subject
6 to tax under this chapter in the same manner
7 as an acquisition of stock.”.

8 (B) Section 951A(a) is amended to read as fol-
9 lows:

10 “(a) IN GENERAL.—If a foreign corporation is a con-
11 trolled foreign corporation on any day during a taxable
12 year, every person who is a United States shareholder of
13 such corporation, and who owns (within the meaning of
14 section 958(a)) stock in such corporation on any such day,
15 shall include in such shareholder’s gross income for such
16 shareholder’s taxable year in which or with which such
17 taxable year of such corporation ends, such shareholder’s
18 global intangible low-taxed income for such taxable year.”.

19 (C) Section 951A(e) is amended to read as fol-
20 lows:

21 “(e) DETERMINATION OF PRO RATA SHARES.—For
22 purposes of this section, the pro rata shares referred to
23 in subsections (b), (c)(1)(A), and (c)(1)(B), respectively,
24 shall be determined under rules similar to the rules of sec-
25 tion 951(a)(2) and shall be taken into account in the tax-

1 able year of the United States shareholder in which or
2 with which the taxable year of the controlled foreign cor-
3 poration ends.”.

4 (D) Section 953(c)(5)(A)(i) is amended—

5 (i) in subclause (I), by adding “and” at
6 the end,

7 (ii) in subclause (II)—

8 (I) by striking “on the last day of the
9 taxable year” and inserting “during the
10 taxable year”, and

11 (II) by striking “and” at the end and
12 inserting “or”, and

13 (iii) by striking subclause (III).

14 (3) Section 959 is amended by adding at the
15 end the following:

16 “(g) REGULATIONS.—The Secretary shall issue such
17 regulations or other guidance as may be necessary or ap-
18 propriate to carry out the purposes of this section.”.

19 (4) Section 961(b)(1) is amended by inserting
20 after the first sentence the following: “The Secretary
21 shall prescribe such other reductions to basis as are
22 necessary or appropriate to carry out the purposes
23 of this section.”.

24 (5) Section 961(c) is amended—

1 (A) by striking “BASIS ADJUSTMENTS IN”
2 in the heading of such subsection and inserting
3 “APPLICATION OF RULES TO”, and
4 (B) by striking “then adjustments similar
5 to” and all that follows in such subsection and
6 inserting “then rules similar to the rules of sub-
7 sections (a) 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 for purposes of determining the amount included under
17 section 951 in the gross income of such United States
18 shareholder (or any other United States shareholder who
19 acquires from any person any portion of the interest of
20 such United States shareholder by reason of which such
21 shareholder was treated as owning such stock, but only
22 to the extent of such portion, and subject to such proof
23 of identity of such interest as the Secretary may prescribe
24 by regulations) and for purposes otherwise prescribed by
25 the Secretary. The preceding sentence shall not apply with

1 respect to any stock or property to which subsection (a)
2 or (b) applies.”.

3 (d) 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 (e) NO INFERENCE REGARDING CERTAIN MODIFICA-
9 TIONS.—The amendments made by paragraphs (1) and
10 (2) of subsection (c) shall not be construed to create any
11 inference with respect to the proper application of any pro-
12 vision of the Internal Revenue Code of 1986 with respect
13 to any taxable year beginning before the taxable years to
14 which such amendments apply.

15 (f) TRANSITION RULE WITH RESPECT TO CERTAIN
16 REFERENCES.—In the case of any taxable year of a for-
17 eign corporation beginning before January 1, 2023 (and
18 any taxable year of a United States shareholder in which
19 or with which such taxable year of a foreign corporation
20 ends), the reference to section 904(e) of the Internal Rev-
21 enue Code of 1986 in section 954(d)(2)(C) of such Code
22 (as amended by this section) shall be treated in the same
23 manner as if such section 904(e) applied to such taxable
24 year.

1 **Subpart D—Inbound International Provisions**

2 **SEC. 128131. MODIFICATIONS TO BASE EROSION AND ANTI-**
3 **ABUSE TAX.**

4 (a) MODIFICATIONS TO BASE EROSION MINIMUM
5 TAX AMOUNT.—

6 (1) MODIFICATION OF RATES.—Section
7 59A(b)(1)(A) is amended by striking “10 percent (5
8 percent in the case of taxable years beginning in cal-
9 endar year 2018)” and inserting “the applicable per-
10 centage”.

11 (2) BASE EROSION MINIMUM TAX AMOUNT DE-
12 TERMINED WITHOUT REGARD TO CREDITS.—Section
13 59A(b)(1)(B) is amended to read as follows:

14 “(B) an amount equal to the regular tax li-
15 ability (as defined in section 26(b)) of the tax-
16 payer for the taxable year.”.

17 (3) APPLICABLE PERCENTAGE.—Section
18 59A(b)(2) is amended to read as follows:

19 “(2) APPLICABLE PERCENTAGE.—For purposes
20 of this section, the term ‘applicable percentage’
21 means—

22 “(A) in the case of any taxable year begin-
23 ning after December 31, 2021, and before Jan-
24 uary 1, 2023, 10 percent,

1 “(B) in the case of any taxable year begin-
2 ning after December 31, 2022, and before Jan-
3 uary 1, 2024, 12.5 percent,

4 “(C) in the case of any taxable year begin-
5 ning after December 31, 2023, and before Jan-
6 uary 1, 2025, 15 percent, and

7 “(D) in the case of any taxable year begin-
8 ning after December 31, 2024, 18 percent.”.

9 (4) TAXPAYERS SUBJECT TO RULES FOR BANKS
10 AND SECURITIES DEALERS.—Section 59A(b)(3)(B)
11 is amended to read as follows:

12 “(B) TAXPAYER DESCRIBED.—A taxpayer
13 is described in this subparagraph if such tax-
14 payer is—

15 “(i) a bank (as defined in section
16 585(a)(2)),

17 “(ii) a securities dealer registered
18 under section 15(a) of the Securities Ex-
19 change Act of 1934, or

20 “(iii) a member of an affiliated group
21 (as defined in section 1504(a)(1), deter-
22 mined without regard to section
23 1504(b)(3)) which includes any person de-
24 scribed in clause (i) or (ii).”.

1 (5) TERMINATION OF INCREASED RATE FOR
2 BANKS AND SECURITIES DEALERS.—Section
3 59A(b)(3) is amended by adding at the end the fol-
4 lowing new subparagraph:

5 “(C) TERMINATION.—Subparagraph (A)
6 shall not apply to any taxable year beginning
7 after December 31, 2024.”.

8 (6) GENERAL BUSINESS CREDIT ALLOWED
9 AGAINST BASE EROSION AND ANTI-ABUSE TAX.—
10 Section 38(c)(1) is amended by striking “the tax im-
11 posed by section 55” and inserting “the taxes im-
12 posed by sections 55 and 59A”.

13 (7) CONFORMING AMENDMENTS.—

14 (A) Section 59A(b)(3)(A) is amended by
15 striking “paragraphs (1)(A) and (2)(A) shall
16 each” and inserting “paragraph (2) shall”.

17 (B) Section 59A(b) is amended by striking
18 paragraph (4).

19 (b) MODIFICATION OF RULES FOR DETERMINING
20 MODIFIED TAXABLE INCOME.—

21 (1) IN GENERAL.—Section 59A(c) is amended
22 to read as follows:

23 “(c) MODIFIED TAXABLE INCOME.—For purposes of
24 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 PAYMENTS.—Taxable
6 income shall be determined without regard to
7 any base erosion tax benefit, including for pur-
8 poses of determining the adjusted basis of prop-
9 erty described in subsection (d)(2).

10 “(B) NET OPERATING LOSSES.—The net
11 operating loss deduction for the taxable year
12 under section 172 shall be determined—

13 “(i) by substituting ‘modified taxable
14 income (as determined under section
15 59A(c)(1) without regard to subparagraph
16 (C) thereof)’ for ‘taxable income’ in section
17 172(a)(2)(B)(ii)(I),

18 “(ii) by determining any net operating
19 loss arising in any taxable year beginning
20 after December 31, 2021, without regard
21 to any base erosion tax benefit (determined
22 with respect to each such taxable year),
23 and

24 “(iii) by making appropriate adjust-
25 ments in the application of section

1 miums and other consideration on insur-
2 ance and annuity contracts for premiums
3 and other consideration arising out of in-
4 demnity insurance, and

5 “(ii) any deduction under section
6 832(b)(4)(A) from the amount of gross
7 premiums written on insurance contracts
8 during the taxable year for premiums paid
9 for reinsurance,

10 “(D) in the case of a base erosion payment
11 described in subsection (d)(4), any reduction in
12 gross receipts with respect to such payment in
13 computing gross income of the taxpayer for the
14 taxable year for purposes of this chapter, and

15 “(E) in the case of a base erosion payment
16 described in subsection (d)(5), any reduction in
17 gross receipts allowed under this chapter for
18 the taxable year for cost of goods sold with re-
19 spect to the amount of such payment included
20 in inventory costs.”.

21 (2) CERTAIN PAYMENTS WITH RESPECT TO
22 PROPERTY PRODUCED BY THE TAXPAYER.—Section
23 59A(d)(2) is amended to read as follows:

24 “(2) TREATMENT OF CERTAIN RELATED-PARTY
25 PAYMENTS WITH RESPECT TO DEPRECIABLE PROP-

1 ERTY.—Such term shall also include any amount
2 paid or accrued by the taxpayer to a foreign person
3 which is a related party of the taxpayer in connec-
4 tion with—

5 “(A) the acquisition by the taxpayer from
6 such person of property of a character subject
7 to the allowance for depreciation (or amortiza-
8 tion in lieu of depreciation), or

9 “(B) property produced by the taxpayer
10 that is of a character subject to the allowance
11 for depreciation (or amortization in lieu of de-
12 preciation) if such amount is required to be
13 capitalized under section 263A, including pay-
14 ments in respect of indebtedness or services.”.

15 (3) CERTAIN PAYMENTS WITH RESPECT TO IN-
16 VENTORY TREATED AS BASE EROSION PAYMENTS.—
17 Section 59A(d) is amended by redesignating para-
18 graph (5) as paragraph (6) and by inserting after
19 paragraph (4) the following new paragraph:

20 “(5) CERTAIN PAYMENTS WITH RESPECT TO IN-
21 VENTORY.—

22 “(A) INDIRECT COSTS INCLUDED IN IN-
23 VENTORY UNDER SECTION 263A.—Such term
24 shall also include any amount paid or incurred
25 by the taxpayer to a foreign person which is a

1 related party of the taxpayer if such amount is
2 described in paragraph (2)(B) of section
3 263A(a) and required to be included in inven-
4 tory costs of the taxpayer under paragraph
5 (1)(A) of such section. Such term shall also in-
6 clude any amount paid or incurred by the tax-
7 payer to a foreign person which is a related
8 party of the taxpayer if such amount is capital-
9 ized to the basis of property that is of a char-
10 acter subject to the allowance for depreciation
11 (or amortization in lieu of depreciation), and
12 the depreciation (or amortization in lieu of de-
13 preciation) is required to be included in inven-
14 tory costs of the taxpayer under section
15 263A(a)(1)(A).

16 “(B) CERTAIN COSTS OF FOREIGN RE-
17 LATED PARTIES.—Such term shall also include
18 so much of any amount which is paid or in-
19 curred by the taxpayer to a foreign person
20 which is a related party of the taxpayer, is de-
21 scribed in paragraph (2)(A) of section 263A(a),
22 and is required to be included in inventory costs
23 of the taxpayer under paragraph (1)(A) of such
24 section, as exceeds the sum 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 incurred 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 chapter.

15 “(C) APPLICATION TO RELATED-PARTY
16 TRANSACTIONS.—In the case of direct costs
17 otherwise described in clause (i) of subpara-
18 graph (B) which are paid or incurred by the
19 foreign person referred to in such clause to an-
20 other foreign person which is a related party of
21 the taxpayer, such costs shall be taken into ac-
22 count under such clause only to the extent that
23 the taxpayer demonstrates to the satisfaction of
24 the Secretary that such costs are attributable to
25 amounts—

1 “(i) paid or incurred (directly or indi-
2 rectly) to a United States person or a per-
3 son which is not a related party of the tax-
4 payer, or

5 “(ii) otherwise subject to the tax im-
6 posed by this chapter.

7 “(D) SAFE HARBOR WITH RESPECT TO IN-
8 DIRECT COSTS OF FOREIGN RELATED PAR-
9 TIES.—In the case of a taxpayer which elects
10 the application of this subparagraph (at such
11 time, in such manner, and with respect to such
12 inventory property, as the Secretary may pro-
13 vide), the amount described in subparagraph
14 (B)(ii) with respect to such property shall be
15 treated for purposes of this section as being
16 equal to 20 percent of the amount paid or in-
17 curred by the taxpayer to the related party of
18 the taxpayer in connection with the acquisition
19 of such property.

20 “(E) APPLICATION OF CERTAIN RULES.—
21 Rules similar to the rules of subparagraphs (B)
22 and (C) of subsection (i)(1) shall apply for pur-
23 poses of determining whether any amount is
24 treated as subject to the tax imposed by this

1 chapter for purposes of subparagraph (B) or
2 (C) of this paragraph.”.

3 (4) EXPANSION AND CONSOLIDATION OF RULES
4 TO EXEMPT CERTAIN PAYMENTS FROM TREATMENT
5 AS BASE EROSION PAYMENTS.—

6 (A) IN GENERAL.—Section 59A is amend-
7 ed by redesignating subsection (i) as subsection
8 (j) and by inserting after subsection (h) the fol-
9 lowing new subsection:

10 “(i) CERTAIN PAYMENT NOT TREATED AS BASE
11 EROSION PAYMENTS.—

12 “(1) EXCEPTION FOR PAYMENTS ON WHICH
13 TAX IS IMPOSED.—

14 “(A) IN GENERAL.—An amount shall not
15 be treated as a base erosion payment if tax is
16 (or was at the time of payment or accrual) im-
17 posed by this chapter with respect to such
18 amount (other than by this section).

19 “(B) TREATMENT OF CERTAIN DEDUC-
20 TIONS.—For purposes of subparagraph (A), tax
21 shall be treated as imposed by this chapter
22 without regard to any deduction allowed under
23 part VIII of subchapter B.

24 “(C) APPLICATION OF CERTAIN RULES.—
25 The amount not treated as a base erosion pay-

1 ment by reason of this paragraph shall be de-
2 termined under rules similar to the rules of sec-
3 tion 163(j)(5) (as in effect before the date of
4 the enactment of Public Law 115-97).

5 “(2) EXCEPTION FOR CERTAIN PAYMENTS SUB-
6 JECT TO SUFFICIENT FOREIGN TAX.—

7 “(A) IN GENERAL.—An amount shall not
8 be treated as a base erosion payment if the tax-
9 payer establishes to the satisfaction of the Sec-
10 retary that such amount was made to a foreign
11 person which is a related party of the taxpayer
12 that is subject to an effective rate of foreign in-
13 come tax (as defined in section 904(d)(2)(F))
14 which is not less than the lesser of—

15 “(i) 15 percent, or

16 “(ii) the applicable percentage in ef-
17 fect under subsection (b)(2) (determined
18 without regard to subsection (b)(3)) for
19 the taxable year in which such amount is
20 paid or accrued.

21 “(B) CERTAIN PAYMENTS TO RELATED
22 PARTIES.—To the extent provided by the Sec-
23 retary in regulations, an amount paid to a for-
24 eign person which is a related party of the tax-
25 payer shall be treated as paid to another for-

1 eign person which is a related party of the tax-
2 payer if such second foreign person is subject to
3 an effective rate of foreign income tax (as de-
4 fined in section 904(d)(2)(F)) which is less
5 than the lesser of 15 percent or the percentage
6 described in subparagraph (A)(ii), to the extent
7 the amount so paid directly or indirectly funds
8 a payment to such second foreign person.

9 “(C) DETERMINATION ON BASIS OF APPLI-
10 CABLE FINANCIAL STATEMENTS.—Except as
11 otherwise provided by the Secretary under sub-
12 paragraph (D), the effective rate of foreign in-
13 come tax with respect to any amount may be
14 established on the basis of applicable financial
15 statements (as defined in section 451(b)(3)).

16 “(D) REGULATIONS.—The Secretary shall
17 issue such regulations or other guidance as may
18 be necessary or appropriate to carry out the
19 purposes of this paragraph, including regula-
20 tions or other guidance providing procedures for
21 determining the effective rate of foreign income
22 tax to which any amount is subject. Such proce-
23 dures may require that any transaction or se-
24 ries of transactions among multiple parties be
25 recharacterized as one or more transactions di-

1 rectly among any 2 or more of such parties
2 where the Secretary determines that such re-
3 characterization is appropriate to carry out, or
4 prevent avoidance of, the purposes of this sec-
5 tion.

6 “(3) EXCEPTION FOR CERTAIN AMOUNTS WITH
7 RESPECT TO SERVICES.—Subsections (d)(1),
8 (d)(2)(B), and (d)(5)(A) shall not apply to so much
9 of any amount paid or accrued by a taxpayer for
10 services as does not exceed the total services cost of
11 such services. The preceding sentence shall not apply
12 unless such services meet the requirements for eligi-
13 bility for use of the services cost method under sec-
14 tion 482 (determined without regard to the require-
15 ment that the services not contribute significantly to
16 fundamental risks of business success or failure).”.

17 (B) CONFORMING AMENDMENT.—Section
18 59A(d), as amended by paragraph (2), is
19 amended by striking paragraph (6).

20 (c) TERMINATION OF EXEMPTION FROM BASE ERO-
21 SION AND ANTI-ABUSE TAX FOR TAXPAYERS WITH LOW
22 BASE EROSION PERCENTAGE.—Section 59A(e)(1) is
23 amended—

24 (1) by striking “the base erosion percentage (as
25 determined under subsection (c)(4))” in subpara-

1 graph (C) and inserting “in the case of any taxable
2 year beginning before January 1, 2024, the base
3 erosion percentage”, and

4 (2) by adding at the end the following new
5 flush sentence:

6 “For purposes of subparagraph (C), the term ‘base ero-
7 sion percentage’ has the meaning given such term under
8 subsection (c)(4), as in effect before the date of the enact-
9 ment of the Act enacted during the 117th Congress which
10 is entitled ‘An Act to provide for reconciliation pursuant
11 to title II of S. Con. Res. 14.’, except that the base erosion
12 tax benefits taken into account under subparagraph (A)(i)
13 thereof shall be the base erosion tax benefits described in
14 subsection (c)(2) (as in effect for the taxable year), the
15 deductions described in subparagraph (A)(ii)(I) thereof
16 shall include the deductions described in subparagraphs
17 (A) and (B) of subsection (c)(2) (as in effect for the tax-
18 able year), the base erosion tax benefits described in sub-
19 paragraph (A)(ii)(II) thereof shall be the base erosion tax
20 benefits described in subparagraphs (C), (D), and (E) of
21 subsection (c)(2) (as in effect for the taxable year), and
22 subparagraph (B)(ii) thereof shall be applied by sub-
23 stituting ‘subsection (i)(3)’ for ‘subsection (d)(5)’.”.

1 (d) TREATMENT OF APPLICABLE TAXPAYERS.—Sec-
2 tion 59A(e) is amended by adding at the end the following
3 new paragraph:

4 “(4) CONTINUATION OF TREATMENT AS APPLI-
5 CABLE TAXPAYER.—If a taxpayer is an applicable
6 taxpayer with respect to any taxable year beginning
7 after December 31, 2021 (other than by reason of
8 this paragraph), such taxpayer (and any successor of
9 such taxpayer) shall be an applicable taxpayer with
10 respect to each of the 10 succeeding taxable years.”.

11 (e) OTHER MODIFICATIONS.—

12 (1) Section 59A(b)(1) is amended by striking
13 “Except as provided in paragraphs (2) and (3), the”
14 and inserting “The”.

15 (2) Section 59A(h)(2)(B) is amended by strik-
16 ing “section 6038B(b)(2)” and inserting “section
17 6038A(b)(2)”.

18 (3) Section 59A(j)(2), as redesignated by sub-
19 section (b), is amended by striking “subsection
20 (g)(3)” and inserting “subsection (h)(3)”.

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

1 **Subpart E—Other Business Tax Provisions**

2 **SEC. 128141. 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. 128142. 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 ABANDONMENT.—Section
5 165(g) is amended by adding at the end the fol-
6 lowing new paragraph:

7 “(4) TREATMENT OF ABANDONMENT.—For
8 purposes of this subsection and subsection (m),
9 abandonment shall be treated as an identifiable
10 event establishing worthlessness.”.

11 (4) TREATMENT OF PARTNERSHIP INTEREST.—
12 Section 165 is amended by redesignating subsection
13 (m) as subsection (n) and by inserting after sub-
14 section (l) the following new subsection:

15 “(m) WORTHLESS PARTNERSHIP INTEREST.—If any
16 interest in a partnership becomes worthless during the
17 taxable year, the loss resulting therefrom shall, for pur-
18 poses of this subtitle, be treated as a loss from the sale
19 or exchange of the interest in the partnership at the time
20 of the identifiable event establishing worthlessness.”.

21 (b) DEFERRAL OF LOSSES IN CERTAIN CONTROLLED
22 GROUP CORPORATE LIQUIDATIONS.—Section 267 is
23 amended by adding at the end the following new sub-
24 section:

1 “(h) DEFERRAL OF LOSSES IN CERTAIN CON-
2 TROLLED GROUP LIQUIDATIONS.—

3 “(1) IN GENERAL.—In the case of any specified
4 controlled group liquidation, no loss shall be recog-
5 nized by any member of the controlled group on any
6 stock or security of the liquidating corporation until
7 all property received by members of the controlled
8 group in connection with such liquidation has been
9 transferred to one or more persons who are not re-
10 lated (within the meaning of subsection (b)(3) or
11 section 707(b)(1)) to the member which received
12 such property. For purposes of the preceding sen-
13 tence, cancellation, lapse, expiration, termination,
14 and worthlessness of property shall be treated in the
15 same manner as a transfer of such property which
16 is described in the preceding sentence.

17 “(2) SPECIFIED CONTROLLED GROUP LIQUIDA-
18 TION.—For purposes of this subsection, the term
19 ‘specified controlled group liquidation’ means, with
20 respect to any corporation which is a member of a
21 controlled group—

22 “(A) one or more distributions in complete
23 liquidation (within the meaning of section 346)
24 of such corporation,

1 “(B) any other transfer (including any se-
2 ries of transfers) of property of such corpora-
3 tion if any stock or security of such corporation
4 becomes worthless in connection with such
5 transfer, and

6 “(C) any issuance of debt by such corpora-
7 tion to one or more persons who are related
8 (within the meaning of subsection (b)(3) or sec-
9 tion 707(b)(1)) to such corporation if any stock
10 or security of such corporation becomes worth-
11 less in connection with such issuance.

12 “(3) REGULATIONS.—The Secretary shall issue
13 such regulations or other guidance as may be nec-
14 essary or appropriate to carry out the purposes of
15 this subsection, including to apply the principles of
16 this subsection to liquidating corporation stock or
17 securities owned by a corporation indirectly through
18 1 or more partnerships.”.

19 (c) CROSS REFERENCE.—Section 331(c) is amend-
20 ed—

21 (1) by striking “CROSS REFERENCE” and all
22 that follows through “For general rule” and insert-
23 ing the following: “CROSS REFERENCE.—

24 “(1) For general rule”, and

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

3 “(2) For losses in controlled group liquidations,
4 see section 267(h).”.

5 (d) EFFECTIVE DATE.—

6 (1) SUBSECTION (a).—The amendments made
7 by this section shall apply to losses arising in taxable
8 years beginning after December 31, 2021.

9 (2) SUBSECTION (b).—The amendment made
10 by subsection (b) shall apply to liquidations on or
11 after the date of the enactment of this Act.

12 **SEC. 128143. ADJUSTED BASIS LIMITATION FOR DIVISIVE**
13 **REORGANIZATION.**

14 (a) IN GENERAL.—Section 361 is amended by adding
15 at the end the following new subsections:

16 “(d) ADJUSTED BASIS LIMITATION FOR DIVISIVE
17 REORGANIZATIONS.—

18 “(1) IN GENERAL.—Except as provided in para-
19 graph (2), in the case of a reorganization described
20 in section 368(a)(1)(D) with respect to which stock
21 or securities of the controlled corporation (within the
22 meaning of section 355) are distributed by the dis-
23 tributing corporation (within the meaning of such
24 section) in a transaction which qualifies under such
25 section, subsections (b)(3) and (c)(3) shall not apply

1 to so much of the amount described in clauses (ii)
2 and (iii) of subparagraph (A) as does not exceed the
3 excess (if any) of—

4 “(A) the sum of—

5 “(i) the total amount of the liabilities
6 assumed (within the meaning of section
7 357(c)) by the controlled corporation, and

8 “(ii) the total amount of money and
9 the fair market value of other property
10 transferred to the creditors,

11 “(iii) the fair market value of the
12 stock described in section 354(a)(2)(C)
13 and the total principal amount of obliga-
14 tions of the controlled corporation de-
15 scribed in subsection (c)(2)(B) which are
16 qualified property (as defined in subsection
17 (c)(2)(B)) transferred to the creditors,
18 over

19 “(B) the total adjusted bases of the assets
20 transferred by the distributing corporation to
21 the controlled corporation.

22 “(2) EXCEPTION REGARDING CERTAIN STOCK
23 OR RIGHTS TO ACQUIRE STOCK.—Paragraph (1)
24 shall not apply to any stock (or right to acquire
25 stock) described in subsection (c)(2)(B).

1 “(3) REGULATIONS.—The Secretary shall issue
2 such regulations or other guidance as may be nec-
3 essary or appropriate to carry out the purposes of
4 this subsection and to prevent avoidance of tax
5 through abuse or circumvention of subsection (b)(3),
6 subsection (c)(3), or this subsection, including to de-
7 termine whether a disposition of property or any
8 other transaction is in connection with the reorga-
9 nization or pursuant to the plan of reorganization.

10 “(e) CROSS-REFERENCES.—For provisions providing
11 for the inclusion of income or recognition of gain in certain
12 distributions, see subsections (d), (e), (f), (g), and (h) of
13 section 355.”.

14 (b) CONFORMING AMENDMENTS.—

15 (1) Section 361(b)(3) is amended—

16 (A) in the first sentence, by inserting “,
17 and except as provided in subsection (d)” after
18 “paragraph (1)”, and

19 (B) by striking the second and third sen-
20 tences.

21 (2) Section 361(c) is amended—

22 (A) in paragraph (3), by inserting “, and
23 except as provided in subsection (d)” after “this
24 subsection”, and

25 (B) by striking paragraph (5).

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to reorganizations occurring on or
3 after the date of the enactment of this Act.

4 (d) TRANSITION RULE.—The amendments made by
5 this section shall not apply to any exchange pursuant to
6 a transaction which is—

7 (1) made pursuant to a written agreement
8 which was binding on the date of the enactment of
9 this Act, and at all times thereafter,

10 (2) described in a ruling request submitted to
11 the Internal Revenue Service on or before such date,
12 or

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

16 **SEC. 128144. MODIFICATIONS TO EXEMPTION FOR PORT-**
17 **FOLIO INTEREST.**

18 (a) IN GENERAL.—Section 871(h)(3)(B)(i) is amend-
19 ed to read as follows:

20 “(i) in the case of an obligation issued
21 by a corporation—

22 “(I) any person who owns 10
23 percent or more of the total combined
24 voting power of all classes of stock of
25 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. 128145. CERTAIN PARTNERSHIP INTEREST DERIVA-**
8 **TIVES.**

9 (a) IN GENERAL.—Section 871(m) is amended by
10 adding at the end the following new paragraph:

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 specified notional principal contract that (di-
16 rectly or indirectly) is contingent upon, or is de-
17 termined by reference to, any income or gain in
18 respect of an interest in a specified partnership
19 (or any other payment the Secretary determines
20 to be substantially similar) shall be treated as
21 a dividend equivalent. For purposes of the pre-
22 ceding sentence, income or gain includes any in-
23 come or gain from the deemed disposition of
24 such interest as a result of the termination of,
25 or payment with respect to, such contract (de-

1 terminated in the same manner as under section
2 864(c)(8) but without regard to subparagraph
3 (C) thereof) and any income or gain described
4 in subsection (a)(1) or section 881(a).

5 “(B) SPECIFIED PARTNERSHIP.—For pur-
6 poses of this paragraph, the term ‘specified
7 partnership’ means—

8 “(i) any publicly traded partnership
9 (as defined in section 7704(b)) which is
10 not treated as a corporation under such
11 section, or

12 “(ii) any other partnership as the Sec-
13 retary may by regulation prescribe.

14 “(C) EXCEPTIONS.—

15 “(i) CERTAIN PAYMENTS.—Subpara-
16 graph (A) shall not apply to any payment
17 the Secretary determines does not have the
18 potential for tax avoidance.

19 “(ii) CERTAIN INCOME.—Under such
20 regulations as the Secretary shall pre-
21 scribe, there shall not be taken into ac-
22 count under subparagraph (A) any pay-
23 ment to the extent determined by reference
24 to income or gain in respect of an interest
25 in a specified partnership which would be,

1 if earned by a nonresident alien individual
2 or a foreign corporation—

3 “(I) exempt from tax under this
4 chapter, or

5 “(II) from sources without the
6 United States and not effectively con-
7 nected with the conduct of a trade or
8 business within the United States.

9 “(D) TREATMENT OF DEFINITIONS AND
10 SPECIAL RULES WITH RESPECT TO PARTNER-
11 SHIPS.—For purposes of this paragraph, rules
12 similar to the rules and definitions in para-
13 graphs (3), (4), (5), (6), and (7) shall apply to
14 an interest in a specified partnership in a man-
15 ner similar to an underlying security, and to in-
16 come or gain in respect of an interest in a spec-
17 ified partnership in a manner similar to a divi-
18 dend.

19 “(E) REGULATIONS.—The Secretary shall
20 issue such regulations or other guidance as the
21 Secretary determines is necessary or appro-
22 priate to carry out the purposes of this para-
23 graph, including to apply this paragraph to
24 payments determined under sale-repurchase
25 agreements or securities lending transactions

1 with respect to interests in specified partner-
2 ships, to determine the amount of a distribution
3 by a specified partnership that is income or
4 gain of the partnership (including the portion
5 thereof that is excepted under subparagraph
6 (C)) in a manner consistent with section
7 1441(g), and to require the provision of infor-
8 mation by specified partnerships necessary to
9 determine such amount.”.

10 (b) WITHHOLDING OF TAX ON NONRESIDENT
11 ALIENS.—Section 1441 is amended by redesignating sub-
12 section (g) as subsection (h) and by inserting after sub-
13 section (f) the following new subsection:

14 “(g) DIVIDEND EQUIVALENTS IN CASE OF CERTAIN
15 SPECIFIED PARTNERSHIPS.—The Secretary may pre-
16 scribe regulations, under rules similar to the rules of sec-
17 tion 1446, to determine the amount of a payment in re-
18 spect of income and gain of a specified partnership (as
19 defined in 871(m)(8)) which is a dividend equivalent.”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to payments made after December
22 31, 2022.

1 **SEC. 128146. ADJUSTMENTS TO EARNINGS AND PROFITS OF**
2 **CONTROLLED FOREIGN CORPORATIONS.**

3 (a) IN GENERAL.—Section 312(n) is amended by
4 adding at the end the following new paragraph:

5 “(9) SPECIAL RULES FOR CONTROLLED FOR-
6 EIGN CORPORATIONS.—Earnings and profits of any
7 controlled foreign corporation shall be determined
8 without regard to paragraphs (4), (5), and (6).”.

9 (b) CONFORMING AMENDMENT.—Section 952(e) is
10 amended by striking paragraph (3).

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to taxable years of foreign corpora-
13 tions ending after the date of the enactment of this Act,
14 and to taxable years of United States shareholders in
15 which or with which such taxable years of foreign corpora-
16 tions end.

17 **SEC. 128147. CERTAIN DIVIDENDS OF CONTROLLED FOR-**
18 **EIGN CORPORATIONS TREATED AS EXTRAOR-**
19 **DINARY DIVIDENDS.**

20 (a) IN GENERAL.—Section 1059 is amended by re-
21 designating subsection (g) as subsection (h) and by insert-
22 ing after subsection (f) the following new subsection:

23 “(g) TREATMENT OF CERTAIN DIVIDENDS OF CON-
24 TROLLED FOREIGN CORPORATIONS.—

25 “(1) IN GENERAL.—Except as otherwise pro-
26 vided by the Secretary, any disqualified CFC divi-

1 dend shall be treated as an extraordinary dividend to
2 which paragraphs (1) and (2) of subsection (a)
3 apply without regard to the period the taxpayer held
4 the stock with respect to which such dividend is
5 paid.

6 “(2) DISQUALIFIED CFC DIVIDEND.— For pur-
7 poses of this subsection—

8 “(A) IN GENERAL.—The term ‘disqualified
9 CFC dividend’ means any dividend paid by a
10 controlled foreign corporation to the extent such
11 dividend is attributable to earnings and profits
12 which—

13 “(i) were earned during any period
14 that such corporation was not a controlled
15 foreign corporation, or

16 “(ii) are attributable to disqualified
17 CFC dividends received by such controlled
18 foreign corporation from another controlled
19 foreign corporation.

20 “(B) APPLICATION TO CORPORATIONS NOT
21 WHOLLY OWNED BY UNITED STATES SHARE-
22 HOLDERS.—If not all of the stock of any con-
23 trolled foreign corporation is owned (within the
24 meaning of section 958(a)) by one or more
25 United States shareholders at the time that any

1 earnings and profits are earned, the portion of
2 such earnings and profits which is properly at-
3 tributable to stock not so owned by United
4 States shareholders shall be treated for pur-
5 poses of subparagraph (A) as earned during a
6 period that such corporation was not a con-
7 trolled foreign corporation.

8 “(C) TREATMENT OF DOMESTIC PARTNER-
9 SHIPS AND CERTAIN TRUSTS.—For purposes of
10 subparagraph (B)—

11 “(i) a domestic partnership shall not
12 be treated as a United States shareholder,
13 and

14 “(ii) to the extent provided by the
15 Secretary in regulations or other guidance,
16 a trust described in section 7701(a)(30)(E)
17 shall not be treated as a United States
18 shareholder.

19 “(D) SPECIAL RULE RELATED TO CON-
20 STRUCTIVE OWNERSHIP.—In the case of the
21 last taxable year of a foreign corporation begin-
22 ning before January 1, 2018, and each subse-
23 quent taxable year of such foreign corporation
24 which begins before the date of the enactment
25 of this subsection, if such foreign corporation

1 would not have been a controlled foreign cor-
2 poration for any such taxable year if section
3 958(b)(4) (as applicable to taxable years begin-
4 ning after the date of the enactment of this
5 subsection) had applied to such taxable year,
6 such corporation shall not be treated as a con-
7 trolled foreign corporation for such taxable year
8 for purposes of this subsection.”.

9 (b) REGULATIONS.—Section 1059(h), as redesi-
10 gated by subsection (a), is amended—

11 (1) by striking “regulations” both places it ap-
12 pears and inserting “regulations or other guidance”,

13 (2) by striking “and” at the end of paragraph
14 (1), by striking the period at the end of paragraph
15 (2) and inserting a comma, and by adding at the
16 end the following new paragraphs:

17 “(3) providing for the coordination of sub-
18 section (g) with the other provisions of this chapter,
19 including section 1248, and

20 “(4) applying rules similar to subsection (g) to
21 dividends attributable to earnings and profits of a
22 foreign corporation that is not a controlled foreign
23 corporation.”.

24 (c) EFFECTIVE DATE.—The amendments made by
25 this section shall apply to dividends (or amounts treated

1 as dividends) paid after the date of the enactment of this
2 Act.

3 **SEC. 128148. LIMITATION ON CERTAIN SPECIAL RULES FOR**
4 **SECTION 1202 GAINS.**

5 (a) IN GENERAL.—Section 1202(a) is amended by
6 adding at the end the following new paragraph:

7 “(5) LIMITATION ON CERTAIN SPECIAL
8 RULES.—In the case of the sale or exchange of
9 qualified small business stock after September 13,
10 2021, paragraphs (3) and (4) shall not apply to any
11 taxpayer if—

12 “(A) the adjusted gross income of such
13 taxpayer (determined without regard to this
14 section and sections 911, 931, and 933) equals
15 or exceeds \$400,000, or

16 “(B) such taxpayer is a trust or estate.”.

17 (b) EFFECTIVE DATE.—Except as provided in sub-
18 section (c), the amendment made by this section shall
19 apply to sales and exchanges after September 13, 2021.

20 (c) BINDING CONTRACT EXCEPTION.—The amend-
21 ment made by this section shall not apply to any sale or
22 exchange which is made pursuant to a written binding
23 contract which was in effect on September 13, 2021, and
24 is not modified in any material respect thereafter.

1 **SEC. 128149. CONSTRUCTIVE SALES.**

2 (a) APPLICATION TO APPRECIATED DIGITAL AS-
3 SETS.—

4 (1) IN GENERAL.—Section 1259(b)(1) is
5 amended by inserting “digital asset,” after “debt in-
6 strument,”.

7 (2) EXCEPTION FOR SALES OF NONPUBLICLY
8 TRADED PROPERTY.—Section 1259(c)(2) is amended
9 by adding at the end the following: “A similar rule
10 shall apply in the case of a contract for sale of any
11 digital asset.”.

12 (3) DIGITAL ASSET.—Section 1259(d) is
13 amended by adding at the end the following new
14 paragraph:

15 “(3) DIGITAL ASSET.—Except as otherwise pro-
16 vided by the Secretary, the term ‘digital asset’
17 means any digital representation of value which is
18 recorded on a cryptographically secured distributed
19 ledger or any similar technology as specified by the
20 Secretary.”.

21 (b) TREATMENT OF CERTAIN CONTRACTS.—Section
22 1259(c)(1)(D) is amended by inserting “or enters into a
23 contract to acquire” after “acquires”.

24 (c) EFFECTIVE DATE.—

25 (1) IN GENERAL.—The amendments made by
26 subsection (a) shall apply to constructive sales (de-

1 terminated after the application of the amendment
2 made by subsection (b)) after the date of the enact-
3 ment of this Act.

4 (2) TREATMENT OF CERTAIN CONTRACTS.—

5 The amendment made by subsection (b) shall apply
6 to contracts entered into after the date of the enact-
7 ment of this Act.

8 **SEC. 128150. RULES RELATING TO COMMON CONTROL.**

9 (a) IN GENERAL.—Section 52 is amended by striking
10 subsections (a) and (b) and inserting the following new
11 subsections:

12 “(a) TREATMENT OF CONTROLLED GROUPS OF COR-
13 PORATIONS.—

14 “(1) IN GENERAL.—For purposes of this sub-
15 part, all employees of all corporations which are
16 component members of the same controlled group of
17 corporations shall be treated as employed by a single
18 employer. In any such case, the credit (if any) deter-
19 mined under section 51(a) with respect to each such
20 member shall be its proportionate share of the wages
21 giving rise to such credit.

22 “(2) CONTROLLED GROUP OF CORPORA-
23 TIONS.—For purposes of this subsection, the term
24 ‘controlled group of corporations’ has the meaning
25 given to such term by section 1563(a), except that—

1 “(A) ‘more than 50 percent’ shall be sub-
2 stituted for ‘at least 80 percent’ each place it
3 appears in section 1563(a)(1), and

4 “(B) the determination shall be made with-
5 out regard to subsections (a)(4) and (e)(3)(C)
6 of section 1563.

7 “(3) COMPONENT MEMBER.—For purposes of
8 this subsection, the term ‘component member’ has
9 the meaning given such term by section 1563(b), ex-
10 cept that the determination shall be made without
11 regard to section 1563(b)(2).

12 “(b) EMPLOYEES OF PARTNERSHIPS, PROPRIETOR-
13 SHIPS, ETC., WHICH ARE UNDER COMMON CONTROL.—
14 For purposes of this subpart, under regulations prescribed
15 by the Secretary—

16 “(1) all employees of trades or business (wheth-
17 er or not incorporated) which are under common
18 control shall be treated as employed by a single em-
19 ployer, and

20 “(2) the credit (if any) determined under sec-
21 tion 51(a) with respect to each trade or business
22 shall be its proportionate share of the wages giving
23 rise to such credit.

24 The regulations prescribed under this subsection shall be
25 based on principles similar to the principles which apply

1 in the case of subsection (a). For purposes of this sub-
2 section, the term ‘trade or business’ includes any activity
3 treated as a trade or business under paragraph (5) or (6)
4 of section 469(c) (determined without regard to the phrase
5 ‘To the extent provided in regulations’ in such paragraph
6 (6)).”.

7 (b) CONFORMING AMENDMENT.—Section
8 1563(b)(2)(C) is amended to read as follows:

9 “(C) is a foreign corporation not engaged
10 in a trade or business within the United
11 States,”.

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

15 **SEC. 128151. MODIFICATION OF WASH SALE RULES.**

16 (a) IN GENERAL.—Section 1091 is amended to read
17 as follows:

18 **“SEC. 1091. LOSS FROM WASH SALES OF SPECIFIED ASSETS.**

19 “(a) DISALLOWANCE OF LOSS DEDUCTION.—In the
20 case of any loss claimed to have been sustained from any
21 sale or disposition (including any termination) of specified
22 assets where it appears that, within a period beginning
23 30 days before the date of such sale or disposition and
24 ending 30 days after such date, the taxpayer (or related
25 party) has acquired (by purchase or by an exchange on

1 which the entire amount of gain or loss was recognized
2 by law), or has entered into, or has entered into a contract
3 or option so to acquire or a long notional principal con-
4 tract in respect of, substantially identical specified assets,
5 then no deduction shall be allowed under section 165 un-
6 less the taxpayer is a dealer in specified assets and the
7 loss is sustained in a transaction made in the ordinary
8 course of such business.

9 “(b) AMOUNT OF SPECIFIED ASSETS DIFFERENT
10 FROM AMOUNT OF SPECIFIED ASSETS SOLD.—If the
11 amount of specified assets acquired (or covered by the con-
12 tract or option to acquire or long notional principal con-
13 tract in respect of) is different from the amount of speci-
14 fied assets sold or otherwise disposed of, then the par-
15 ticular specified assets the acquisition of which (or the
16 contract or option to acquire or long notional principal
17 contract which) resulted in the nondeductibility of the loss
18 shall be determined under regulations prescribed by the
19 Secretary.

20 “(c) ADJUSTMENT TO BASIS IN CASE OF WASH
21 SALE.—If the taxpayer (or the taxpayer’s spouse) ac-
22 quires or enters into substantially identical specified assets
23 during the period which—

1 “(1) begins 30 days before the disposition with
2 respect to which a deduction was disallowed under
3 subsection (a), and

4 “(2) ends with the close of the taxpayer’s first
5 taxable year which begins after such disposition,
6 the basis of such specified assets shall be increased by the
7 amount of the deduction so disallowed (reduced by any
8 amount of such deduction taken into account under this
9 subsection to increase the basis of specified assets pre-
10 viously acquired).

11 “(d) CERTAIN SHORT SALES OF SPECIFIED ASSETS
12 AND CONTRACTS TO SELL.—Rules similar to the rules of
13 subsection (a) shall apply to any loss realized on the clos-
14 ing of a short sale of (or the sale, exchange, or termination
15 of a contract or option to sell or a short notional principal
16 contract in respect of) specified assets if, within a period
17 beginning 30 days before the date of such closing and end-
18 ing 30 days after such date—

19 “(1) substantially identical specified assets were
20 sold or terminated by the taxpayer (or a related
21 party), or

22 “(2) another short sale of (or contract or option
23 to sell or short notional principal contract in respect
24 of) substantially identical specified assets was en-
25 tered into by the taxpayer (or related party).

1 “(e) CASH SETTLEMENT.—This section shall not fail
2 to apply to a contract or option to acquire or sell specified
3 assets solely by reason of the fact that the contract or
4 option settles in (or could be settled in) cash or property
5 other than such specified assets.

6 “(f) RELATED PARTY.—For purposes of this sec-
7 tion—

8 “(1) IN GENERAL.—The term ‘related party’
9 means—

10 “(A) the taxpayer’s spouse,

11 “(B) any dependent of the taxpayer and
12 any other taxpayer with respect to whom the
13 taxpayer is a dependent,

14 “(C) any individual, corporation, partner-
15 ship, trust, or estate which controls, or is con-
16 trolled by, (within the meaning of section
17 954(d)(3)) the taxpayer or any individual de-
18 scribed in subparagraph (A) or (B) with respect
19 to the taxpayer (or any combination thereof),

20 “(D) to the extent provided by the Sec-
21 retary in regulations or other guidance, any in-
22 dividual who bears a relationship to the tax-
23 payer described in section 267(b) if such tax-
24 payer is an individual,

1 “(E) any individual retirement plan, Ar-
2 cher MSA (as defined in section 220(d)), or
3 health savings account (as defined in section
4 223(d)), of the taxpayer or of any individual de-
5 scribed in subparagraph (A) or (B) with respect
6 to the taxpayer,

7 “(F) any account under a qualified tuition
8 program described in section 529 or a Coverdell
9 education savings account (as defined in section
10 530(b)) if the taxpayer, or any individual de-
11 scribed in subparagraph (A) or (B) with respect
12 to the taxpayer, is the designated beneficiary of
13 such account or has the right to make any deci-
14 sion with respect to the investment of any
15 amount in such account, and

16 “(G) any account under—

17 “(i) a plan described in section
18 401(a),

19 “(ii) an annuity plan described in sec-
20 tion 403(a),

21 “(iii) an annuity contract described in
22 section 403(b), or

23 “(iv) an eligible deferred compensa-
24 tion plan described in section 457(b) and

1 maintained by an employer described in
2 section 457(e)(1)(A),
3 if the taxpayer or any individual described in
4 subparagraph (A) or (B) with respect to the
5 taxpayer has the right to make any decision
6 with respect to the investment of any amount in
7 such account.

8 “(2) RULES FOR DETERMINING STATUS.—

9 “(A) RELATIONSHIPS DETERMINED AT
10 TIME OF ACQUISITION.—Determinations under
11 paragraph (1) shall be made as of the time of
12 the purchase or exchange (or entering into a
13 contract, option, or notional principal contract)
14 referred to in subsection (a) except that deter-
15 minations under subparagraphs (A) and (B) of
16 paragraph (1) shall be made for the taxable
17 year which includes such purchase or exchange
18 (or entering into).

19 “(B) DETERMINATION OF MARITAL STA-
20 TUS.—

21 “(i) IN GENERAL.—Except as pro-
22 vided in clause (ii), marital status shall be
23 determined under section 7703.

1 “(ii) SPECIAL RULE FOR MARRIED IN-
2 DIVIDUALS FILING SEPARATELY AND LIV-
3 ING APART.—A husband and wife who—

4 “(I) file separate returns for any
5 taxable year, and

6 “(II) live apart at all times dur-
7 ing such taxable year,

8 shall not be treated as married individuals.

9 “(3) REGULATIONS.—The Secretary shall issue
10 such regulations or other guidance as may be nec-
11 essary to prevent the avoidance of the purposes of
12 this subsection, including regulations which treat
13 persons as related parties if such persons are formed
14 or availed of to avoid the purposes of this sub-
15 section.

16 “(g) SPECIFIED ASSET.—For purposes of this sec-
17 tion, the term ‘specified asset’ means any of the following:

18 “(1) Any security described in subparagraph
19 (A), (B), (C), (D), or (E) of section 475(c)(2).

20 “(2) Any foreign currency.

21 “(3) Any commodity described in subparagraph
22 (A), (B), or (C) of section 475(e)(2).

23 “(4) Except as otherwise provided by the Sec-
24 retary, any digital representation of value which is
25 recorded on a cryptographically secured distributed

1 ledger or any similar technology as specified by the
2 Secretary.

3 Such term shall, except as provided in regulations, include
4 contracts or options to acquire or sell, or notional principal
5 contracts in respect of, any specified assets.

6 “(h) EXCEPTION FOR BUSINESS NEEDS AND HEDG-
7 ING TRANSACTIONS.—Except as provided in regulations
8 prescribed by the Secretary, subsection (a) shall not apply
9 in the case of any sale or other disposition—

10 “(1) of a foreign currency or commodity de-
11 scribed in subsection (g), and

12 “(2) which—

13 “(A) is directly related to the business
14 needs of a trade or business of the taxpayer
15 (other than the trade or business of trading for-
16 eign currencies or commodities described in
17 subsection (g)), or

18 “(B) is part of a hedging transaction (as
19 defined in section 1221(b)(2)).”.

20 (b) CONFORMING AMENDMENTS.—

21 (1) Section 6045(g)(2)(B) is amended—

22 (A) in clause (i)(I)—

23 (i) by striking “security (other than
24 stock” and inserting “covered security
25 (other than stock”, and

1 (ii) by striking “stock sold or trans-
2 ferred” and inserting “covered security
3 sold or transferred”, and

4 (B) in clause (ii)—

5 (i) by striking “stock or securities”
6 and inserting “specified assets”, and

7 (ii) by striking “identical securities”
8 and inserting “identical specified assets (as
9 defined in section 1091(g))”.

10 (2) The table of sections for part VII of sub-
11 chapter O of chapter 1 is amended by striking the
12 item relation to section 1091 and inserting the fol-
13 lowing new item:

“Sec. 1091. Loss from wash sales of specified assets.”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to sales, dispositions, and termi-
16 nations after December 31, 2021.

17 (d) 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 treatment
20 of related parties under section 1091 of the Internal Rev-
21 enue Code of 1986 with respect to sales, dispositions, and
22 terminations before January 1, 2022.

1 **SEC. 128152. 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. 128153. MODIFICATIONS TO RULES RELATING TO EX-**
13 **PATRIATED ENTITIES AND INVERTED COR-**
14 **PORATIONS.**

15 (a) EXPANSION OF DEFINITION OF SURROGATE
16 FOREIGN CORPORATION.—

17 (1) IN GENERAL.—Section 7874(a)(2) is
18 amended by adding at the end the following new
19 subparagraph:

20 “(C) MODIFIED RULES FOR ACQUISITIONS
21 AFTER DATE OF ENACTMENT OF THIS SUB-
22 PARAGRAPH.—

23 “(i) IN GENERAL.—In the case of an
24 acquisition which is completed on or after
25 the date of the enactment of this subpara-
26 graph, the determination of whether a for-

1 eign corporation is a surrogate foreign cor-
2 poration under subparagraph (B) shall be
3 made by applying the requirements of
4 clauses (ii) and (iii) of this subparagraph
5 for the requirements of clauses (i) and (ii)
6 of subparagraph (B), respectively.

7 “(ii) ACQUISITION.—The require-
8 ments of this clause are met if the entity
9 completes on or after the date of the enact-
10 ment of this subparagraph, the direct or
11 indirect acquisition of—

12 “(I) substantially all of the prop-
13 erties held directly or indirectly by a
14 domestic corporation, or substantially
15 all of the properties held directly or
16 indirectly by a domestic corporation
17 and constituting a trade or business,

18 “(II) substantially all of the
19 properties held directly or indirectly
20 by a domestic partnership, or substan-
21 tially all of the properties held directly
22 or indirectly by a domestic partner-
23 ship and constituting a trade or busi-
24 ness, or

1 “(III) substantially all of the
2 properties held directly or indirectly
3 by a foreign partnership and consti-
4 tuting a United States trade or busi-
5 ness.

6 “(iii) POST-ACQUISITION OWNER-
7 SHIP.—The requirements of this clause are
8 met if after the acquisition described in
9 clause (i), more than 50 percent of the
10 stock (by vote or value) of the entity is
11 held—

12 “(I) in the case of an acquisition
13 with respect to a domestic corpora-
14 tion, by former shareholders of the
15 domestic corporation by reason of
16 holding stock in the domestic corpora-
17 tion,

18 “(II) in the case of an acquisition
19 with respect to a domestic partner-
20 ship, by former partners of the do-
21 mestic partnership by reason of hold-
22 ing a capital or profits interest in the
23 domestic partnership, or

24 “(III) in the case of an acquisi-
25 tion with respect to a United States

1 trade or business of a foreign partner-
2 ship, by former partners of the for-
3 eign partnership by reason of holding
4 a capital or profits interest in the for-
5 eign partnership.”.

6 (2) CONFORMING AMENDMENTS.—

7 (A) Section 7874(a)(2)(A)(i) is amended
8 by striking “subparagraph (B)(i)” and inserting
9 “subparagraph (B)(i) or (C)(ii), as the case
10 may be,”.

11 (B) Section 7874(c)(2) is amended—

12 (i) by striking “subsection
13 (a)(2)(B)(ii)” and inserting “subpara-
14 graphs (B)(ii) or (C)(iii) of subsection
15 (a)(2)”, and

16 (ii) by striking “subsection
17 (a)(2)(B)(i)” and inserting “subparagraph
18 (B)(i) or (C)(ii) of subsection (a)(2), as
19 the case may be”.

20 (C) Section 7874(e)(3) is amended—

21 (i) by inserting “(or of the properties
22 described in subsection (a)(2)(C)(ii)(III) of
23 a foreign partnership)” after “domestic
24 corporation or partnership”, and

1 (ii) by striking “subsection
2 (a)(2)(B)(ii)” and inserting “subpara-
3 graphs (B)(ii) or (C)(iii) of subsection
4 (a)(2), as the case may be,”.

5 (D) Section 7874(c)(5) is amended by
6 striking “For purposes of applying subsection
7 (a)(2)(B)(ii) to the acquisition of a trade or
8 business of a domestic partnership” and insert-
9 ing “For purposes of applying subparagraphs
10 (B)(ii) and (C)(iii) of subsections (a)(2) to the
11 acquisition of a trade or business of a domestic
12 partnership (or of substantially all of the prop-
13 erties of such a partnership) and for purposes
14 of applying subsection (a)(2)(C)(iii)(III) to the
15 acquisition of properties held by a foreign part-
16 nership”.

17 (E) Section 7874(d)(1)(A) is amended by
18 striking “subsection (a)(2)(B)(i)” and inserting
19 “subparagraph (B)(i) or (C)(ii) of subsection
20 (a)(2), as the case may be”.

21 (F) Subsection 7874(d)(2)(A) is amended
22 by striking “subsection (a)(2)(B)(i)” and in-
23 serting “subparagraph (B)(i) or (C)(ii) of sub-
24 section (a)(2)”.

25 (G) Section 7874(e)(4) is amended—

1 (i) in subparagraph (A), by striking
2 “subsection (a)(2)(B)(i)” and inserting
3 “subsection (a)(2)”, and

4 (ii) in subparagraph (B)(ii), by strik-
5 ing “subsection (a)(2)(B)(i)” and inserting
6 “subparagraph (B)(i) or (C)(ii) of sub-
7 section (a)(2)”.

8 (H) Section 4985(e) is amended by strik-
9 ing “section 7874(a)(2)(B)(i)” and inserting
10 “subparagraph (B)(i) or (C)(ii) of section
11 7874(a)(2)”.

12 (b) DETERMINATION OF INVERTED CORPORA-
13 TIONS.—Section 7874(b) is amended by striking “if sub-
14 section (a)(2) were applied by substituting ‘80 percent’ for
15 ‘60 percent.’” and inserting “if—

16 “(1) subsection (a)(2)(B)(ii) were applied by
17 substituting ‘80 percent’ for ‘60 percent’, and

18 “(2) subsection (a)(2)(C)(iii) were applied by
19 substituting ‘at least 65 percent’ for ‘more than 50
20 percent’.”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to taxable years ending after De-
23 cember 31, 2021.

1 **PART 2—TAX INCREASES FOR HIGH-INCOME**
2 **INDIVIDUALS**
3 **SEC. 128201. APPLICATION OF NET INVESTMENT INCOME**
4 **TAX TO TRADE OR BUSINESS INCOME OF**
5 **CERTAIN HIGH INCOME INDIVIDUALS.**

6 (a) IN GENERAL.—Section 1411 is amended by add-
7 ing at the end the following new subsection:

8 “(f) APPLICATION TO CERTAIN HIGH INCOME INDI-
9 VIDUALS.—

10 “(1) IN GENERAL.—In the case of any indi-
11 vidual whose modified adjusted gross income for the
12 taxable year exceeds the high income threshold
13 amount, subsection (a)(1) shall be applied by sub-
14 stituting ‘the greater of specified net income or net
15 investment income’ for ‘net investment income’ in
16 subparagraph (A) thereof.

17 “(2) PHASE-IN OF INCREASE.—The increase in
18 the tax imposed under subsection (a)(1) by reason of
19 the application of paragraph (1) of this subsection
20 shall not exceed the amount which bears the same
21 ratio to the amount of such increase (determined
22 without regard to this paragraph) as—

23 “(A) the excess described in paragraph (1),
24 bears to

1 “(B) \$100,000 ($\frac{1}{2}$ such amount in the
2 case of a married taxpayer (as defined in sec-
3 tion 7703) filing a separate return).

4 “(3) HIGH INCOME THRESHOLD AMOUNT.—For
5 purposes of this subsection, the term ‘high income
6 threshold amount’ means—

7 “(A) except as provided in subparagraph
8 (B) or (C), \$400,000,

9 “(B) in the case of a taxpayer making a
10 joint return under section 6013 or a surviving
11 spouse (as defined in section 2(a)), \$500,000,
12 and

13 “(C) in the case of a married taxpayer (as
14 defined in section 7703) filing a separate re-
15 turn, $\frac{1}{2}$ of the dollar amount determined under
16 subparagraph (B).

17 “(4) SPECIFIED NET INCOME.—For purposes of
18 this section, the term ‘specified net income’ means
19 net investment income determined—

20 “(A) without regard to the phrase ‘other
21 than such income which is derived in the ordi-
22 nary course of a trade or business not described
23 in paragraph (2),’ in subsection (c)(1)(A)(i),

1 “(B) without regard to the phrase ‘de-
2 scribed in paragraph (2)’ in subsection
3 (c)(1)(A)(ii),

4 “(C) without regard to the phrase ‘other
5 than property held in a trade or business not
6 described in paragraph (2)’ in subsection
7 (c)(1)(A)(iii),

8 “(D) without regard to paragraphs (2),
9 (3), and (4) of subsection (c), and

10 “(E) by treating paragraphs (5) and (6) of
11 section 469(c) (determined without regard to
12 the phrase ‘To the extent provided in regula-
13 tions,’ in such paragraph (6)) as applying for
14 purposes of subsection (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) CERTAIN EXCEPTIONS.—Section 1411(c)(6)
23 is amended to read as follows:

24 “(6) SPECIAL RULES.—Net investment income
25 shall not include—

1 “(A) any item taken into account in deter-
2 mining self-employment income for such taxable
3 year on which a tax is imposed by section
4 1401(b),

5 “(B) wages received with respect to em-
6 ployment on which a tax is imposed under sec-
7 tion 3101(b) (determined without regard to sec-
8 tion 3101(c)) or 3201(a) (including amounts
9 taken into account under section 3121(v)(2)),
10 and

11 “(C) wages received from the performance
12 of services earned outside the United States for
13 a foreign employer.”.

14 (2) NET OPERATING LOSSES NOT TAKEN INTO
15 ACCOUNT.—Section 1411(c)(1)(B) is amended by in-
16 serting “(other than section 172)” after “this sub-
17 title”.

18 (3) INCLUSION OF CERTAIN FOREIGN IN-
19 COME.—

20 (A) IN GENERAL.—Section 1411(c)(1)(A)
21 is amended by striking “and” at the end of
22 clause (ii), by striking “over” at the end of
23 clause (iii) and inserting “and”, and by adding
24 at the end the following new clause:

1 “(iv) any amount includible in gross
2 income under section 951, 951A, 1293, or
3 1296, over”.

4 (B) PROPER TREATMENT OF CERTAIN
5 PREVIOUSLY TAXED INCOME.—Section 1411(c)
6 is amended by adding at the end the following
7 new paragraph:

8 “(7) CERTAIN PREVIOUSLY TAXED INCOME.—
9 The Secretary shall issue regulations or other guid-
10 ance providing for the treatment of—

11 “(A) distributions of amounts previously
12 included in gross income for purposes of chap-
13 ter 1 but not previously subject to tax under
14 this section, and

15 “(B) distributions described in section
16 962(d).”.

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

20 (e) TRANSITION RULE.—The regulations or other
21 guidance issued by the Secretary under section 1411(c)(7)
22 of the Internal Revenue Code of 1986 (as added by this
23 section) shall include provisions which provide for the
24 proper coordination and application of clauses (i) and (iv)
25 of section 1411(c)(1)(A) with respect to—

1 (1) taxable years beginning on or before De-
2 cember 31, 2021, and

3 (2) taxable years beginning after such date.

4 **SEC. 128202. LIMITATIONS ON EXCESS BUSINESS LOSSES**
5 **OF NONCORPORATE TAXPAYERS.**

6 (a) **LIMITATION MADE PERMANENT.—**

7 (1) **IN GENERAL.—**Section 461(l)(1) is amend-
8 ed to read as follows:

9 “(1) **LIMITATION.—**In the case of any taxpayer
10 other than a corporation, any excess business loss of
11 the taxpayer for the taxable year shall not be al-
12 lowed.”.

13 (2) **CONFORMING AMENDMENT.—**Section 461 is
14 amended by striking subsection (j).

15 (b) **MODIFICATION OF CARRYOVER OF DISALLOWED**
16 **LOSSES.—**Section 461(l)(2) is amended to read as follows:

17 “(2) **DISALLOWED LOSS CARRYOVER.—**Any loss
18 which is disallowed under paragraph (1) for any tax-
19 able year shall be treated (solely for purposes of this
20 chapter) as a deduction described in paragraph
21 (3)(A)(i) for the next taxable year.”.

22 (c) **TREATMENT OF UNUSED EXCESS BUSINESS**
23 **LOSS CARRYOVERS ON TERMINATION OF ESTATE OR**
24 **TRUST.—**Section 642(h)(1) is amended to read as follows:

1 “(C) \$200,000, in the case of an estate or
2 trust, plus

3 “(2) 3 percent of so much of the modified ad-
4 justed gross income of the taxpayer as exceeds—

5 “(A) \$25,000,000, in the case of any tax-
6 payer not described in subparagraph (B) or
7 (C),

8 “(B) \$12,500,000, in the case of a married
9 individual filing a separate return, and

10 “(C) \$500,000, in the case of an estate or
11 trust.

12 “(b) MODIFIED ADJUSTED GROSS INCOME.—For
13 purposes of this section, the term ‘modified adjusted gross
14 income’ means adjusted gross income reduced by any de-
15 duction (not taken into account in determining adjusted
16 gross income) allowed for investment interest (as defined
17 in section 163(d)) or business interest (as defined in sec-
18 tion 163(j)). In the case of an estate or trust, adjusted
19 gross income shall be determined as provided in section
20 67(e), and reduced by the amount allowed as a deduction
21 under section 642(c).

22 “(c) SPECIAL RULES.—

23 “(1) NONRESIDENT ALIEN.—In the case of a
24 nonresident alien individual (other than an indi-
25 vidual described in section 876(a) or 877(a)), only

1 amounts taken into account in connection with the
2 tax imposed under section 871(b) shall be taken into
3 account under this section.

4 “(2) CITIZENS AND RESIDENTS LIVING
5 ABROAD.—Each dollar amount which is applicable to
6 any taxpayer under subsection (a) shall be decreased
7 (but not below zero) by the excess (if any) of—

8 “(A) the amounts excluded from the tax-
9 payer’s gross income under section 911, over

10 “(B) the amounts of any deductions or ex-
11 clusions disallowed under section 911(d)(6)
12 with respect to the amounts described in sub-
13 paragraph (A).

14 “(3) CHARITABLE TRUSTS.—Subsection (a)
15 shall not apply to a trust all the unexpired interests
16 in which are devoted to one or more of the purposes
17 described in section 170(c)(2)(B).

18 “(4) NOT TREATED AS TAX IMPOSED BY THIS
19 CHAPTER FOR CERTAIN PURPOSES.—The tax im-
20 posed under this section shall not be treated as tax
21 imposed by this chapter for purposes of determining
22 the amount of any credit under this chapter (other
23 than sections 27 and 901) or for purposes of section
24 55.

25 “(5) ELECTING SMALL BUSINESS TRUSTS.—

1 “(A) IN GENERAL.—For purposes of the
2 determination of adjusted gross income, section
3 641(c)(1)(A) shall not apply and all portions of
4 any electing small business trust shall be treat-
5 ed as a single trust.

6 “(B) EXCEPTION.—Subparagraph (A)
7 shall not apply to the portion of any electing
8 small business trust with respect to which the
9 grantor or another person is treated as the
10 owner of under subpart E of part 1 of sub-
11 chapter J.

12 “(d) REGULATIONS.—The Secretary shall issue such
13 regulations or other guidance as may be necessary or ap-
14 propriate to carry out the purposes of this section, includ-
15 ing regulations or other guidance to prevent the avoidance
16 of the purposes of this section.”.

17 (b) COORDINATION WITH CERTAIN PROVISIONS.—

18 (1) INTEREST ON CERTAIN DEFERRED TAX LI-
19 ABILITY.—Section 453A(c) is amended by redesign-
20 nating paragraph (6) as paragraph (7) and by in-
21 serting after paragraph (5) the following new para-
22 graph:

23 “(6) SURCHARGE ON HIGH INCOME INDIVID-
24 UALS TAKEN INTO ACCOUNT IN DETERMINING MAX-
25 IMUM RATE OF TAX.—For purposes of paragraph

1 (3)(B), the maximum rate of tax in effect under sec-
2 tion 1 shall be treated as being equal to the sum of
3 such rate and the rates in effect under paragraphs
4 (1) and (2) of section 1A(a).”.

5 (2) ALIEN RESIDENTS OF PUERTO RICO, GUAM,
6 AMERICAN SAMOA, OR THE NORTHERN MARIANA IS-
7 LANDS.—Section 876(a) is amended by striking sec-
8 tion 1 and inserting “sections 1 and 1A”.

9 (3) EXPATRIATION TO AVOID TAX.—Section
10 877(b) is amended by inserting “and section 1A”
11 after “section 1 or 55”.

12 (4) LIMITATION ON FOREIGN TAX CREDIT.—

13 (A) Section 904(b)(3)(E) is amended by
14 striking clauses (i) and (ii) and inserting the
15 following new clauses:

16 “(i) the excess of—

17 “(I) the sum of the highest rate
18 of tax in effect under section 1, the
19 rate of tax in effect under section
20 1A(a)(1), and the rate of tax in effect
21 under section 1A(a)(2), over

22 “(II) the sum of the alternative
23 rate of tax determined under section
24 1(h), the rate of tax in effect under
25 section 1A(a)(1), and the rate of tax

1 in effect under section 1A(a)(2), bears
2 to
3 “(ii) the sum of the rates referred to
4 in subclause (i)(I).”.

5 (B) Section 904(d)(2)(F) is amended by
6 adding at the end the following: “For purposes
7 of the first sentence of this subparagraph, the
8 highest rate of tax specified in section 1 shall
9 be treated as being equal to the sum of such
10 rate and the rates in effect under paragraphs
11 (1) and (2) of section 1A(a).”.

12 (5) ELECTION BY INDIVIDUALS TO BE SUBJECT
13 TO TAX AT CORPORATE RATES.—Section 962(a)(1)
14 is amended by inserting “, 1A,” after “sections 1”.

15 (6) INTEREST ON CERTAIN TAX DEFERRAL.—
16 Section 1291(c)(2) is amended by adding at the end
17 the following: “For purposes of the preceding sen-
18 tence, the highest rate of tax in effect under section
19 1 shall be treated as being equal to the sum of such
20 rate and the rates in effect under paragraphs (1)
21 and (2) of section 1A(a).”.

22 (7) AVERAGING OF FARM INCOME.—Section
23 1301(a) is amended by striking “section 1” both
24 places it appears and inserting “sections 1 and 1A”.

1 (8) TITLE 11 CASES.—Section 1398(c)(2) is
2 amended by inserting “and tax shall be imposed
3 under section 1A by treating the estate as a married
4 individual filing a separate return” before the period
5 at the end.

6 (9) WITHHOLDING OF TAX ON FOREIGN PART-
7 NERS’ SHARE OF EFFECTIVELY CONNECTED IN-
8 COME.—Section 1446(b)(2) is amended by adding at
9 the end the following flush sentence:
10 “For purposes of subparagraph (A), the highest rate
11 of tax in effect under section 1 shall be treated as
12 being equal to the sum of such rate and the rates
13 in effect under paragraphs (1) and (2) of section
14 1A(a).”.

15 (10) RELIEF FROM JOINT AND SEVERAL LI-
16 ABILITY ON JOINT RETURN.—Section 6015(d)(2)(B)
17 is amended by inserting “, 1A,” after “section 1”.

18 (11) PARTNERSHIP ADJUSTMENTS.—
19 (A) Section 6225(b)(1) is amended by add-
20 ing at the end the following flush sentence:
21 “For purposes of subparagraph (B), the highest rate
22 of tax in effect under section 1 shall be treated as
23 being equal to the sum of such rate and the rates
24 in effect under paragraphs (1) and (2) of section
25 1A(a).”.

1 (B) Section 6225(c)(4) is amended—

2 (i) by striking “subsection (b)(1)(A)”
3 in subparagraph (A) and inserting “sub-
4 section (b)(1)(B)”,

5 (ii) by redesignating subparagraph
6 (B) as subparagraph (C) and by inserting
7 after subparagraph (A) the following new
8 subparagraph:

9 “(B) COORDINATION WITH SURCHARGE ON
10 HIGH INCOME INDIVIDUALS, ESTATES, AND
11 TRUSTS.—

12 “(i) IN GENERAL.—Such procedures
13 shall provide for taking into account a rate
14 of tax lower than the rate of tax described
15 in subsection (b)(1)(B) with respect to any
16 portion of the adjustment that the partner-
17 ship demonstrates is allocable to a tax-
18 payer other than a corporation which—

19 “(I) has a modified adjusted
20 gross income (as defined in section
21 1A(b)) which does not exceed the dol-
22 lar amount in effect under section
23 1A(a)(1) with respect to such tax-
24 payer, or

1 “(II) has a modified adjusted
2 gross income (as so defined) which
3 does not exceed the dollar amount in
4 effect under section 1A(a)(2) with re-
5 spect to such taxpayer.

6 “(ii) LIMITATION ON REDUCTION.—In
7 no event shall the lower rate determined
8 under clause (i) be less than—

9 “(I) in the case of a taxpayer de-
10 scribed in clause (i)(I), the rate of tax
11 described in subsection (b)(1)(B) de-
12 termined without regard to the rates
13 of tax in effect under paragraphs (1)
14 and (2) of section 1A(a), and

15 “(II) in the case of a taxpayer
16 not described in clause (i)(I) and de-
17 scribed in clause (i)(II), the rate of
18 tax described in subsection (b)(1)(B)
19 determined without regard to the rate
20 of tax in effect under section
21 1A(a)(2).

22 “(iii) COORDINATION WITH REDUCED
23 RATE FOR CAPITAL GAINS AND QUALIFIED
24 DIVIDENDS.—In the case of any taxpayer
25 to which clause (i) and subparagraph

1 (A)(ii) applies, subclauses (I) and (II) of
2 clause (ii) of this subparagraph shall each
3 be applied by substituting ‘the lower rate
4 which would be determined under subpara-
5 graph (A)(ii) if’ for ‘the rate of tax de-
6 scribed in subsection (b)(1)(B)’.”, and
7 (iii) by striking “subparagraph (A)”
8 both places it appears in subparagraph (C)
9 (as redesignated by clause (ii)) and insert-
10 ing “subparagraphs (A) and (B)”.

11 (12) REQUIRED PAYMENTS FOR ENTITIES
12 ELECTING NOT TO HAVE REQUIRED TAXABLE
13 YEAR.—Section 7519(b) is amended by inserting
14 “and increased by the sum of the rates in effect
15 under paragraphs (1) and (2) of section 1A(a)” be-
16 fore the period at the end.

17 (c) CLERICAL AMENDMENT.—The table of sections
18 for part I of subchapter A of chapter 1 is amended by
19 inserting after the item relating to section 1 the following
20 new item:

“Sec. 1A. Surcharge on high income individuals.”.

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

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. 128301. 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 any taxable year, no annual ad-
18 ditions for such taxable year shall be made by, or on behalf
19 of, such individual to any individual retirement plan to the
20 extent such annual additions exceed the excess (if any)
21 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), 403(a)(4), 403(b)(8), 408(d)(3), or
4 457(e)(16) shall not be treated as an annual
5 addition.

6 “(D) ACCOUNTS ACQUIRED BY DEATH OR
7 DIVORCE OR SEPARATION.—The acquisition of
8 an individual retirement plan (or the transfer to
9 or contribution of amounts to an individual re-
10 tirement plan) by reason of—

11 “(i) the death of another individual,

12 or

13 “(ii) divorce or separation (pursuant
14 to section 408(d)(6)),

15 shall not be treated as an annual addition.

16 “(2) APPLICABLE DOLLAR AMOUNT.—The term
17 ‘applicable dollar amount’ means \$10,000,000.

18 “(3) APPLICABLE RETIREMENT PLAN.—The
19 term ‘applicable retirement plan’ means—

20 “(A) a defined contribution plan to which
21 section 401(a) or 403(a) applies,

22 “(B) an annuity contract under section
23 403(b),

24 “(C) an eligible deferred compensation
25 plan described in section 457(b) which is main-

1 tained by an eligible employer described in sec-
2 tion 457(e)(1)(A), or

3 “(D) an individual retirement plan.

4 “(4) APPLICABLE TAXPAYER.—

5 “(A) IN GENERAL.—The term ‘applicable
6 taxpayer’ means, with respect to any taxable
7 year, a taxpayer whose modified adjusted gross
8 income for such taxable year exceeds the
9 amount determined under subparagraph (B).

10 “(B) DOLLAR LIMIT.—The amount deter-
11 mined under this subparagraph for any taxable
12 year is—

13 “(i) \$400,000 for an individual who is
14 a taxpayer not described in clause (ii) or
15 (iii),

16 “(ii) \$425,000 in the case of an indi-
17 vidual who is a head of household (as de-
18 fined in section 2(b)), and

19 “(iii) \$450,000 in the case of an indi-
20 vidual who is a married individual filing a
21 joint return or a surviving spouse (as de-
22 fined in section 2(a)).

23 “(C) MODIFIED ADJUSTED GROSS IN-
24 COME.—For purposes of this paragraph, the
25 term ‘modified adjusted gross income’ means

1 adjusted gross income determined without re-
2 gard to sections 911, 931, and 933, without re-
3 gard to any deduction for annual additions to
4 individual retirement plans to which subsection
5 (a) applies, and without regard to any increase
6 in minimum required distributions by reason of
7 section 4974(e).

8 “(5) ADJUSTMENTS FOR INFLATION.—

9 “(A) IN GENERAL.—In the case of any
10 taxable year beginning after 2029, the dollar
11 amounts in paragraphs (2) and (4)(B) shall be
12 increased by an amount equal to the product
13 of—

14 “(i) such dollar amount, and

15 “(ii) the cost-of-living adjustment
16 under section 1(f)(3) for the calendar year
17 in which such taxable year begins, deter-
18 mined by substituting ‘calendar year 2028’
19 for ‘calendar year 2016’ in subparagraph
20 (A)(ii) thereof.

21 “(B) ROUNDING.—If any amount as ad-
22 justed under subparagraph (A) is not—

23 “(i) in the case of the dollar amount
24 under paragraph (2), a multiple of

1 \$250,000, such amount shall be rounded
2 to the next lowest multiple of \$250,000.

3 “(ii) in the case of a dollar amount
4 under paragraph (4)(B), a multiple of
5 \$1,000, such amount shall be rounded to
6 the next lowest multiple of \$1,000.

7 “(c) REGULATIONS.—The Secretary shall prescribe
8 such regulations and guidance as are necessary or appro-
9 priate to carry out the purposes of this section, including
10 regulations or guidance that provide for the application
11 of this section and section 4974(e) in the case of plans
12 with a valuation date other than the last day of a calendar
13 year.”.

14 (2) CONFORMING AMENDMENTS.—

15 (A) The table of contents for subpart A of
16 part I of subchapter D of chapter 1 is amended
17 by adding after the item relating to section
18 409A the following new item:

 “Sec. 409B. Contribution limit on individual retirement plans of high-income
 taxpayers with large account balances.”.

19 (B) Section 408(r) is amended by adding
20 at the end the following new paragraph:

21 “(3) For additional limitations on contributions
22 to individual retirement plans with large account
23 balances, see sections 408A(e)(3) and 409B.”.

24 (b) EXCISE TAX ON EXCESS ANNUAL ADDITIONS.—

1 (1) IN GENERAL.—Section 4973 is amended by
2 adding at the end the following new subsection:

3 “(i) SPECIAL RULE FOR INDIVIDUAL RETIREMENT
4 PLANS WITH EXCESS ANNUAL ADDITIONS.—For pur-
5 poses of this section, in the case of individual retirement
6 plans, the term ‘excess contributions’, with respect to any
7 taxable year, is increased by the sum of—

8 “(1) the excess of the annual additions (within
9 the meaning of section 409B(b)(1)) to such plans
10 over the limitation under section 409B(a) for such
11 taxable year, reduced by the amount of any excess
12 contributions determined under subsections (b) and
13 (f), and

14 “(2) the lesser of—

15 “(A) the amount determined under this
16 subsection for the preceding taxable year with
17 respect to such plans, reduced by the aggregate
18 distributions from such plans for the taxable
19 year (including distributions required under sec-
20 tion 4974(e)) to the extent not contributed in
21 a rollover contribution to another eligible retire-
22 ment plan in accordance with section 402(c),
23 403(a)(4), 403(b)(8), 408(d)(3), and
24 457(e)(16), or

1 “(B) the amount (if any) by which the
2 amount determined under section 409B(a)(2)
3 for the taxable year exceeds the applicable dol-
4 lar amount under section 409B(b)(2) for the
5 taxable year.”.

6 (2) CONFORMING AMENDMENTS.—Subsections
7 (b) and (f) of section 4973 are each amended by in-
8 serting “, except as further provided in subsection
9 (i)” after “For purposes of this section”.

10 (c) REPORTING REQUIREMENTS.—Section 6057(a) is
11 amended by adding at the end the following:

12 “(3) ADDITIONAL INFORMATION REGARDING
13 HIGH ACCOUNT BALANCES.—

14 “(A) IN GENERAL.—If, as of the close of
15 any plan year, 1 or more participants or bene-
16 ficiaries in an applicable retirement plan (as de-
17 fined in section 409B(b)(3) without regard to
18 subparagraph (D) thereof) have a vested ac-
19 count balance of at least \$2,500,000, the plan
20 administrator shall file a statement with the
21 Secretary, within the period described in para-
22 graph (1), which includes—

23 “(i) the name and identifying number
24 of each such participant (without regard to

1 whether such participant has separated
2 from employment) or beneficiaries,

3 “(ii) the amount of the vested account
4 balance of each such participant or bene-
5 ficiary, and

6 “(iii) a separate accounting of such
7 vested account balances in designated Roth
8 accounts (within the meaning of section
9 402A) and all other vested account bal-
10 ances.

11 “(B) INCLUSION IN REGISTRATION STATE-
12 MENT.—If both subparagraph (A) and para-
13 graph (1) apply to a plan, the plan adminis-
14 trator shall include the information required
15 under subparagraph (A) in the registration
16 statement under paragraph (1) rather than file
17 a statement under subparagraph (A).

18 “(C) ADJUSTMENTS FOR INFLATION.—In
19 the case of any plan year beginning after 2029,
20 the \$2,500,000 amount under subparagraph
21 (A) shall be increased by an amount equal to
22 the product of—

23 “(i) such dollar amount, and

24 “(ii) the cost-of-living adjustment
25 under section 1(f)(3) for the calendar year

1 in which such taxable year begins, deter-
2 mined by substituting ‘calendar year 2028’
3 for ‘calendar year 2016’ in subparagraph
4 (A)(ii) thereof.

5 If the amount as adjusted under the preceding
6 sentence is not a multiple of \$250,000, such
7 amount shall be rounded to the next lowest
8 multiple of \$250,000.’’.

9 (d) EFFECTIVE DATES.—

10 (1) IN GENERAL.—The amendments made by
11 subsections (a) and (b) shall apply to taxable years
12 beginning after December 31, 2028.

13 (2) PLAN REQUIREMENTS.—The amendments
14 made by subsection (c) shall apply to plan years be-
15 ginning after December 31, 2028.

16 **SEC. 128302. INCREASE IN MINIMUM REQUIRED DISTRIBUTIONS FOR HIGH-INCOME TAXPAYERS WITH**
17 **LARGE RETIREMENT ACCOUNT BALANCES.**

19 (a) IN GENERAL.—Section 4974 is amended by add-
20 ing at the end the following:

21 “(e) INCREASE IN MINIMUM REQUIRED DISTRIBUTIONS FOR HIGH-INCOME TAXPAYERS WITH LARGE AG-
22 GREGATE ACCOUNT BALANCES.—
23

1 “(1) IN GENERAL.—If this subsection applies to
2 a payee who is an applicable taxpayer (as defined in
3 section 409B(b)(4)) for a taxable year—

4 “(A) all qualified retirement plans and eli-
5 gible deferred compensation plans of the payee
6 which are applicable retirement plans taken into
7 account in computing the excess described in
8 paragraph (3)(A) shall be treated as 1 plan
9 solely for purposes of applying this section to
10 the increase in minimum required distributions
11 for such taxable year determined under sub-
12 paragraph (B), and

13 “(B) the minimum required distributions
14 under this section for all plans treated as 1
15 plan under subparagraph (A) with respect to
16 such payee for such taxable year shall be in-
17 creased by the excess (if any) of—

18 “(i) the sum of—

19 “(I) if paragraph (2) applies to
20 such taxable year, the applicable Roth
21 excess amount, plus

22 “(II) 50 percent of the excess de-
23 termined under paragraph (3)(A), re-
24 duced by the applicable Roth excess
25 amount, over

1 IRAs and designated Roth accounts (with-
2 in the meaning of section 402A) as of the
3 time described in subparagraph (A).

4 “(3) APPLICATION.—This subsection shall
5 apply to a payee for a taxable year—

6 “(A) if the aggregate vested balances to
7 the credit of the payee (whether as a partici-
8 pant, owner, or beneficiary) in all applicable re-
9 tirement plans (determined as of the close of
10 the calendar year preceding the calendar year
11 in which the taxable year begins) exceed the ap-
12 plicable dollar amount for the calendar year in
13 which the taxable year begins, and

14 “(B) without regard to whether amounts
15 with respect to the payee are otherwise required
16 to be distributed under section 401(a)(9),
17 403(b)(10), 408(a)(6), 408(b)(3), or 457(d)(2).

18 “(4) COORDINATION AND ALLOCATION.—

19 “(A) MINIMUM DISTRIBUTION REQUIRE-
20 MENTS.—If this subsection applies to a payee
21 for any taxable year—

22 “(i) this section shall apply first to
23 minimum required distributions deter-
24 mined without regard to this subsection
25 and then to any increase in minimum re-

1 required distributions by reason of this sub-
2 section, and

3 “*(ii)* nothing in this subsection shall
4 be construed to affect the amount of any
5 minimum required distribution determined
6 without regard to this subsection or the
7 plan or plans from which it is required to
8 be distributed.

9 “*(B)* ALLOCATION OF INCREASE IN MIN-
10 IMUM REQUIRED DISTRIBUTIONS.—

11 “*(i)* IN GENERAL.—Except as pro-
12 vided in clauses *(ii)* and *(iii)*, the taxpayer
13 may, in such form and manner as the Sec-
14 retary may prescribe, allocate any increase
15 in minimum required distributions by rea-
16 son of this subsection to applicable retire-
17 ment plans treated as 1 plan under sub-
18 paragraph *(A)* in such manner as the tax-
19 payer chooses.

20 “*(ii)* ALLOCATION TO ROTH IRAS AND
21 ACCOUNTS.—In the case of a taxable year
22 to which paragraph *(2)* applies, the portion
23 of any increase in minimum required dis-
24 tributions by reason of this subsection
25 equal to the applicable Roth excess amount

1 shall be allocated first to Roth IRAs and
2 then to designated Roth accounts (within
3 the meaning of section 402A) of the payee.

4 “(iii) SPECIAL RULES FOR EMPLOYEE
5 STOCK OWNERSHIP PLANS.—

6 “(I) IN GENERAL.—In the case
7 of a payee to which this subsection
8 applies for any taxable year who has
9 account balances in 1 or more em-
10 ployee stock ownership plans (as de-
11 fined in section 4975(e)(7)) any por-
12 tion of which is invested in employer
13 securities which are not readily
14 tradable on an established securities
15 market, the increase in minimum re-
16 quired distributions by reason of this
17 subsection shall not be allocated to
18 any such portion.

19 “(II) EXCEPTION FOR AMOUNTS
20 ATTRIBUTABLE TO ROLLOVER.—Sub-
21 clause (I) shall not apply to so much
22 of any account balance as is attrib-
23 utable to a rollover contribution after
24 the date of the enactment of this sub-
25 section to the account in accordance

1 with section 402(c), 403(a)(4),
2 403(b)(8), 408(d)(3), or 457(e)(16).

3 “(5) DISTRIBUTIONS NOT ELIGIBLE FOR ROLL-
4 OVERS.—For purposes of determining whether a dis-
5 tribution is an eligible rollover distribution, any dis-
6 tribution from an applicable retirement plan which is
7 attributable to any increase in minimum required
8 distributions by reason of this subsection shall be
9 treated as a distribution required under section
10 401(a)(9), 403(b)(10), 408(a)(6), 408(b)(3), or
11 457(d)(2), whichever is applicable.

12 “(6) ROTH DISTRIBUTIONS TREATED AS QUALI-
13 FIED DISTRIBUTIONS.—In the case of any distribu-
14 tion from a Roth IRA, or designated Roth account
15 (within the meaning of section 402A), of the payee
16 by reason of the allocation of an increase in min-
17 imum required distributions under this subsection,
18 such distribution shall be treated as a qualified dis-
19 tribution under section 408A(d)(2) or 402A(d)(2),
20 as the case may be.

21 “(7) DEFINITIONS.—For purposes of this sub-
22 section, any term used in this subsection which is
23 also used in section 409B shall have the same mean-
24 ing as when such term is used in such section.”.

25 (b) SPECIAL RULES.—

1 (1) DISTRIBUTION RIGHTS.—

2 (A) QUALIFIED TRUSTS.—

3 (i) IN GENERAL.—Section 401(a) is
4 amended by inserting after paragraph (38)
5 the following new paragraph:

6 “(39) IMMEDIATE DISTRIBUTION RIGHT.—A
7 trust forming part of a defined contribution plan
8 shall not constitute a qualified trust under this sec-
9 tion unless an employee who certifies to the plan
10 that the employee is a taxpayer who is subject to the
11 distribution requirements of section 4974(e) may
12 elect to receive a distribution from the employee’s
13 account balance under the plan in such amount as
14 the employee may elect, including any amounts at-
15 tributable to a qualified cash or deferred arrange-
16 ment (as defined in subsection (k)(2)). The pre-
17 ceding sentence shall not apply in the case of any
18 portion of an account balance to which section
19 4974(e)(4)(B)(iii)(I) applies.”.

20 (ii) APPLICATION TO EMPLOYEE’S AN-
21 NUITIES.—Section 404(a)(2) is amended
22 by striking “and (37)” and inserting
23 “(37), and (39)”.

24 (B) ANNUITY CONTRACTS.—

950

1 (i) CUSTODIAL ACCOUNTS.—Section
2 403(b)(7)(A) is amended by adding at the
3 end the following new flush sentence:
4 “Notwithstanding clause (i), the custodial ac-
5 count shall permit an employee who certifies
6 that the employee is a taxpayer who is subject
7 to the distribution requirements of section
8 4974(e) to elect to receive a distribution from
9 the employee’s custodial account in such
10 amount as the employee may elect.”.

11 (ii) ANNUITY CONTRACTS.—Section
12 403(b)(11) is amended by adding at the
13 end the following new sentence: “Notwith-
14 standing subparagraphs (A), (B), (C), and
15 (D), the annuity contract shall permit an
16 employee who certifies that the employee is
17 a taxpayer who is subject to the distribu-
18 tion requirements of section 4974(e) to
19 elect to receive a distribution of contribu-
20 tions made pursuant to a salary reduction
21 agreement (within the meaning of section
22 402(g)(3)) from the employee’s annuity
23 contract in such amount as the employee
24 may elect.”

1 (C) GOVERNMENTAL PLANS.—Section
2 457(d)(1) is amended by adding at the end the
3 following new flush sentence:

4 “Notwithstanding subparagraph (A), an eligible de-
5 ferred compensation plan of an employer described
6 in subsection (e)(1)(A) shall permit a participant or
7 beneficiary who certifies that the participant or ben-
8 efiary is a taxpayer who is subject to the distribu-
9 tion requirements of section 4974(e) to elect to re-
10 ceive a distribution from the plan in such amount as
11 the participant or beneficiary may elect.”.

12 (2) EXCEPTION FROM 10 PERCENT ADDITIONAL
13 TAX ON EARLY DISTRIBUTIONS.—Section 72(t)(2) is
14 amended by adding at the end the following new
15 subparagraph:

16 “(I) DISTRIBUTIONS OF EXCESS BAL-
17 ANCES.—Distributions from an applicable re-
18 tirement plan (within the meaning of section
19 409B)) to the extent such distributions for the
20 taxable year do not exceed the amount required
21 to be distributed from such plan under section
22 4974(e).”.

23 (3) WITHHOLDING.—Section 3405(b) is amend-
24 ed by adding at the end the following new para-
25 graph:

1 “(3) ADDITIONAL WITHHOLDING FOR RE-
2 REQUIRED DISTRIBUTIONS FROM HIGH BALANCE RE-
3 TIREMENT ACCOUNTS.—

4 “(A) IN GENERAL.—For purposes of this
5 section, a distribution pursuant to section
6 401(a)(39), the last sentence of section
7 403(b)(7)(A), the last sentence of section
8 403(b)(11), and the last sentence of section
9 457(d)(1) shall be treated as a nonperiodic dis-
10 tribution, except that in applying this sub-
11 section to such distribution—

12 “(i) paragraph (1) shall be applied by
13 substituting ‘35 percent’ for ‘10 percent’,
14 and

15 “(ii) no election may be made under
16 paragraph (2) with respect to such dis-
17 tribution.

18 “(B) EXCEPTION.—Subparagraph (A)
19 shall not apply to any qualified distribution
20 from a designated Roth account (within the
21 meaning of section 402A).”.

22 (c) EFFECTIVE DATES.—

23 (1) IN GENERAL.—The amendments made by
24 subsection (a) shall apply to taxable years beginning
25 after December 31, 2028.

1 (2) PLAN REQUIREMENTS.—The amendments
2 made by subsection (b) shall apply to plan years be-
3 ginning after December 31, 2028.

4 **Subpart B—Other Provisions Relating to Individual**
5 **Retirement Plans**

6 **SEC. 128311. TAX TREATMENT OF ROLLOVERS TO ROTH**
7 **IRAS AND ACCOUNTS.**

8 (a) ROLLOVERS AND CONVERSIONS LIMITED TO
9 TAXABLE AMOUNTS.—

10 (1) ROTH IRAS.—

11 (A) IN GENERAL.—Paragraph (1) of sec-
12 tion 408A(e) is amended by adding at the end
13 the following new sentence: “A qualified rollover
14 contribution shall not include any rollover con-
15 tribution from any eligible retirement plan de-
16 scribed in subparagraph (B) (other than from a
17 designated Roth account (within the meaning of
18 section 402A)) if any portion of the distribution
19 from which such contribution is made would
20 (without regard to such contribution) be treated
21 as not includible in gross income.”

22 (B) CONVERSIONS.—Subparagraph (C) of
23 section 408A(d)(3) is amended by adding at the
24 end the following new sentence: “This subpara-
25 graph shall not apply if any portion of the plan

1 being converted would be treated as not includ-
2 ible in gross income if distributed at the time
3 of the conversion.”

4 (2) DESIGNATED ROTH ACCOUNTS.—Section
5 402A(c)(4)(B) is amended by inserting “, deter-
6 mined after the application of the last sentence of
7 paragraph (1) thereof” after “section 408A(e)”.

8 (3) EFFECTIVE DATE.—The amendments made
9 by this subsection shall apply to distributions, trans-
10 fers, and contributions made after December 31,
11 2021.

12 (b) NO ROLLOVERS OR CONVERSIONS FOR HIGH-IN-
13 COME TAXPAYERS.—

14 (1) ROTH IRAS.—

15 (A) QUALIFIED ROLLOVER CONTRIBU-
16 TION.—Section 408A(e), as amended by sub-
17 section (a), is amended by adding at the end
18 the following:

19 “(3) HIGH-INCOME TAXPAYERS MAY ONLY
20 ROLLOVER FROM ROTH IRAS AND ACCOUNTS.—If—

21 “(A) a taxpayer is an applicable taxpayer
22 (as defined in section 409B(b)(4)) for the tax-
23 able year in which a distribution is made, and

24 “(B) such distribution is contributed to a
25 Roth IRA in a rollover contribution,

1 such contribution shall be treated as a qualified roll-
2 over contribution under paragraph (1) only if it is
3 made from another Roth IRA or from a designated
4 Roth account (within the meaning of section
5 402A).”.

6 (B) ELIMINATION OF CONVERSIONS.—
7 Paragraph (3) of section 408A(d), as amended
8 by subsection (a), is amended by adding at the
9 end the following:

10 “(G) PARAGRAPH NOT TO APPLY TO HIGH-
11 INCOME TAXPAYERS.—If a taxpayer is an appli-
12 cable taxpayer (as defined in section
13 409B(b)(4)) for any taxable year, this para-
14 graph shall not apply to any distribution to
15 which this paragraph otherwise applies (or to
16 any conversion described in subparagraph (C))
17 which is made during such taxable year.”.

18 (2) DESIGNATED ROTH ACCOUNTS.—Paragraph
19 (4) of section 402A(c) is amended by adding at the
20 end the following:

21 “(F) PARAGRAPH NOT TO APPLY TO HIGH-
22 INCOME TAXPAYERS.—If a taxpayer is an appli-
23 cable taxpayer (as defined in section
24 409B(b)(4)) for any taxable year, this para-
25 graph shall not apply to any distribution to

1 which this paragraph otherwise applies and
2 which is made during such taxable year.”.

3 (3) CONFORMING AMENDMENT.—Section
4 409B(b)(4)(C), as added by this Act, is amended—

5 (A) by striking “and without regard to”
6 and inserting “without regard to”, and

7 (B) by inserting before the period at the
8 end the following: “, and without regard to the
9 inclusion in gross income of any converted or
10 contributed amount described in section
11 408A(e)(3), 408A(d)(3)(G), or
12 402A(c)(4)(F).”.

13 (4) EFFECTIVE DATE.—The amendments made
14 by this subsection shall apply to distributions, trans-
15 fers, and contributions made in taxable years begin-
16 ning after December 31, 2031.

17 **SEC. 128312. STATUTE OF LIMITATIONS WITH RESPECT TO**
18 **IRA NONCOMPLIANCE.**

19 (a) IN GENERAL.—Subsection (c) of section 6501 is
20 amended by adding at the end the following new para-
21 graph:

22 “(13) NONCOMPLIANCE RELATING TO AN INDI-
23 VIDUAL RETIREMENT PLAN.—

24 “(A) MISREPORTING.—In the case of any
25 substantial error (willful or otherwise) in the re-

1 porting on a return of any information relating
2 to the valuation of investment assets with re-
3 spect to an individual retirement plan, the time
4 for assessment of any tax imposed by this title
5 with respect to such plan shall not expire before
6 the date which is 6 years after the return con-
7 taining such error was filed (whether or not
8 such return was filed on or after the date pre-
9 scribed).

10 “(B) PROHIBITED TRANSACTIONS.—The
11 time for assessment of any tax imposed by sec-
12 tion 4975 shall not expire before the date which
13 is 6 years after the return was filed (whether
14 or not such return was filed on or after the
15 date prescribed).”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 this section shall apply to taxes with respect to which the
18 3-year period under section 6501(a) of the Internal Rev-
19 enue Code of 1986 (without regard to the amendment
20 made by this section) ends after December 31, 2021.

21 **SEC. 128313. IRA OWNERS TREATED AS DISQUALIFIED PER-**
22 **SONS FOR PURPOSES OF PROHIBITED**
23 **TRANSACTION RULES.**

24 (a) IN GENERAL.—Paragraph (2) of section 4975(e)
25 is amended—

1 (1) by striking “or” at the end of subparagraph
2 (H),

3 (2) by striking the period at the end of sub-
4 paragraph (I) and inserting “; or”,

5 (3) by inserting after subparagraph (I) the fol-
6 lowing new subparagraph:

7 “(J) the individual for whose benefit a
8 plan described in subparagraph (B) or (C) of
9 paragraph (1) is maintained.”,

10 (4) by striking “or (E)” both places it appears
11 in subparagraphs (F) and (G) and inserting “(E), or
12 (J) (in the case of a plan described in subparagraph
13 (B) or (C) of paragraph (1))”,

14 (5) by striking “or (G)” in subparagraph (I)
15 and inserting “(G), or (J) (in the case of a plan de-
16 scribed in subparagraph (B) or (C) of paragraph
17 (1))”, and

18 (6) by adding at the end the following: “For
19 purposes of subparagraphs (G) and (I), any asset or
20 interest held by a plan described in subparagraph
21 (B) or (C) of paragraph (1) shall be treated as
22 owned by the individual described in subparagraph
23 (J) with respect to such plan.”.

24 (b) CONFORMING AMENDMENT.—Subparagraph (A)
25 of section 408(e)(2) is amended to read as follows:

1 “(A) EMPLOYEE ENGAGING IN PROHIB-
2 ITED TRANSACTION.—If, during any taxable
3 year of the individual for whose benefit any in-
4 dividual retirement account is maintained, that
5 individual engages in any transaction prohibited
6 by section 4975 with respect to such account,
7 such account ceases to be an individual retire-
8 ment account as of the first day of such taxable
9 year. For purposes of this paragraph, the sepa-
10 rate account for the benefit of any individual
11 within an individual retirement account main-
12 tained by an employer or association of employ-
13 ees is treated as a separate individual retire-
14 ment account.”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to transactions occurring after De-
17 cember 31, 2021.

18 **PART 4—FUNDING THE INTERNAL REVENUE**
19 **SERVICE AND IMPROVING TAXPAYER COM-**
20 **PLIANCE**

21 **SEC. 128401. ENHANCEMENT OF INTERNAL REVENUE SERV-**
22 **ICE RESOURCES.**

23 (a) APPROPRIATIONS.—

24 (1) IN GENERAL.—The following sums are ap-
25 propriated, out of any money in the Treasury not

1 otherwise appropriated, for the fiscal year ending
2 September 30, 2022:

3 (A) INTERNAL REVENUE SERVICE.—

4 (i) IN GENERAL.—

5 (I) TAXPAYER SERVICES.—For
6 necessary expenses of the Internal
7 Revenue Service to provide taxpayer
8 services, including pre-filing assistance
9 and education, filing and account
10 services, taxpayer advocacy services,
11 and other services as authorized by 5
12 U.S.C. 3109, at such rates as may be
13 determined by the Commissioner,
14 \$3,181,500,000, to remain available
15 until September 30, 2031: *Provided*,
16 That these amounts shall be in addi-
17 tion to amounts otherwise available
18 for such purposes.

19 (II) ENFORCEMENT.—For nec-
20 essary expenses for tax enforcement
21 activities of the Internal Revenue
22 Service to determine and collect owed
23 taxes, to provide legal and litigation
24 support, to conduct criminal investiga-
25 tions (including investigative tech-

1 nology), to provide digital asset moni-
2 toring and compliance activities, to
3 enforce criminal statutes related to
4 violations of internal revenue laws and
5 other financial crimes, to purchase
6 and hire passenger motor vehicles (31
7 U.S.C. 1343(b)), and to provide other
8 services as authorized by 5 U.S.C.
9 3109, at such rates as may be deter-
10 mined by the Commissioner,
11 \$45,637,400,000, to remain available
12 until September 30, 2031: *Provided*,
13 That these amounts shall be in addi-
14 tion to amounts otherwise available
15 for such purposes.

16 (III) OPERATIONS SUPPORT.—
17 For necessary expenses of the Inter-
18 nal Revenue Service to support tax-
19 payer services and enforcement pro-
20 grams, including rent payments; fa-
21 cilities services; printing; postage;
22 physical security; headquarters and
23 other IRS-wide administration activi-
24 ties; research and statistics of income;
25 telecommunications; information tech-

1 nology development, enhancement, op-
2 erations, maintenance, and security;
3 the hire of passenger motor vehicles
4 (31 U.S.C. 1343(b)); the operations of
5 the Internal Revenue Service Over-
6 sight Board; and other services as au-
7 thorized by 5 U.S.C. 3109, at such
8 rates as may be determined by the
9 Commissioner, \$25,326,400,000, to
10 remain available until September 30,
11 2031: *Provided*, That these amounts
12 shall be in addition to amounts other-
13 wise available for such purposes.

14 (IV) BUSINESS SYSTEMS MOD-
15 ERNIZATION.—For necessary expenses
16 of the Internal Revenue Service’s
17 business systems modernization pro-
18 gram, including development of call-
19 back technology and other technology
20 to provide a more personalized cus-
21 tomer service but not including the
22 operation and maintenance of legacy
23 systems, \$4,750,700,000, to remain
24 available until September 30, 2031:
25 *Provided*, That these amounts shall be

1 in addition to amounts otherwise
2 available for such purposes.

3 (ii) TASK FORCE TO DESIGN AN IRS-
4 RUN FREE “DIRECT EFILE” TAX RETURN
5 SYSTEM.—For necessary expenses of the
6 Internal Revenue Service to deliver to Con-
7 gress, within nine months following the
8 date of the enactment of this Act, a report
9 on (I) the cost (including options for dif-
10 ferential coverage based on taxpayer ad-
11 justed gross income and return complexity)
12 of developing and running a free direct
13 efile tax return system, including costs to
14 build and administer each release, with a
15 focus on multi-lingual and mobile-friendly
16 features and safeguards for taxpayer data;
17 (II) taxpayer opinions, expectations, and
18 level of trust, based on surveys, for such a
19 free direct efile system; and (III) the opin-
20 ions of an independent third-party on the
21 overall feasibility, approach, schedule, cost,
22 organizational design, and Internal Rev-
23 enue Service capacity to deliver such a di-
24 rect efile tax return system, \$15,000,000,
25 to remain available until September 30,

1 2022: *Provided*, That these amounts shall
2 be in addition to amounts otherwise avail-
3 able for such purposes.

4 (B) TREASURY INSPECTOR GENERAL FOR
5 TAX ADMINISTRATION.—For necessary expenses
6 of the Treasury Inspector General for Tax Ad-
7 ministration in carrying out the Inspector Gen-
8 eral Act of 1978, as amended, including pur-
9 chase and hire of passenger motor vehicles (31
10 U.S.C. 1343(b)); and services authorized by 5
11 U.S.C. 3109, at such rates as may be deter-
12 mined by the Inspector General for Tax Admin-
13 istration, \$403,000,000, to remain available
14 until September 30, 2031: *Provided*, That these
15 amounts shall be in addition to amounts other-
16 wise available for such purposes.

17 (C) OFFICE OF TAX POLICY.—For nec-
18 essary expenses of the Office of Tax Policy of
19 the Department of the Treasury to carry out
20 functions related to promulgating regulations
21 under the Internal Revenue Code of 1986,
22 \$104,533,803, to remain available until Sep-
23 tember 30, 2031: *Provided*, That these amounts
24 shall be in addition to amounts otherwise avail-
25 able for such purposes.

1 (D) UNITED STATES TAX COURT.—For
2 necessary expenses of the United States Tax
3 Court, including contract reporting and other
4 services as authorized by 5 U.S.C. 3109;
5 \$153,000,000, to remain available until Sep-
6 tember 30, 2031: *Provided*, That these amounts
7 shall be in addition to amounts otherwise avail-
8 able for such purposes.

9 (E) TREASURY DEPARTMENTAL OF-
10 FICES.—For necessary expenses of the Depart-
11 mental Offices of the Department of the Treas-
12 ury to provide for oversight and implementation
13 support for actions by the Internal Revenue
14 Service to implement this Act and the amend-
15 ments made by this Act, \$50,000,000, to re-
16 main available until September 30, 2031: *Pro-*
17 *vided*, That these amounts shall be in addition
18 to amounts otherwise available for such pur-
19 poses.

20 (2) MULTI-YEAR OPERATIONAL PLAN.—

21 (A) IN GENERAL.—Not later than 6
22 months after the date of the enactment of this
23 Act, the Commissioner of Internal Revenue
24 shall submit to Congress a plan detailing how
25 the funds appropriated under paragraph

1 (1)(A)(i) will be spent over the ten-year period
2 ending with fiscal year 2031.

3 (B) QUARTERLY UPDATES.—

4 (i) IN GENERAL.—Not later than the
5 last day of each calendar quarter beginning
6 during the applicable period, the Commis-
7 sioner of Internal Revenue shall submit to
8 Congress a report on the plan established
9 under subparagraph (A), including—

10 (I) any updates to the plan;

11 (II) progress made in imple-
12 menting the plan; and

13 (III) any changes in cir-
14 cumstances or challenges in imple-
15 menting the plan.

16 (ii) APPLICABLE PERIOD.—For pur-
17 poses of clause (i), the applicable period is
18 the period beginning 1 year after the date
19 the report under subparagraph (A) is due
20 and ending on September 30, 2031.

21 (C) REDUCTION IN APPROPRIATION.—

22 (i) IN GENERAL.—In the case of any
23 failure to submit a plan required under
24 subparagraph (A) or a report required
25 under subparagraph (B) by the required

1 date, the amounts made available under
2 paragraph (1)(A)(i) shall be reduced by
3 \$100,000 for each day after such required
4 date that report has not been submitted to
5 Congress.

6 (ii) REQUIRED DATE.—For purposes
7 of clause (i), the required date is the date
8 that is 60 days after the date the plan or
9 report is required to be submitted under
10 subparagraph (A) or (B), as the case may
11 be.

12 (3) NO TAX INCREASES ON CERTAIN TAX-
13 PAYERS.—Nothing in this subsection is intended to
14 increase taxes on any taxpayer with a taxable in-
15 come below \$400,000.

16 (b) PERSONNEL FLEXIBILITIES.—The Secretary of
17 the Treasury (or the Secretary's delegate) may use the
18 funds made available under subsection (a)(1)(A), subject
19 to such policies as the Secretary (or the Secretary's dele-
20 gate) may establish, to take such personnel actions as the
21 Secretary (or the Secretary's delegate) determines nec-
22 essary to administer the Internal Revenue Code of 1986,
23 including—

24 (1) utilizing direct hire authority to recruit and
25 appoint qualified applicants, without regard to any

1 notice or preference requirements, directly to posi-
2 tions in the competitive service;

3 (2) in addition to the authority under section
4 7812(1) of the Internal Revenue Code of 1986, ap-
5 pointing not more than 200 individuals to positions
6 in the Internal Revenue Service under streamlined
7 critical pay authority, except that—

8 (A) the authority to offer streamlined crit-
9 ical pay under this paragraph shall expire on
10 September 30, 2031; and

11 (B) the positions for which streamlined
12 critical pay is authorized under this paragraph
13 may include positions critical to the purposes
14 described in subclauses (I), (II), and (III) of
15 subsection (a)(1)(A)(i); and

16 (3) appointing not more than 300 individuals to
17 positions in the Internal Revenue Service for
18 which—

19 (A) the rate of basic pay may be estab-
20 lished by the Secretary of the Treasury (or the
21 Secretary's delegate) at a rate that does not ex-
22 ceed the salary set in accordance with section
23 104 of title 3, United States Code; and

24 (B) the total annual compensation paid to
25 an employee in such a position, including allow-

1 ances, differentials, bonuses, awards, and simi-
2 lar cash payments, may not exceed the max-
3 imum amount of total annual compensation
4 payable at the salary set in accordance with
5 section 104 of title 3, United States Code.

6 **SEC. 128402. APPLICATION OF BACKUP WITHHOLDING**
7 **WITH RESPECT TO THIRD PARTY NETWORK**
8 **TRANSACTIONS.**

9 (a) IN GENERAL.—Section 3406(b) is amended by
10 adding at the end the following new paragraph:

11 “(8) OTHER REPORTABLE PAYMENTS INCLUDE
12 PAYMENTS IN SETTLEMENT OF THIRD PARTY NET-
13 WORK TRANSACTIONS ONLY WHERE AGGREGATE FOR
14 CALENDAR YEAR IS \$600 OR MORE.—Any payment in
15 settlement of a third party network transaction re-
16 quired to be shown on a return required under sec-
17 tion 6050W which is made during any calendar year
18 shall be treated as a reportable payment only if—

19 “(A) the aggregate amount of such pay-
20 ment and all previous such payments made by
21 the third party settlement organization to the
22 participating payee during such calendar year
23 equals or exceeds \$600, or

24 “(B) the third party settlement organiza-
25 tion was required under section 6050W to file

1 a return for the preceding calendar year with
2 respect to payments to the participating
3 payee.”.

4 (b) CONFORMING AMENDMENT.—Section 6050W(e)
5 is amended by inserting “equal or” before “exceed \$600”.

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

9 (d) TRANSITIONAL RULE FOR 2022.—In the case of
10 payments made during calendar year 2022, section
11 3406(b)(8)(A) of the Internal Revenue Code of 1986 (as
12 added by this section) shall be applied by inserting “and
13 the aggregate number of third party network transactions
14 settled by the third party settlement organization with re-
15 spect to the participating payee during such calendar year
16 exceeds 200” before the comma at the end.

17 **SEC. 128403. MODIFICATION OF PROCEDURAL REQUIRE-**
18 **MENTS RELATING TO ASSESSMENT OF PEN-**
19 **ALTIES.**

20 (a) REPEAL OF APPROVAL REQUIREMENT.—Section
21 6751 is amended by striking subsection (b).

22 (b) QUARTERLY CERTIFICATIONS OF COMPLIANCE
23 WITH PROCEDURAL REQUIREMENTS.—Section 6751, as
24 amended by subsection (a) of this section, is amended by
25 inserting after subsection (a) the following new subsection:

1 “(b) QUARTERLY CERTIFICATIONS OF COMPLI-
2 ANCE.—Each appropriate supervisor of employees of the
3 Internal Revenue Service shall certify quarterly by letter
4 to the Commissioner of Internal Revenue whether or not
5 the requirements of subsection (a) and administrative poli-
6 cies intended to ensure voluntary compliance have been
7 met with respect to notices of penalty issued by such em-
8 ployees. The quarterly certification required under this
9 section shall not affect liability for any penalty under this
10 title.”.

11 (c) EFFECTIVE DATES.—

12 (1) REPEAL OF APPROVAL REQUIREMENT.—

13 The amendment made by subsection (a) shall take
14 effect as if included in section 3306 of the Internal
15 Revenue Service Restructuring and Reform Act of
16 1998.

17 (2) QUARTERLY CERTIFICATIONS OF COMPLI-

18 ANCE WITH PROCEDURAL REQUIREMENTS.—The

19 amendment made by subsection (b) shall apply to

20 notices of penalty issued after the date of the enact-

21 ment of this Act.

1 **PART 5—OTHER PROVISIONS**
2 **SEC. 128501. MODIFICATIONS TO LIMITATION ON DEDUC-**
3 **TION OF EXCESSIVE EMPLOYEE REMUNERA-**
4 **TION.**

5 (a) **IN GENERAL.**—Section 162(m) is amended by
6 adding at the end the following new paragraph:

7 “(7) **SPECIAL RULES RELATED TO LIMITATION**
8 **ON DEDUCTION OF EXCESSIVE EMPLOYEE REMU-**
9 **NERATION.**—

10 “(A) **AGGREGATION RULE.**—A rule similar
11 to the rule of paragraph (6)(C)(ii) shall apply
12 for purposes of paragraph (1).

13 “(B) **REGULATIONS.**—The Secretary shall
14 prescribe such regulations or other guidance as
15 may be necessary or appropriate to carry out
16 the purposes of paragraph (1), including regula-
17 tions or other guidance to prevent the avoidance
18 of such purposes, including through the per-
19 formance of services other than as an employee
20 or by providing compensation through a pass-
21 through or other entity.”.

22 (b) **APPLICABLE EMPLOYEE REMUNERATION.**—Sec-
23 tion 162(m)(4)(A) is amended—

24 (1) by inserting “(including performance-based
25 compensation, commissions, post-termination com-

1 pensation, and beneficiary payments)” after “remu-
2 neration for services”, and

3 (2) by inserting “and whether or not such re-
4 muneration is paid directly by the publicly held cor-
5 poration” after “whether or not during the taxable
6 year”.

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

10 **SEC. 128502. EXTENSION OF TAX TO FUND BLACK LUNG**
11 **DISABILITY TRUST FUND.**

12 (a) IN GENERAL.—Section 4121(e)(2)(A) is amended
13 by striking “December 31, 2021” and inserting “Decem-
14 ber 31, 2025”.

15 (b) EFFECTIVE DATE.—The amendment made by
16 this section shall apply to sales after December 31, 2021.

17 **SEC. 128503. PROHIBITED TRANSACTIONS RELATING TO**
18 **HOLDING DISC OR FSC IN INDIVIDUAL RE-**
19 **TIREMENT ACCOUNT.**

20 (a) IN GENERAL.—Section 4975(c)(1) is amended by
21 striking “or” at the end of subparagraph (E), by striking
22 the period at the end of subparagraph (F) and inserting
23 “; or”, and by adding at the end the following new sub-
24 paragraph:

1 “(G) investment, at the direction of a dis-
2 qualified person, by an individual retirement ac-
3 count in an interest in a DISC or FSC that re-
4 ceives any commission, or other payment, from
5 an entity any stock or interest in which is
6 owned by the individual for whose benefit the
7 account is maintained.”.

8 (b) SPECIAL RULES OF APPLICATION.—Section
9 4975(c) is amended by adding at the end the following
10 new paragraph:

11 “(8) SPECIAL RULES OF APPLICATION FOR
12 DISC AND FSC INVESTMENTS.—

13 “(A) INDIRECT HOLDING OF DISC OR
14 FSC.—For purposes of paragraph (1)(G), in-
15 vestment by an individual retirement account in
16 an interest in an entity that owns (directly or
17 indirectly) an interest in a DISC or FSC shall
18 be treated as investment by such account in an
19 interest in such DISC or FSC.

20 “(B) CONSTRUCTIVE OWNERSHIP.—For
21 purposes of determining ownership of stock (or
22 any other interest) in an entity under para-
23 graph (1)(G) and ownership of an interest in a
24 DISC or FSC under subparagraph (A), the
25 rules prescribed by section 318 for determining

1 ownership shall apply, except that such section
2 shall be applied by substituting ‘10 percent’ for
3 ‘50 percent’ each place it appears.

4 “(C) DISC AND FSC.—For purposes of
5 this subsection, the terms ‘DISC’ and ‘FSC’
6 shall have the respective meanings given such
7 terms by section 992(a)(1)) and section 922(a)
8 (as in effect before its repeal by the FSC Re-
9 peal and Extraterritorial Income Exclusion Act
10 of 2000).”.

11 (c) APPLICATION OF TAX TO TERMINATED INDI-
12 VIDUAL RETIREMENT ACCOUNTS.—Section 4975(c)(3) is
13 amended by adding at the end the following: “The pre-
14 ceding sentence shall not apply in the case of a prohibited
15 transaction described in paragraph (1)(G).”.

16 (d) RELATED RULES FOR INDIVIDUAL RETIREMENT
17 ACCOUNTS.—

18 (1) IN GENERAL.—Section 408(a) is amended
19 by inserting after paragraph (6) the following new
20 paragraph:

21 “(7) No part of the trust funds will be invested
22 in any interest in a DISC or a FSC that receives
23 any commission, or other payment, from an entity
24 any stock or interest in which is owned by the indi-
25 vidual for whose benefit the trust is maintained. For

1 purposes of the preceding sentence, the definitions
2 and rules of section 4975(c)(8) shall apply.”.

3 (e) LOSS OF EXEMPTION OF ACCOUNT.—Section
4 408(e)(2), as amended by the preceding provisions of this
5 Act, is amended—

6 (1) by redesignating subparagraph (B) as sub-
7 paragraph (C),

8 (2) by inserting after subparagraph (A) the fol-
9 lowing new subparagraph:

10 “(B) PROHIBITED INVESTMENT.—If, dur-
11 ing any taxable year of the individual for whose
12 benefit any individual retirement account is
13 maintained, the investment of any part of the
14 funds of such individual retirement account
15 does not comply with subsection (a)(7), such
16 account ceases to be an individual retirement
17 account as of the first day of such taxable year.
18 For purposes of this subparagraph, the sepa-
19 rate account for the benefit of any individual
20 within an individual retirement account main-
21 tained by an employer or association of employ-
22 ees is treated as a separate individual retire-
23 ment account.”,

24 (3) by striking “WHERE EMPLOYEE ENGAGES
25 IN PROHIBITED TRANSACTION” in the heading and

1 inserting “IN CASE OF CERTAIN PROHIBITED TRANS-
2 ACTIONS AND INVESTMENTS”,

3 (4) by striking “(A)” in subparagraph (C), as
4 so redesignated, and inserting “(A) or (B)”.

5 (f) CONFORMING AMENDMENTS.—

6 (1) Section 408(e)(1) is amended by striking
7 “(1) through (6)” and inserting “(1) through (7)”.

8 (2) Section 4975(e)(3) is amended—

9 (A) striking “established” and inserting
10 “maintained”,

11 (B) by striking “transaction” both places
12 it appears and inserting “transaction or invest-
13 ment”, and

14 (C) by striking “section 408(e)(2)(A)” and
15 inserting “subparagraph (A) or (B) of section
16 408(e)(2)”.

17 (g) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to stock and other interests ac-
19 quired or held on or after December 31, 2021.

20 **SEC. 128504. CLARIFICATION OF TREATMENT OF DISC**
21 **GAINS AND DISTRIBUTIONS OF CERTAIN**
22 **FOREIGN SHAREHOLDERS.**

23 (a) IN GENERAL.—Section 996(g) is amended by
24 striking “of such shareholder” and inserting “deemed to
25 be had by such shareholder”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 subsection (a) shall apply to gains and distributions after
3 December 31, 2021.

4 (c) APPLICATION TO FOREIGN SALES CORPORA-
5 TIONS.—In the case of any distribution after December
6 31, 2021, section 926(b)(1) of the Internal Revenue Code
7 of 1986 (prior to its repeal by the FSC Repeal and
8 Extraterritorial Income Exclusion Act of 2000) shall be
9 applied by substituting “deemed to be had by such share-
10 holder” for “of such shareholder”.

11 (d) NO INFERENCE.—This section (and the amend-
12 ments made by this section) shall not be construed to cre-
13 ate any inference with respect to the proper application
14 of any provision of the Internal Revenue Code of 1986
15 with respect to gains and distributions before January 1,
16 2022.

17 **SEC. 128505. TREATMENT OF CERTAIN QUALIFIED SOUND**
18 **RECORDING PRODUCTIONS.**

19 (a) ELECTION TO TREAT COSTS AS EXPENSES.—
20 Section 181(a)(1) is amended by striking “qualified film
21 or television production, and any qualified live theatrical
22 production,” and inserting “qualified film or television
23 production, any qualified live theatrical production, and
24 any qualified sound recording production”.

1 (b) DOLLAR LIMITATION.—Section 181(a)(2) is
2 amended by adding at the end the following new subpara-
3 graph:

4 “(C) QUALIFIED SOUND RECORDING PRO-
5 Duction.—Paragraph (1) shall not apply to so
6 much of the aggregate cost of any qualified
7 sound recording production, or to so much of
8 the aggregate, cumulative cost of all such quali-
9 fied sound recording productions in the taxable
10 year, as exceeds \$150,000.”.

11 (c) NO OTHER DEDUCTION OR AMORTIZATION DE-
12 Duction ALLOWABLE.—Section 181(b) 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 (d) ELECTION.—Section 181(c)(1) is amended by
19 striking “qualified film or television production or any
20 qualified live theatrical production” and inserting “quali-
21 fied film or television production, any qualified live theat-
22 rical production, or any qualified sound recording produc-
23 tion”.

24 (e) QUALIFIED SOUND RECORDING PRODUCTION
25 DEFINED.—Section 181 is amended by redesignating sub-

1 sections (f) and (g) as subsections (g) and (h), respec-
2 tively, and by inserting after subsection (e) the following
3 new subsection:

4 “(f) **QUALIFIED SOUND RECORDING PRODUCTION.**—
5 For purposes of this section, the term ‘qualified sound re-
6 cording production’ means a sound recording (as defined
7 in section 101 of title 17, United States Code) produced
8 and recorded in the United States.”.

9 (f) **TERMINATION.**—Section 181(h) (as redesignated
10 by subsection (e)) is amended by striking “or qualified live
11 theatrical productions” and inserting “, qualified live the-
12 atrical productions, or qualified sound recording produc-
13 tions”.

14 (g) **BONUS DEPRECIATION.**—

15 (1) **QUALIFIED SOUND RECORDING PRODUC-**
16 **TION AS QUALIFIED PROPERTY.**—Section
17 168(k)(2)(A)(i) is amended—

18 (A) by striking “or” at the end of sub-
19 clause (IV), by adding “or” at the end of sub-
20 clause (V), and by inserting after subclause (V)
21 the following:

22 “(VI) which is a qualified sound
23 recording production (as defined in
24 subsection (f) of section 181) for
25 which a deduction would have been al-

1 lowable under section 181 without re-
2 gard to subsections (a)(2) and (h) of
3 such section or this subsection,” and
4 (B) in subclauses (IV) and (V) (as amend-
5 ed) by striking “without regard to subsections
6 (a)(2) and (g)” both places it appears and in-
7 serting “without regard to subsections (a)(2)
8 and (h)”.

9 (2) PRODUCTION PLACED IN SERVICE.—Section
10 168(k)(2)(H) is amended by striking “and” at the
11 end of clause (i), by striking the period at the end
12 of clause (ii) and inserting “, and”, and by adding
13 after clause (ii) the following:

14 “(iii) a qualified sound recording pro-
15 duction shall be considered to be placed in
16 service at the time of initial release or
17 broadcast.”.

18 (h) CONFORMING AMENDMENTS.—

19 (1) The heading for section 181 is amended to
20 read as follows: “**TREATMENT OF CERTAIN**
21 **QUALIFIED PRODUCTIONS.**”.

22 (2) The table of sections for part VI of sub-
23 chapter B of chapter 1 is amended by striking the
24 item relating to section 181 and inserting the fol-
25 lowing new item:

“Sec. 181. Treatment of certain qualified productions.”.

1 (i) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to productions commencing in tax-
3 able years ending after the date of the enactment of this
4 Act.

5 **SEC. 128506. PAYMENT TO CERTAIN INDIVIDUALS WHO DYE**
6 **FUEL.**

7 (a) IN GENERAL.—Subchapter B of chapter 65 is
8 amended by adding at the end the following new sub-
9 section:

10 **“SEC. 6433. DYED FUEL.**

11 “(a) IN GENERAL.—If a person establishes to the
12 satisfaction of the Secretary that such person meets the
13 requirements of subsection (b) with respect to diesel fuel
14 or kerosene, then the Secretary shall pay to such person
15 an amount (without interest) equal to the tax described
16 in subsection (b)(2)(A) with respect to such diesel fuel or
17 kerosene.

18 “(b) REQUIREMENTS.—

19 “(1) IN GENERAL.—A person meets the re-
20 quirements of this subsection with respect to diesel
21 fuel or kerosene if such person removes from a ter-
22 minal eligible indelibly dyed diesel fuel or kerosene.

23 “(2) ELIGIBLE INDELIBLY DYED DIESEL FUEL
24 OR KEROSENE DEFINED.—The term ‘eligible indeli-

1 bly dyed diesel fuel or kerosene’ means diesel fuel or
2 kerosene—

3 “(A) with respect to which a tax under sec-
4 tion 4081 was previously paid (and not credited
5 or refunded), and

6 “(B) which is exempt from taxation under
7 section 4082(a).

8 “(c) CROSS REFERENCE.—For civil penalty for ex-
9 cessive claims under this section, see section 6675.”.

10 (b) CONFORMING AMENDMENTS.—

11 (1) Section 6206 is amended—

12 (A) by striking “or 6427” each place it ap-
13 pears and inserting “6427, or 6433”, and

14 (B) by striking “6420 and 6421” and in-
15 serting “6420, 6421, and 6433”.

16 (2) Section 6430 is amended—

17 (A) by striking “or” at the end of para-
18 graph (2), by striking the period at the end of
19 paragraph (3) and inserting “or”, and by add-
20 ing at the end the following new paragraph:

21 “(4) which are removed as eligible indelibly
22 dyed diesel fuel or kerosene under section 6433.”.

23 (3) Section 6675 is amended—

24 (A) in subsection (a), by striking “or 6427
25 (relating to fuels not used for taxable pur-

1 poses)” and inserting “6427 (relating to fuels
2 not used for taxable purposes), or 6433 (relat-
3 ing to eligible indelibly dyed fuel)”, and

4 (B) in subsection (b)(1), by striking
5 “6421, or 6427,” and inserting “6421, 6427,
6 or 6433”.

7 (4) The table of sections for subchapter B of
8 chapter 65 is amended by adding at the end the fol-
9 lowing new item:

“Sec. 6433. Dyed fuel.”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to eligible indelibly dyed diesel fuel
12 or kerosene removed on or after the date that is 180 days
13 after the date of the enactment of this section.

14 **SEC. 128507. TREATMENT OF FINANCIAL GUARANTY INSUR-**
15 **ANCE COMPANIES AS QUALIFYING INSUR-**
16 **ANCE CORPORATIONS UNDER PASSIVE FOR-**
17 **EIGN INVESTMENT COMPANY RULES.**

18 (a) IN GENERAL.—Section 1297(f)(3) is amended by
19 adding at the end the following new subparagraph:

20 “(C) SPECIAL RULES FOR FINANCIAL
21 GUARANTY INSURANCE COMPANIES.—

22 “(i) IN GENERAL.—Notwithstanding
23 subparagraphs (A)(ii) and (B), the applica-
24 ble insurance liabilities of a financial guar-

1 anty insurance company shall include its
2 unearned premium reserves if—

3 “(I) such company is prohibited
4 under generally accepted accounting
5 principles from reporting on its appli-
6 cable financial statements reserves for
7 losses and loss adjustment expenses
8 with respect to a financial guaranty
9 insurance or reinsurance contract ex-
10 cept to the extent that losses and loss
11 adjustment expenses are expected to
12 exceed the unearned premium reserves
13 on the contract,

14 “(II) the applicable financial
15 statement of such company reports fi-
16 nancial guaranty exposure of at least
17 15-to-1 or State or local bond expo-
18 sure of at least 9-to-1 (8-to-1 in the
19 case of a taxable year of such com-
20 pany which ends on or before Decem-
21 ber 31, 2018), and

22 “(III) such company includes in
23 its insurance liabilities only its un-
24 earned premium reserves relating to
25 insurance written or assumed that is

1 within the single risk limits set forth
2 in subsection (D) of section 4 of the
3 Financial Guaranty Insurance Guide-
4 line (modified by using total share-
5 holder's equity as reported on the ap-
6 plicable financial statement of the
7 company rather than aggregate of the
8 surplus to policyholders and contin-
9 gency reserves).

10 “(ii) APPLICATION OF ALTERNATIVE
11 FACTS AND CIRCUMSTANCES TEST.—A fi-
12 nancial guaranty insurance company shall
13 be treated as satisfying the requirements
14 of paragraph (2)(B)(ii).

15 “(iii) FINANCIAL GUARANTY INSUR-
16 ANCE COMPANY.—For purposes of this
17 subparagraph, the term ‘financial guaranty
18 insurance company’ means any insurance
19 company the sole business of which is writ-
20 ing or reinsuring financial guaranty insur-
21 ance (as defined in subsection (A) of sec-
22 tion 1 of the Financial Guaranty Insurance
23 Guideline) which is permitted under sub-
24 section (B) of section 4 of such Guideline.

1 “(iv) FINANCIAL GUARANTY EXPO-
2 SURE.—For purposes of this subpara-
3 graph, the term ‘financial guaranty expo-
4 sure’ means the ratio of—

5 “(I) the net debt service out-
6 standing insured or reinsured by the
7 company that is within the single risk
8 limits set forth in the Financial Guar-
9 anty Insurance Guideline (as reported
10 on such company’s applicable financial
11 statement), to

12 “(II) the company’s total assets
13 (as so reported).

14 “(v) STATE OR LOCAL BOND EXPO-
15 SURE.—For purposes of this subpara-
16 graph, the term ‘State or local bond expo-
17 sure’ means the ratio of—

18 “(I) the net unpaid principal of
19 State or local bonds (as defined in
20 section 103(c)(1)) insured or rein-
21 sured by the company that is within
22 the single risk limits set forth in the
23 Financial Guaranty Insurance Guide-
24 line (as reported on such company’s
25 applicable financial statement), to

1 “(II) the company’s total assets
2 (as so reported).”

3 “(vi) FINANCIAL GUARANTY INSUR-
4 ANCE GUIDELINE.—For purposes of this
5 subparagraph—

6 “(I) IN GENERAL.—The term
7 ‘Financial Guaranty Insurance Guide-
8 line’ means the October 2008 model
9 regulation that was adopted by the
10 National Association of Insurance
11 Commissioners on December 4, 2007.

12 “(II) DETERMINATIONS MADE BY
13 SECRETARY.—The determination of
14 whether any provision of the Financial
15 Guaranty Insurance Guideline has
16 been satisfied shall be made by the
17 Secretary.”

18 (b) REPORTING OF CERTAIN ITEMS.—Section
19 1297(f)(4) is amended by adding at the end the following
20 new subparagraph:

21 “(C) CLARIFICATION THAT CERTAIN ITEMS
22 ON APPLICABLE FINANCIAL STATEMENT BE
23 SEPARATELY REPORTED WITH RESPECT TO
24 CORPORATION.—An amount described in para-
25 graph (1)(B) or clause (i)(II), (i)(III), (iv)(I),

1 (iv)(II), (v)(I), or (v)(II) of paragraph (3)(C)
2 shall be treated as reported on an applicable fi-
3 nancial statement for purposes of this section
4 if—

5 “(i) such amount is separately re-
6 ported on such statement with respect to
7 the corporation referred to in paragraph
8 (1), or

9 “(ii) such amount is separately deter-
10 mined for purposes of calculating an
11 amount which is reported on such state-
12 ment.

13 “(D) AUTHORITY OF SECRETARY TO RE-
14 QUIRE REPORTING.—

15 “(i) IN GENERAL.—Each United
16 States person who owns an interest in a
17 specified non-publicly traded foreign cor-
18 poration and who takes the position that
19 such corporation is not a passive foreign
20 investment company shall report to the
21 Secretary such information with respect to
22 such corporation as the Secretary may re-
23 quire.

24 “(ii) SPECIFIED NON-PUBLICLY TRAD-
25 ED FOREIGN CORPORATION.—For purposes

1 of this subparagraph, the term ‘specified
2 non-publicly traded foreign corporation’
3 means any foreign corporation—

4 “(I) which would be a passive
5 foreign investment company if sub-
6 section (b)(2)(B) did not apply, and

7 “(II) no interest in which is trad-
8 ed on an established securities mar-
9 ket.”.

10 (c) EFFECTIVE DATE.—

11 (1) IN GENERAL.—Except as otherwise pro-
12 vided in this subsection, the amendments made by
13 this section shall take effect as if included in section
14 14501 of Public Law 115–97.

15 (2) REPORTING.—The amendment made by
16 subsection (b) shall apply to reports made after the
17 date of the enactment of this Act.

18 **SEC. 128508. EXTENSION OF PERIOD OF LIMITATION FOR**
19 **CERTAIN LEGALLY MARRIED COUPLES.**

20 (a) IN GENERAL.—In the case of an individual first
21 treated as married for purposes of the Internal Revenue
22 Code of 1986 by the application of the holdings of Rev-
23 enue Ruling 2013–17—

24 (1) if such individual filed a return (other than
25 a joint return) for a taxable year ending before Sep-

1 tember 16, 2013, for which a joint return could have
2 been made by the individual and the individual's
3 spouse but for the fact that such holdings were not
4 effective at the time of filing, such return shall be
5 treated as a separate return within the meaning of
6 section 6013(b) of such Code and the time pre-
7 scribed by section 6013(b)(2)(A) of such Code for
8 filing a joint return after filing a separate return
9 shall not expire before the date prescribed by law
10 (including extensions) for filing the return of tax for
11 the taxable year that includes the date of the enact-
12 ment of this Act, and

13 (2) in the case of a joint return filed pursuant
14 to paragraph (1)—

15 (A) the period of limitation prescribed by
16 section 6511(a) of such Code for any such tax-
17 able year shall be extended until the date pre-
18 scribed by law (including extensions) for filing
19 the return of tax for the taxable year that in-
20 cludes the date of the enactment of this Act,
21 and

22 (B) section 6511(b)(2) of such Code shall
23 not apply to any claim of credit or refund with
24 respect to such return.

1 (b) AMENDMENTS, ETC. RESTRICTED TO CHANGE IN
2 MARITAL STATUS.—Subsection (a) shall apply only with
3 respect to amendments to the return of tax, and claims
4 for credit or refund, relating to a change in the marital
5 status for purposes of the Internal Revenue Code of 1986
6 of the individual.

7 **SEC. 128509. ALLOWANCE OF DEDUCTION FOR CERTAIN EX-**
8 **PENSES OF THE TRADE OR BUSINESS OF**
9 **BEING AN EMPLOYEE.**

10 (a) ABOVE-THE-LINE DEDUCTION FOR UNION
11 DUES.—Section 62(a)(2) is amended by adding at the end
12 the following new subparagraph:

13 “(F) UNION DUES.—In the case of any
14 taxable year beginning after December 31,
15 2021, and before January 1, 2026, the deduc-
16 tions allowed by section 162 which are both—

17 “(i) not in excess of \$250, and

18 “(ii) attributable to a trade or busi-
19 ness consisting of the performance of serv-
20 ices by the taxpayer as an employee if such
21 deductions are for dues paid to a labor or-
22 ganization described in section 501(c)(5)
23 and with respect to which such taxpayer
24 remained a member through the end of the
25 taxable year.”.

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

4 **SEC. 128510. TEMPORARY INCREASE IN EMPLOYER-PRO-**
5 **VIDED CHILD CARE CREDIT.**

6 (a) IN GENERAL.—Section 45F is amended by add-
7 ing at the end the following new subsection:

8 “(g) TEMPORARY INCREASE.—In the case of any tax-
9 able year beginning after December 31, 2021, and before
10 January 1, 2026—

11 “(1) INCREASE IN PERCENTAGE OF CREDIT
12 FOR QUALIFIED CHILD CARE EXPENDITURES.—Sub-
13 section (a)(1) shall be applied by substituting ‘50
14 percent’ for ‘25 percent’.

15 “(2) INCREASE IN DOLLAR LIMITATION.—Sub-
16 section (b) shall be applied by substituting
17 ‘\$500,000’ for ‘\$150,000’.

18 “(3) PRESERVATION OF DOLLAR LIMITATION
19 ON QUALIFIED CHILD CARE RESOURCE AND REFER-
20 RAL EXPENDITURES.—The aggregate amount of
21 qualified child care resource and referral expendi-
22 tures which may be taken into account under sub-
23 section (a)(2) for any taxable year shall not exceed
24 \$1,500,000.”.

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

4 **SEC. 128511. PAYROLL CREDIT FOR COMPENSATION OF**
5 **LOCAL NEWS JOURNALISTS.**

6 (a) IN GENERAL.—Subchapter D of chapter 21 is
7 amended by adding at the end the following new section:

8 **“SEC. 3135. LOCAL NEWS JOURNALIST COMPENSATION**
9 **CREDIT.**

10 “(a) IN GENERAL.—In the case of an eligible local
11 news journalist employer, there shall be allowed as a credit
12 against the taxes imposed by section 3111(b) for each cal-
13 endar quarter an amount equal to the applicable percent-
14 age of wages paid by such employer to local news journal-
15 ists for such calendar quarter.

16 “(b) LIMITATIONS AND REFUNDABILITY.—

17 “(1) NUMBER OF LOCAL NEWS JOURNALISTS
18 TAKEN INTO ACCOUNT.—The number of local news
19 journalists which may be taken into account under
20 subsection (a) with respect to any eligible local news
21 journalist employer for any calendar quarter shall
22 not exceed 1,500.

23 “(2) WAGES TAKEN INTO ACCOUNT.—The
24 amount of wages paid with respect to any individual
25 which may be taken into account under subsection

1 (a) during any calendar quarter by the eligible local
2 news journalist employer shall not exceed \$12,500.

3 “(3) CREDIT LIMITED TO EMPLOYMENT
4 TAXES.—The credit allowed by subsection (a) with
5 respect to any calendar quarter shall not exceed the
6 taxes imposed by section 3111(b) on the wages paid
7 with respect to the employment of all the employees
8 of the eligible local news journalist employer for such
9 calendar quarter.

10 “(4) REFUNDABILITY OF EXCESS CREDIT.—If
11 the amount of the credit under subsection (a) ex-
12 ceeds the limitation of paragraph (3) for any cal-
13 endar quarter, such excess shall be treated as an
14 overpayment that shall be refunded under sections
15 6402(a) and 6413(b).

16 “(c) ELIGIBLE LOCAL NEWS JOURNALIST EM-
17 PLOYER.—For purposes of this section—

18 “(1) IN GENERAL.—The term ‘eligible local
19 news journalist employer’ means, with respect to any
20 calendar quarter, any employer which—

21 “(A) is—

22 “(i) an eligible local news organiza-
23 tion, or

24 “(ii) a qualifying broadcast station,

25 and

1 “(B) employs local news journalists.

2 “(2) ELIGIBLE LOCAL NEWS ORGANIZATION.—

3 The term ‘eligible local news organization’ means,
4 with respect to any calendar quarter, any em-
5 ployer—

6 “(A) which publishes one or more quali-
7 fying publications during the calendar quarter,

8 “(B) which is not a disqualified organiza-
9 tion, and

10 “(C) which did not derive more than 50
11 percent of its gross receipts for such calendar
12 quarter from disqualified organizations.

13 “(3) QUALIFYING BROADCAST STATION.—The
14 term ‘qualifying broadcast station’ means, with re-
15 spect to any calendar quarter, any employer—

16 “(A) which owns or operates a broadcast
17 station (as defined in section 3 of the Commu-
18 nications Act of 1934),

19 “(B) which is not a disqualified organiza-
20 tion,

21 “(C) which did not derive more than 50
22 percent of its gross receipts for such calendar
23 quarter from disqualified organizations, and

1 “(D) which discloses its ownership to the
2 public at such times and in such manner as
3 identified by the Secretary.

4 “(d) OTHER DEFINITIONS.—For purposes of this
5 section—

6 “(1) APPLICABLE PERCENTAGE.—The term
7 ‘applicable percentage’ means—

8 “(A) in the case of each of the first 4 cal-
9 endar quarters to which this section applies, 50
10 percent, and

11 “(B) in the case of each calendar quarter
12 thereafter, 30 percent.

13 “(2) LOCAL NEWS JOURNALIST.—

14 “(A) IN GENERAL.—The term ‘local news
15 journalist’ means, with respect to any eligible
16 local news journalist employer for any calendar
17 quarter, any full-time employee (as defined in
18 section 4980H(c)(4)) who—

19 “(i) provides qualified services for an
20 average of not less than 30 hours per week
21 for each week during which such employee
22 is employed by the eligible local news jour-
23 nalist employer during the calendar quar-
24 ter, and

1 “(ii) resides within 50 miles of the
2 local community with respect to the quali-
3 fying publication or qualifying broadcast
4 station with respect to which the qualified
5 services are provided.

6 “(B) QUALIFIED SERVICES.—For purposes
7 of subparagraph (A)(ii), the term ‘qualified
8 services’ means services—

9 “(i) which consist of gathering, pre-
10 paring, directing the recording of, pro-
11 ducing, collecting, photographing, record-
12 ing, writing, editing, reporting, presenting,
13 or publishing original local community
14 news for dissemination to the local commu-
15 nity, and

16 “(ii) which are provided with respect
17 to—

18 “(I) a qualifying publication of
19 an eligible local news organization, or

20 “(II) the local community of a
21 qualifying broadcast station.

22 “(3) QUALIFYING PUBLICATION.—The term
23 ‘qualifying publication’ means, with respect to any
24 calendar quarter, any print or digital publication—

1 “(A) the primary purpose of which is to
2 serve a local community by providing local
3 news,

4 “(B) which—

5 “(i) is published during the calendar
6 quarter, and

7 “(ii) has been published during each
8 of the 4 calendar quarters preceding such
9 calendar quarter,

10 “(C) which is covered by media liability in-
11 surance for such calendar quarter,

12 “(D) which discloses its ownership to the
13 public at such times and in such manner as
14 identified by the Secretary, and

15 “(E) which receives services from not more
16 than 1,500 persons during such calendar quar-
17 ter.

18 “(4) LOCAL COMMUNITY.—The term ‘local com-
19 munity’ means, with respect to any qualifying broad-
20 cast station or qualifying publication, a geographi-
21 cally contiguous area that does not exceed the
22 boundaries of—

23 “(A) in the case of a qualifying broadcast
24 station, the area for which the qualifying broad-
25 cast station is licensed to serve by the Federal

1000

1 Communications Commission under section 307
2 of the Communications Act of 1934, and

3 “(B) in the case of a qualifying publica-
4 tion—

5 “(i) the metropolitan or micropolitan
6 statistical area, as defined by the Office of
7 Management and Budget, in which the
8 qualifying publication is primarily distrib-
9 uted,

10 “(ii) if such qualifying publication is
11 not primarily distributed in a metropolitan
12 or micropolitan statistical area, political
13 subdivision of the State in which such
14 qualifying publication is primarily distrib-
15 uted, or

16 “(iii) if such qualifying publication is
17 not primarily distributed in a metropolitan
18 or micropolitan statistical area or a polit-
19 ical subdivision of a State, the State in
20 which such qualifying publication is pri-
21 marily distributed.

22 For purposes of subparagraph (B), in the case of a
23 qualifying publication which is a digital publication,
24 such qualifying publication shall be considered to be

1001

1 primarily distributed in the area where such publica-
2 tion is primarily consumed.

3 “(5) DISQUALIFIED ORGANIZATION.—The term
4 ‘disqualified organization’ means—

5 “(A) any organization described in section
6 501(c)(4) and exempt from tax under section
7 501(a),

8 “(B) any organization described in section
9 527, and

10 “(C) any organization that is owned or
11 controlled (directly or indirectly) by one or more
12 organizations described in subparagraph (A) or
13 (B).

14 “(6) GROSS RECEIPTS.—

15 “(A) IN GENERAL.—Except as provided in
16 subparagraph (B), the term ‘gross receipts’ has
17 the meaning given such term as used in section
18 448(c).

19 “(B) TAX-EXEMPT ORGANIZATIONS.—In
20 the case of an organization which is described
21 in section 501(c) and exempt from tax under
22 section 501(a), any reference in this section to
23 gross receipts shall be treated as a reference to
24 gross receipts within the meaning of section
25 6033.

1002

1 “(7) OTHER TERMS.—Any term used in this
2 section which is also used in this chapter shall have
3 the same meaning as when used in such chapter.

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

8 “(f) CERTAIN RULES TO APPLY.—

9 “(1) IN GENERAL.—For purposes of this sec-
10 tion—

11 “(A) except as provided in paragraph (2),
12 rules similar to the rules of section 51(i)(1)
13 shall apply, and

14 “(B) rules similar to the rules of section
15 280C(a) shall apply.

16 “(2) EXCEPTION.—Paragraph (1)(A) shall not
17 apply with respect to any local news journalist of an
18 eligible local news journalist employer which employs
19 fewer than 15 local news journalists during the cal-
20 endar quarter.

21 “(g) CERTAIN GOVERNMENTAL EMPLOYERS.—

22 “(1) IN GENERAL.—This credit shall not apply
23 to the Government of the United States, the govern-
24 ment of any State or political subdivision thereof, or

1003

1 any agency or instrumentality of any of the fore-
2 going.

3 “(2) EXCEPTION.—Paragraph (1) shall not
4 apply to any public broadcasting entity (as defined
5 in section 397(11) of the Communications Act of
6 1934 (47 U.S.C. 397(11))).

7 “(h) ELECTION TO HAVE SECTION NOT APPLY.—
8 This section shall not apply with respect to any eligible
9 local news journalist employer for any calendar quarter
10 if such employer elects (at such time and in such manner
11 as the Secretary may prescribe) not to have this section
12 apply.

13 “(i) SPECIAL RULES.—

14 “(1) EMPLOYEE NOT TAKEN INTO ACCOUNT
15 MORE THAN ONCE.—An employee shall not be in-
16 cluded for purposes of this section for any period
17 with respect to any employer if such employer is al-
18 lowed a credit under section 51 with respect to such
19 employee for such period.

20 “(2) DENIAL OF DOUBLE BENEFIT.—Any
21 wages taken into account in determining the credit
22 allowed under this section shall not be taken into ac-
23 count for purposes of determining the credit allowed
24 under section 41, 45A, 45P, 45S, or 1396.

1004

1 “(3) THIRD-PARTY PAYORS.—Any credit al-
2 lowed under this section shall be treated as a credit
3 described in section 3511(d)(2) of such Code.

4 “(j) TREATMENT OF DEPOSITS.—The Secretary shall
5 waive any penalty under section 6656 for any failure to
6 make a deposit of any taxes imposed under section
7 3111(b) if the Secretary determines that such failure was
8 due to the reasonable anticipation of the credit allowed
9 under this section.

10 “(k) EXTENSION OF LIMITATION ON ASSESSMENT.—
11 Notwithstanding section 6501, the limitation on the time
12 period for the assessment of any amount attributable to
13 a credit claimed under this section shall not expire before
14 the date that is 5 years after the later of—

15 “(1) the date on which the original return
16 which includes the calendar quarter with respect to
17 which such credit is determined is filed, or

18 “(2) the date on which such return is treated
19 as filed under section 6501(b)(2).

20 “(l) REGULATIONS AND GUIDANCE.—The Secretary
21 shall issue such forms, instructions, regulations, and guid-
22 ance as are necessary—

23 “(1) with respect to the application of the cred-
24 it under subsection (a) to third-party payors (includ-
25 ing professional employer organizations, certified

1005

1 professional employer organizations, or agents under
2 section 3504), including regulations or guidance al-
3 lowing such payors to submit documentation nec-
4 essary to substantiate the eligible employer status of
5 employers that use such payors, and

6 “(2) to prevent the avoidance of the purposes of
7 the limitations under this section.

8 Any forms, instructions, regulations, or other guidance de-
9 scribed in paragraph (1) shall require the customer to be
10 responsible for the accounting of the credit and for any
11 liability for improperly claimed credits and shall require
12 the certified professional employer organization or other
13 third-party payor to accurately report such tax credits
14 based on the information provided by the customer.

15 “(m) APPLICATION.—This section shall only apply to
16 wages paid in calendar quarters beginning after the date
17 of the enactment of this section and beginning before the
18 date that is 5 years after the first day of the first calendar
19 quarter to which this section applies.”.

20 (b) REFUNDS.—Paragraph (2) of section 1324(b) of
21 title 31, United States Code, is amended by inserting
22 “3135,” after “3134,”.

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

“Sec. 3135. Local news journalist compensation credit.”.

1006

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to calendar quarters beginning
3 after the date of the enactment of this Act.

4 **SEC. 128512. ABOVE-THE-LINE DEDUCTION FOR EMPLOYEE**
5 **UNIFORMS.**

6 (a) IN GENERAL.—Section 62(a)(2), as amended by
7 the preceding provision of this Act, is amended by adding
8 at the end the following new subparagraph:

9 “(G) WORK CLOTHES AND UNIFORMS.—In
10 the case of any taxable year beginning after De-
11 cember 31, 2021, and before January 1, 2025,
12 the deductions allowed by section 162, not in
13 excess of \$250, which are attributable to a
14 trade or business consisting of the performance
15 of services by the taxpayer as an employee if
16 such deductions are for uniforms or work cloth-
17 ing which are—

18 “(i) required to be worn as a condi-
19 tion of employment, and

20 “(ii) not suitable for everyday wear.”.

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

1 **SEC. 128513. EXPENSES IN CONTINGENCY FEE CASES.**

2 (a) IN GENERAL.—Section 162 is amended by redес-
3 ignating subsection (s) as subsection (t) and by inserting
4 after subsection (r) the following new subsection:

5 “(s) EXPENSES IN CONTINGENCY FEE CASES.—In
6 the case of any amount paid or incurred in the ordinary
7 course of the trade or business of practicing law the repay-
8 ment of which is contingent on a recovery by judgment
9 or settlement in the action to which such amount relates—

10 “(1) the deduction under subsection (a) shall be
11 determined by disregarding the possibility that such
12 amount will be repaid, and

13 “(2) income attributable to any related recovery
14 shall not be reduced by such amount.”.

15 (b) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to amounts paid, incurred, or re-
17 ceived in taxable years beginning after the date of the en-
18 actment of this Act.

19 **SEC. 128514. INCREASE IN RESEARCH CREDIT AGAINST**
20 **PAYROLL TAX FOR SMALL BUSINESSES.**

21 (a) IN GENERAL.—Clause (i) of section 41(h)(4)(B)
22 is amended—

23 (1) by striking “AMOUNT.—The amount” and
24 inserting “AMOUNT.—

25 “(I) IN GENERAL.—The
26 amount”, and

1008

1 (2) by adding at the end the following new sub-
2 clause:

3 “(II) INCREASE.—In the case of
4 taxable years beginning after Decem-
5 ber 31, 2021, the amount in subclause
6 (I) shall be increased by \$250,000.”.

7 (b) ALLOWANCE OF CREDIT.—

8 (1) IN GENERAL.—Paragraph (1) of section
9 3111(f) is amended—

10 (A) by striking “for a taxable year, there
11 shall be allowed” and inserting “for a taxable
12 year—

13 “(A) there shall be allowed”,

14 (B) by striking “equal to the” and insert-
15 ing “equal to so much of the”,

16 (C) by striking the period at the end and
17 inserting “as does not exceed the limitation of
18 subclause (I) of section 41(h)(4)(B)(i) (applied
19 without regard to subclause (II) thereof), and”,
20 and

21 (D) by adding at the end the following new
22 subparagraph:

23 “(B) there shall be allowed as a credit
24 against the tax imposed by subsection (b) for
25 the first calendar quarter which begins after the

1009

1 date on which the taxpayer files the return
2 specified in section 41(h)(4)(A)(ii) an amount
3 equal to so much of the payroll tax credit por-
4 tion determined under section 41(h)(2) as is
5 not allowed as a credit under subparagraph
6 (A).”.

7 (2) LIMITATION.—Paragraph (2) of section
8 3111(f) is amended—

9 (A) by striking “paragraph (1)” and in-
10 sserting “paragraph (1)(A)”, and

11 (B) by inserting “, and the credit allowed
12 by paragraph (1)(B) shall not exceed the tax
13 imposed by subsection (b) for any calendar
14 quarter,” after “calendar quarter”.

15 (3) CARRYOVER.—Paragraph (3) of section
16 3111(f) is amended by striking “the credit” and in-
17 sserting “any credit”.

18 (4) DEDUCTION ALLOWED.—Paragraph (4) of
19 section 3111(f) is amended—

20 (A) by striking “credit” and inserting
21 “credits”, and

22 (B) by striking “subsection (a)” and in-
23 sserting “subsection (a) or (b)”.

1010

1 (c) AGGREGATION RULES.—Clause (ii) of section
2 41(h)(5)(B) is amended by striking “the \$250,000
3 amount” and inserting “each of the \$250,000 amounts”.

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

7 **SEC. 128515. TERMINATION OF EMPLOYER CREDIT FOR**
8 **PAID FAMILY AND MEDICAL LEAVE.**

9 Section 45S(i) is amended by striking “December 31,
10 2025” and inserting “December 31, 2023”.

11 **Subtitle I—Drug Pricing**

12 **PART 1—LOWERING PRICES THROUGH DRUG**
13 **PRICE NEGOTIATION**

14 **SEC. 129001. PROVIDING FOR LOWER PRICES FOR CERTAIN**
15 **HIGH-PRICED SINGLE SOURCE DRUGS.**

16 (a) PROGRAM TO LOWER PRICES FOR CERTAIN
17 HIGH-PRICED SINGLE SOURCE DRUGS.—Title XI of the
18 Social Security Act is amended by adding after section
19 1184 (42 U.S.C. 1320e–3) the following new part:

20 **“PART E—PRICE NEGOTIATION PROGRAM TO**
21 **LOWER PRICES FOR CERTAIN HIGH-PRICED**
22 **SINGLE SOURCE DRUGS**

23 **“SEC. 1191. ESTABLISHMENT OF PROGRAM.**

24 “(a) IN GENERAL.—The Secretary shall establish a
25 Drug Price Negotiation Program (in this part referred to

1 as the ‘program’). Under the program, with respect to
2 each price applicability period, the Secretary shall—

3 “(1) publish a list of negotiation-eligible drugs
4 and selected drugs in accordance with section 1192;

5 “(2) enter into agreements with manufacturers
6 of selected drugs with respect to such period, in ac-
7 cordance with section 1193;

8 “(3) negotiate and, if applicable, renegotiate
9 maximum fair prices for such selected drugs, in ac-
10 cordance with section 1194; and

11 “(4) carry out the administrative duties and
12 compliance monitoring described in section 1196.

13 “(b) DEFINITIONS RELATING TO TIMING.—For pur-
14 poses of this part:

15 “(1) INITIAL PRICE APPLICABILITY YEAR.—The
16 term ‘initial price applicability year’ means a year
17 (beginning with 2025).

18 “(2) PRICE APPLICABILITY PERIOD.—The term
19 ‘price applicability period’ means, with respect to a
20 qualifying single source drug, the period beginning
21 with the first initial price applicability year with re-
22 spect to which such drug is a selected drug and end-
23 ing with the last year during which the drug is a se-
24 lected drug.

1012

1 “(3) SELECTED DRUG PUBLICATION DATE.—

2 The term ‘selected drug publication date’ means,
3 with respect to each initial price applicability year,
4 February 1 of the year that begins 2 years prior to
5 such year.

6 “(4) NEGOTIATION PERIOD.—The term ‘nego-
7 tiation period’ means, with respect to an initial price
8 applicability year with respect to a selected drug, the
9 period—

10 “(A) beginning on the sooner of—

11 “(i) the date on which the manufac-
12 turer of the drug and the Secretary enter
13 into an agreement under section 1193 with
14 respect to such drug; or

15 “(ii) February 28 following the se-
16 lected drug publication date with respect to
17 such selected drug; and

18 “(B) ending on November 1 of the year
19 that begins 2 years prior to the initial price ap-
20 plicability year.

21 “(c) OTHER DEFINITIONS.—For purposes of this
22 part:

23 “(1) MAXIMUM FAIR PRICE ELIGIBLE INDI-
24 VIDUAL.—The term ‘maximum fair price eligible in-
25 dividual’ means, with respect to a selected drug—

1013

1 “(A) in the case such drug is dispensed to
2 the individual at a pharmacy, by a mail order
3 service, or by another dispenser, an individual
4 who is enrolled under a prescription drug plan
5 under part D of title XVIII or an MA–PD plan
6 under part C of such title if coverage is pro-
7 vided under such plan for such selected drug;
8 and

9 “(B) in the case such drug is furnished or
10 administered to the individual by a hospital,
11 physician, or other provider of services or sup-
12 plier, an individual who is enrolled under part
13 B of title XVIII, including an individual who is
14 enrolled under an MA plan under part C of
15 such title, if such selected drug is covered under
16 such part.

17 “(2) MAXIMUM FAIR PRICE.—The term ‘max-
18 imum fair price’ means, with respect to a year dur-
19 ing a price applicability period and with respect to
20 a selected drug (as defined in section 1192(e)) with
21 respect to such period, the price published pursuant
22 to section 1195 in the Federal Register for such
23 drug and year.

24 “(3) UNIT.—The term ‘unit’ means, with re-
25 spect to a drug or biological, the lowest identifiable

1 amount (such as a capsule or tablet, milligram of
2 molecules, or grams) of the drug or biological that
3 is dispensed or furnished. The determination of a
4 unit, with respect to a drug or biological, pursuant
5 to this paragraph shall not be subject to administra-
6 tive or judicial review.

7 “(4) TOTAL EXPENDITURES.—The term ‘total
8 expenditures’ includes, in the case of expenditures
9 with respect to part D of title XVIII, the total gross
10 covered prescription drug costs (as defined in section
11 1860D–15(b)(3)). The term ‘total expenditures’ ex-
12 cludes, in the case of expenditures with respect to
13 part B of such title, expenditures for a drug or bio-
14 logical that are bundled or packaged into the pay-
15 ment for another service.

16 **“SEC. 1192. SELECTION OF NEGOTIATION-ELIGIBLE DRUGS**
17 **AS SELECTED DRUGS.**

18 “(a) IN GENERAL.—Not later than the selected drug
19 publication date with respect to an initial price applica-
20 bility year, in accordance with subsection (b), the Sec-
21 retary shall select and publish in the Federal Register a
22 list of—

23 “(1)(A) with respect to the initial price applica-
24 bility year 2025, not more than 10 negotiation-eli-
25 ble drugs described in subparagraph (A)(i) of sub-

1 section (d)(1), but not subparagraph (B) of such
2 subsection, with respect to such year;

3 “(B) with respect to the initial price applica-
4 bility year 2026, not more than 15 negotiation-eligible
5 drugs described in subparagraph (A)(i) of sub-
6 section (d)(1), but not subparagraph (B) of such
7 subsection, with respect to such year;

8 “(C) with respect to the initial price applica-
9 bility year 2027, not more than 15 negotiation-eligible
10 drugs described in subparagraph (A) of sub-
11 section (d)(1), but not subparagraph (B) of such
12 subsection, with respect to such year; and

13 “(D) with respect to the initial price applica-
14 bility year 2028 or a subsequent year, not more than
15 20 negotiation-eligible drugs described in subpara-
16 graph (A) of subsection (d)(1), but not subpara-
17 graph (B) of such subsection, with respect to such
18 year; and

19 “(2) all negotiation-eligible drugs described in
20 subparagraph (B) of such subsection with respect to
21 such year.

22 Subject to subsection (c)(2) and section 1194(f)(5), each
23 drug published on the list pursuant to the previous sen-
24 tence shall be subject to the negotiation process under sec-
25 tion 1194 for the negotiation period with respect to such

1 initial price applicability year (and the renegotiation proc-
2 ess under such section as applicable for any subsequent
3 year during the applicable price applicability period).

4 “(b) SELECTION OF DRUGS.—

5 “(1) IN GENERAL.—In carrying out subsection
6 (a)(1), subject to paragraph (2), the Secretary shall,
7 with respect to an initial price applicability year—

8 “(A) rank a combined list of negotiation-el-
9 igible drugs described in subsection (d)(1)(A)
10 according to the total expenditures for such
11 drugs under parts B and D of title XVIII, as
12 determined by the Secretary, during the most
13 recent period of 12 months prior to the selected
14 drug publication date (but ending not later
15 than October 31 of the year prior to the year
16 of such drug publication date), with respect to
17 such year, for which data are available, with the
18 negotiation-eligible drugs with the highest total
19 expenditures being ranked the highest; and

20 “(B) select from such ranked combined list
21 for inclusion on the published list described in
22 subsection (a) with respect to such year the ne-
23 gotiation-eligible drugs with the highest such
24 rankings.

1 “(2) HIGH SPEND PART D DRUGS FOR 2025 AND
2 2026.—With respect to the initial price applicability
3 year 2025 and with respect to the initial price appli-
4 cability year 2026, the Secretary shall apply para-
5 graph (1) as if the reference to ‘negotiation-eligible
6 drugs described in subsection (d)(1)(A)’ were a ref-
7 erence to ‘negotiation-eligible drugs described in sub-
8 section (d)(1)(A)(i)’ and as if the reference to ‘total
9 expenditures for such drugs under parts B and D of
10 title XVIII’ were a reference to ‘total expenditures
11 for such drugs under part D of title XVIII’.

12 “(c) SELECTED DRUG.—

13 “(1) IN GENERAL.—For purposes of this part,
14 in accordance with subsection (e)(2) and subject to
15 paragraph (2), each negotiation-eligible drug in-
16 cluded on the list published under subsection (a)
17 with respect to an initial price applicability year
18 shall be referred to as a ‘selected drug’ with respect
19 to such year and each subsequent year beginning be-
20 fore the first year that begins at least 9 months
21 after the date on which the Secretary determines at
22 least one drug or biological product—

23 “(A) is approved or licensed (as applica-
24 ble)—

1018

1 “(i) under section 505(j) of the Fed-
2 eral Food, Drug, and Cosmetic Act using
3 such drug as the listed drug; or

4 “(ii) under section 351(k) of the Pub-
5 lic Health Service Act using such drug as
6 the reference product; and

7 “(B) is marketed pursuant to such ap-
8 proval or licensure.

9 “(2) CLARIFICATION.—A negotiation-eligible
10 drug—

11 “(A) that is included on the list published
12 under subsection (a) with respect to an initial
13 price applicability year; and

14 “(B) for which the Secretary makes a de-
15 termination described in paragraph (1) before
16 or during the negotiation period with respect to
17 such initial price applicability year,

18 shall not be subject to the negotiation process under
19 section 1194 with respect to such negotiation period
20 and shall continue to be considered a selected drug
21 under this part with respect to the number of nego-
22 tiation-eligible drugs published on the list under sub-
23 section (a) with respect to such initial price applica-
24 bility year.

25 “(d) NEGOTIATION-ELIGIBLE DRUG.—

1 “(1) IN GENERAL.—For purposes of this part,
2 subject to paragraph (2), the term ‘negotiation-elig-
3 ble drug’ means, with respect to the selected drug
4 publication date with respect to an initial price ap-
5 plicability year, a qualifying single source drug, as
6 defined in subsection (e), that is described in either
7 of the following subparagraphs (or, with respect to
8 the initial price applicability year 2025 or 2026, that
9 is described in subparagraph (A)(i) or (B)):

10 “(A) HIGH SPEND DRUGS.—The qualifying
11 single source drug is, determined in accordance
12 with subsection (e)(2)—

13 “(i) among the 50 qualifying single
14 source drugs with the highest total expend-
15 itures under part D of title XVIII, as de-
16 termined by the Secretary in accordance
17 with paragraph (3), during the most recent
18 period for which data are available of at
19 least 12 months prior to the selected drug
20 publication date (but ending no later than
21 October 31 of the year prior to the year of
22 such drug publication date), with respect
23 to such year; or

24 “(ii) among the 50 qualifying single
25 source drugs with the highest total expend-

1 itures under part B of title XVIII, as de-
2 termined by the Secretary in accordance
3 with paragraph (3), during such most re-
4 cent period, as described in clause (i).

5 “(B) INSULIN.—The qualifying single
6 source drug is described in subsection (e)(1)(C).

7 “(2) EXCEPTION FOR SMALL BIOTECH
8 DRUGS.—

9 “(A) IN GENERAL.—Subject to subpara-
10 graph (C), the term ‘negotiation-eligible drug’
11 shall not include, with respect to the initial
12 price applicability years 2025, 2026, and 2027,
13 a qualifying single source drug that meets ei-
14 ther of the following:

15 “(i) PART D DRUGS.—The total ex-
16 penditures for the qualifying single source
17 drug under part D of title XVIII, as deter-
18 mined by the Secretary in accordance with
19 paragraph (3)(B), during 2021—

20 “(I) are equal to or less than 1
21 percent of the total expenditures
22 under such part D, as so determined,
23 for all covered part D drugs during
24 such year; and

1021

1 “(II) are equal to at least 80 per-
2 cent of the total expenditures under
3 such part D, as so determined, for all
4 covered part D drugs for which the
5 manufacturer of the drug has an
6 agreement in effect under section
7 1860D–14A during such year.

8 “(ii) PART B DRUGS.—The total ex-
9 penditures for the qualifying single source
10 drug under part B of title XVIII, as deter-
11 mined by the Secretary in accordance with
12 paragraph (3)(B), during 2021—

13 “(I) are equal to or less than 1
14 percent of the total expenditures
15 under such part B, as so determined,
16 for all qualifying single source drugs
17 covered under such part B during
18 such year; and

19 “(II) are equal to at least 80 per-
20 cent of the total expenditures under
21 such part B, as so determined, for all
22 qualifying single source drugs of the
23 manufacturer that are covered under
24 such part B during such year.

1022

1 “(B) CLARIFICATIONS RELATING TO MAN-
2 UFACTURERS.—

3 “(i) AGGREGATION RULE.—All per-
4 sons treated as a single employer under
5 subsection (a) or (b) of section 52 of the
6 Internal Revenue Code of 1986 shall be
7 treated as one manufacturer for purposes
8 of this paragraph.

9 “(ii) LIMITATION.—A qualifying sin-
10 gle source drug described in subparagraph
11 (A) shall not include a qualifying single
12 source drug of a manufacturer if such
13 manufacturer is acquired after 2021 by
14 another manufacturer that does not meet
15 the definition of a specified manufacturer
16 under section 1860D–14C(g)(4)(B)(ii)), ef-
17 fective at the beginning of the plan year
18 immediately following such acquisition or,
19 in the case of an acquisition before 2024,
20 effective January 1, 2024.

21 “(C) DRUGS NOT INCLUDED AS SMALL
22 BIOTECH DRUGS.—The following shall not be
23 considered a qualifying single source drug de-
24 scribed in subparagraph (A):

1 “(i) A vaccine that is licensed under
2 section 351 of the Public Health Service
3 Act and is marketed pursuant to such sec-
4 tion.

5 “(ii) A new formulation, such as an
6 extended release formulation, of a quali-
7 fying single source drug.

8 “(iii) A qualifying single source drug
9 described in subsection (e)(1)(C).

10 “(3) CLARIFICATIONS AND DETERMINATIONS.—

11 “(A) PREVIOUSLY SELECTED DRUGS AND
12 SMALL BIOTECH DRUGS EXCLUDED.—In apply-
13 ing clauses (i) and (ii) of paragraph (1)(A) and
14 paragraph (1)(B), the Secretary shall not con-
15 sider or count—

16 “(i) drugs that are already selected
17 drugs; and

18 “(ii) for initial price applicability
19 years 2025, 2026, and 2027, qualifying
20 single source drugs described in paragraph
21 (2)(A).

22 “(B) USE OF DATA.—In determining
23 whether a qualifying single source drug satisfies
24 any of the criteria described in paragraph (1)
25 or (2), the Secretary shall use data that is ag-

1 gregated across dosage forms and strengths of
2 the drug, including new formulations of the
3 drug, such as an extended release formulation,
4 and not based on the specific formulation or
5 package size or package type of the drug.

6 “(4) PUBLICATION.—Not later than the se-
7 lected drug publication date with respect to an ini-
8 tial price applicability year, the Secretary shall pub-
9 lish in the Federal Register a list of negotiation-eli-
10 gible drugs with respect to such selected drug publi-
11 cation date.

12 “(e) QUALIFYING SINGLE SOURCE DRUG.—

13 “(1) IN GENERAL.—For purposes of this part,
14 the term ‘qualifying single source drug’ means, with
15 respect to an initial price applicability year, subject
16 to paragraphs (2) and (3), a covered part D drug
17 (as defined in section 1860D–2(e)) that is described
18 in any of the following or a drug or biological prod-
19 uct covered under part B of title XVIII that is de-
20 scribed in any of the following:

21 “(A) DRUG PRODUCTS.—A drug—

22 “(i) that is approved under section
23 505(e) of the Federal Food, Drug, and
24 Cosmetic Act and is marketed pursuant to
25 such approval;

1025

1 “(ii) for which, as of the selected drug
2 publication date with respect to such initial
3 price applicability year, at least 7 years
4 will have elapsed since the date of such ap-
5 proval; and

6 “(iii) that is not the listed drug for
7 any drug that is approved and marketed
8 under section 505(j) of such Act.

9 “(B) BIOLOGICAL PRODUCTS.—A biologi-
10 cal product—

11 “(i) that is licensed under section
12 351(a) of the Public Health Service Act
13 and is marketed under section 351 of such
14 Act;

15 “(ii) for which, as of the selected drug
16 publication date with respect to such initial
17 price applicability year, at least 11 years
18 will have elapsed since the date of such li-
19 censure; and

20 “(iii) that is not the reference product
21 for any biological product that is licensed
22 and marketed under section 351(k) of such
23 Act.

24 “(C) INSULIN PRODUCT.—Any insulin
25 product that is approved under section 505 of

1 the Federal Food, Drug, and Cosmetic Act or
2 licensed under section 351 of the Public Health
3 Service Act and marketed pursuant to such ap-
4 proval or licensure, including any insulin prod-
5 uct that has been deemed to be licensed under
6 section 351 of the Public Health Service Act
7 pursuant to section 7002(e)(4) of the Biologics
8 Price Competition and Innovation Act of 2009
9 and is marketed pursuant to such section, re-
10 gardless of whether such insulin product would
11 be described in subparagraph (A) or (B).

12 “(2) TREATMENT OF AUTHORIZED GENERIC
13 DRUGS.—

14 “(A) IN GENERAL.—In the case of a quali-
15 fying single source drug described in subpara-
16 graph (A) or (B) of paragraph (1) that is the
17 listed drug (as such term is used in section
18 505(j) of the Federal Food, Drug, and Cos-
19 metic Act) or the reference product (as defined
20 in section 351(i) of the Public Health Service
21 Act), with respect to an authorized generic
22 drug, in applying the provisions of this part,
23 such authorized generic drug and such listed
24 drug or reference product shall be treated as
25 the same qualifying single source drug.

1 “(B) AUTHORIZED GENERIC DRUG DE-
2 FINED.—For purposes of this paragraph, the
3 term ‘authorized generic drug’ means—

4 “(i) in the case of a drug, an author-
5 ized generic drug (as such term is defined
6 in section 505(t)(3) of the Federal Food,
7 Drug, and Cosmetic Act); and

8 “(ii) in the case of a biological prod-
9 uct, a reference product (as such term is
10 defined in section 351(i) of the Public
11 Health Service Act) that—

12 “(I) has been licensed under sec-
13 tion 351(a) of such Act; and

14 “(II) is marketed, sold, or dis-
15 tributed directly or indirectly to retail
16 class of trade under a different label-
17 ing, packaging (other than repack-
18 aging as the reference product in blis-
19 ter packs, unit doses, or similar pack-
20 aging for use in institutions), product
21 code, labeler code, trade name, or
22 trade mark than the reference prod-
23 uct.

1 creased by the annual percentage increase
2 in the consumer price index (all items;
3 U.S. city average) for the 12-month period
4 ending with September of such previous
5 year.

6 “(C) PLASMA-DERIVED PRODUCTS.—A bio-
7 logical product that is derived from human
8 whole blood or plasma.

9 “(f) NO ADMINISTRATIVE OR JUDICIAL REVIEW OF
10 DETERMINATIONS AND SELECTIONS.—The determination
11 of negotiation-eligible drugs under subsection (d), the de-
12 termination of qualifying single source drugs under sub-
13 section (e), and the selection of drugs under this section
14 are not subject to administrative or judicial review.

15 **“SEC. 1193. MANUFACTURER AGREEMENTS.**

16 “(a) IN GENERAL.—For purposes of section
17 1191(a)(2), the Secretary shall enter into agreements with
18 manufacturers of selected drugs with respect to a price
19 applicability period, by not later than February 28 fol-
20 lowing the selected drug publication date with respect to
21 such selected drug, under which—

22 “(1) during the negotiation period for the initial
23 price applicability year for the selected drug, the
24 Secretary and the manufacturer, in accordance with
25 section 1194, negotiate to determine (and, by not

1030

1 later than the last date of such period, agree to) a
2 maximum fair price for such selected drug of the
3 manufacturer in order for the manufacturer to pro-
4 vide access to such price—

5 “(A) to maximum fair price eligible indi-
6 viduals who with respect to such drug are de-
7 scribed in subparagraph (A) of section
8 1191(c)(1) and are dispensed such drug (and to
9 pharmacies, mail order services, and other dis-
10 pensers, with respect to such maximum fair
11 price eligible individuals who are dispensed such
12 drugs) during, subject to paragraph (2), the
13 price applicability period; and

14 “(B) to hospitals, physicians, and other
15 providers of services and suppliers with respect
16 to maximum fair price eligible individuals who
17 with respect to such drug are described in sub-
18 paragraph (B) of such section and are fur-
19 nished or administered such drug during, sub-
20 ject to paragraph (2), the price applicability pe-
21 riod;

22 “(2) the Secretary and the manufacturer shall,
23 in accordance with section 1194, renegotiate (and,
24 by not later than the last date of such period, agree
25 to) the maximum fair price for such drug, in order

1031

1 for the manufacturer to provide access to such max-
2 imum fair price (as so renegotiated)—

3 “(A) to maximum fair price eligible indi-
4 viduals who with respect to such drug are de-
5 scribed in subparagraph (A) of section
6 1191(c)(1) and are dispensed such drug (and to
7 pharmacies, mail order services, and other dis-
8 pensers, with respect to such maximum fair
9 price eligible individuals who are dispensed such
10 drugs) during any year during the price appli-
11 cability period (beginning after such renegoti-
12 ation) with respect to such selected drug; and

13 “(B) to hospitals, physicians, and other
14 providers of services and suppliers with respect
15 to maximum fair price eligible individuals who
16 with respect to such drug are described in sub-
17 paragraph (B) of such section and are fur-
18 nished or administered such drug during any
19 year described in subparagraph (A);

20 “(3) subject to subsection (d), access to the
21 maximum fair price (including as renegotiated pur-
22 suant to paragraph (2)), with respect to such a se-
23 lected drug, shall be provided by the manufacturer
24 to—

1 “(A) maximum fair price eligible individ-
2 uals, who with respect to such drug are de-
3 scribed in subparagraph (A) of section
4 1191(c)(1), at the pharmacy, mail order service,
5 or other dispenser at the point-of-sale of such
6 drug (and shall be provided by the manufac-
7 turer to the pharmacy, mail order service, or
8 other dispenser, with respect to such maximum
9 fair price eligible individuals who are dispensed
10 such drugs), as described in paragraph (1)(A)
11 or (2)(A), as applicable; and

12 “(B) hospitals, physicians, and other pro-
13 viders of services and suppliers with respect to
14 maximum fair price eligible individuals who
15 with respect to such drug are described in sub-
16 paragraph (B) of such section and are fur-
17 nished or administered such drug, as described
18 in paragraph (1)(B) or (2)(B), as applicable;

19 “(4) the manufacturer submits to the Sec-
20 retary, through an online portal established by the
21 Secretary or other form and manner specified by the
22 Secretary, for the negotiation period for the price
23 applicability period (and, if applicable, before any
24 period of renegotiation pursuant to section 1194(f))
25 with respect to such drug—

1033

1 “(A) information on the non-Federal aver-
2 age manufacturer price for the drug for the ap-
3 plicable year or period; and

4 “(B) all other information that the Sec-
5 retary requires to carry out the negotiation (or
6 renegotiation process) under this part, including
7 information described in section 1194(e)(1);
8 and

9 “(5) the manufacturer complies with require-
10 ments imposed by the Secretary for purposes of ad-
11 ministering the program, including with respect to
12 the administrative duties and compliance monitoring
13 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 se-
17 lected drug, until such drug is no longer considered a se-
18 lected drug under section 1192(c).

19 “(c) CONFIDENTIALITY OF INFORMATION.—Informa-
20 tion submitted to the Secretary under this part by a man-
21 ufacturer of a selected drug that is proprietary informa-
22 tion of such manufacturer (as determined by the Sec-
23 retary) shall be used only by the Secretary or disclosed
24 to and used by the Comptroller General of the United

1 States or the Medicare Payment Advisory Commission for
2 purposes of carrying out this part.

3 “(d) NONDUPLICATION.—Under an agreement en-
4 tered into under this section, the manufacturer of a se-
5 lected drug shall not be required to provide access to the
6 maximum fair price under subsection (a)(3), with respect
7 to such selected drug, to an entity described in section
8 1927(a)(5)(B) if such selected drug is subject to payment
9 of a rebate to such entity under an agreement described
10 in section 1927(a)(5)(A).

11 **“SEC. 1194. NEGOTIATION AND RENEGOTIATION PROCESS.**

12 “(a) IN GENERAL.—For purposes of this part, under
13 an agreement under section 1193 between the Secretary
14 and a manufacturer of a selected drug, with respect to
15 the period for which such agreement is in effect and in
16 accordance with subsections (b), (c), and (d), the Sec-
17 retary and the manufacturer—

18 “(1) shall during the negotiation period with re-
19 spect to such drug, in accordance with this section,
20 negotiate a maximum fair price for such drug for
21 the purpose described in section 1193(a)(1); and

22 “(2) renegotiate, in accordance with the process
23 specified pursuant to subsection (f), such maximum
24 fair price for such drug for the purpose described in

1 section 1193(a)(2) if such drug is a renegotiation-el-
2 igible drug under such subsection.

3 “(b) NEGOTIATION PROCESS REQUIREMENTS.—

4 “(1) METHODOLOGY AND PROCESS.—The Sec-
5 retary shall develop and use a consistent method-
6 ology and process, in accordance with paragraph (2),
7 for negotiations under subsection (a) that aims to
8 achieve the lowest maximum fair price for each se-
9 lected drug.

10 “(2) SPECIFIC ELEMENTS OF NEGOTIATION
11 PROCESS.—As part of the negotiation process under
12 this section, with respect to a selected drug and the
13 negotiation period with respect to the initial price
14 applicability year with respect to such drug, the fol-
15 lowing shall apply:

16 “(A) SUBMISSION OF INFORMATION.—Not
17 later than March 1 of the year of the selected
18 drug publication date, with respect to the se-
19 lected drug, the manufacturer of the drug shall
20 submit to the Secretary, in accordance with sec-
21 tion 1193(a)(4), the information described in
22 such section.

23 “(B) INITIAL OFFER BY SECRETARY.—Not
24 later than the June 1 following the selected
25 drug publication date, the Secretary shall pro-

1036

1 vide the manufacturer of a selected drug with
2 a written initial offer that contains the Sec-
3 retary's proposal for the maximum fair price of
4 the drug and a list of the factors described in
5 section 1194(e) that were used in developing
6 such offer.

7 “(C) RESPONSE TO INITIAL OFFER.—

8 “(i) IN GENERAL.—Not later than 30
9 days after the date of receipt of an initial
10 offer under subparagraph (B), the manu-
11 facturer shall either accept such offer or
12 propose a counteroffer to such offer.

13 “(ii) COUNTEROFFER REQUIRE-
14 MENTS.—If a manufacturer proposes a
15 counteroffer, such counteroffer—

16 “(I) shall be in writing; and

17 “(II) shall be justified based on
18 the factors described in subsection (e).

19 “(D) RESPONSE TO COUNTEROFFER.—

20 After receiving a counteroffer under subpara-
21 graph (C), the Secretary shall respond in writ-
22 ing to such counteroffer.

23 “(E) DEADLINE.—All negotiations between
24 the Secretary and the manufacturer of the se-
25 lected drug shall end prior to the first day of

1 November following the selected drug publica-
2 tion date, with respect to the initial price appli-
3 cability year.

4 “(F) LIMITATIONS ON OFFER AMOUNT.—
5 In negotiating the maximum fair price of a se-
6 lected drug, with respect to an initial price ap-
7 plicability year for the selected drug, and, as
8 applicable, in renegotiating the maximum fair
9 price for such drug, with respect to a subse-
10 quent year during the price applicability period
11 for such drug, the Secretary shall not offer (or
12 agree to a counteroffer for) a maximum fair
13 price for the selected drug that—

14 “(i) exceeds the ceiling determined
15 under subsection (c) for the selected drug
16 and year; or

17 “(ii) as applicable, is less than the
18 floor determined under subsection (d) for
19 the selected drug and year.

20 “(G) TREATMENT OF DETERMINATION.—
21 The determination of a maximum fair price
22 under this section is not subject to administra-
23 tive or judicial review.

24 “(H) REFERENCE TO TAX PROVISIONS.—
25 For provisions related to the imposition of a tax

1 on the sale of a selected drug during noncompli-
2 ance periods, see section 4192 of the Internal
3 Revenue Code of 1986.

4 “(c) CEILING FOR MAXIMUM FAIR PRICE.—

5 “(1) IN GENERAL.—The maximum fair price
6 negotiated under this section for a selected drug
7 (other than an insulin product described in para-
8 graph (2)(B)), with respect to the first year of the
9 price applicability period with respect to such drug,
10 shall not exceed the lower of—

11 “(A) in the case of—

12 “(i) a covered part D drug, the aver-
13 age net price (defined as the negotiated
14 price under prescription drug plans or MA-
15 PD plans net of all price concessions re-
16 ceived by such plans or pharmacy benefit
17 managers on behalf of such plans) for the
18 drug under part D of title XVIII for the
19 most recent year for which data is avail-
20 able; and

21 “(ii) a drug or biological covered
22 under part B of title XVIII, the average
23 sales price of the drug or biological for the
24 year prior to the year of the selected drug
25 publication date with respect to the initial

1 price applicability year for the drug or bio-
2 logical; or

3 “(B) the applicable percent described in
4 paragraph (3), with respect to such drug, of the
5 following:

6 “(i) INITIAL PRICE APPLICABILITY
7 YEAR 2025.—In the case of a selected drug
8 with respect to which such initial price ap-
9 plicability year is 2025, the average of the
10 non-Federal average manufacturer price
11 for such drug for the first 3 calendar quar-
12 ters of 2021 (or, in the case that there is
13 not a non-Federal average manufacturer
14 price available for such drug for any of
15 such first 3 calendar quarters of 2021, for
16 the first full year following the market
17 entry for such drug), increased by the per-
18 centage increase in the consumer price
19 index for all urban consumers (all items;
20 United States city average) from Sep-
21 tember 2021 (or December of such first
22 full year following the market entry), as
23 applicable, to September of the year prior
24 to the selected drug publication date with

1 respect to such initial price applicability
2 year.

3 “(ii) INITIAL PRICE APPLICABILITY
4 YEAR 2026 AND SUBSEQUENT YEARS.—In
5 the case of a selected drug with respect to
6 which such initial price applicability year is
7 2026 or a subsequent year, the lower of—

8 “(I) the average of the non-Fed-
9 eral average manufacturer price for
10 such drug for the first 3 calendar
11 quarters of 2021 (or, in the case that
12 there is not a non-Federal average
13 manufacturer price available for such
14 drug for any of such first 3 calendar
15 quarters of 2021, for the first full
16 year following the market entry for
17 such drug), increased by the percent-
18 age increase in the consumer price
19 index for all urban consumers (all
20 items; United States city average)
21 from September 2021 (or December
22 of such first full year following the
23 market entry), as applicable, to Sep-
24 tember of the year prior to the se-
25 lected drug publication date with re-

1 spect to such initial price applicability
2 year; or

3 “(II) the non-Federal average
4 manufacturer price for such drug for
5 the year prior to the selected drug
6 publication date with respect to such
7 initial price applicability year.

8 “(2) CEILING FOR CERTAIN LOW-COST INSULIN
9 PRODUCTS.—

10 “(A) IN GENERAL.—The maximum fair
11 price negotiated under this section for a se-
12 lected drug that is an insulin product described
13 in subparagraph (B), with respect to the first
14 year of the price applicability period with re-
15 spect to such drug, shall not exceed the average
16 of the non-Federal average manufacturer price
17 for such drug for the first 3 calendar quarters
18 of 2021 (or, in the case that there is not a non-
19 Federal average manufacturer price available
20 for such drug for any of such first 3 calendar
21 quarters of 2021, for the first full year fol-
22 lowing the market entry for such drug), in-
23 creased by the percentage increase in the con-
24 sumer price index for all urban consumers (all
25 items; United States city average) from Sep-

1 tember 2021 (or December of such first full
2 year following the market entry), as applicable,
3 to the year prior to the selected drug publica-
4 tion date with respect to such initial price appli-
5 cability year.

6 “(B) LOW-COST INSULIN PRODUCT DE-
7 SCRIBED.—An insulin product described in this
8 subparagraph is an insulin product—

9 “(i) that is described in section
10 1192(e)(1)(C); and

11 “(ii) for which the non-Federal aver-
12 age manufacturer price does not exceed
13 110 percent of the sum of—

14 “(I) the costs and expenses per
15 unit of the drug (as described in sub-
16 section (e)(1)(C)); and

17 “(II) the sales, general, and ad-
18 ministration expenses per unit of the
19 drug

20 “(3) APPLICABLE PERCENT DESCRIBED.—For
21 purposes of this subsection, the applicable percent
22 described in this paragraph is the following:

23 “(A) SHORT-MONOPOLY DRUGS AND VAC-
24 CINES.—With respect to a selected drug (other

1 than an extended-monopoly drug and a long-
2 monopoly drug), 75 percent.

3 “(B) EXTENDED-MONOPOLY DRUGS.—
4 With respect to an extended-monopoly drug, 65
5 percent.

6 “(C) LONG-MONOPOLY DRUGS.—With re-
7 spect to a long-monopoly drug, 40 percent.

8 “(4) EXTENDED-MONOPOLY DRUG DEFINED.—

9 “(A) IN GENERAL.—In this part, subject
10 to subparagraph (B), the term ‘extended-mo-
11 nopoly drug’ means, as of the selected drug
12 publication date with respect to an initial price
13 applicability year, a selected drug for which at
14 least 12 years, but fewer than 16 years, have
15 elapsed since the date of approval of such drug
16 under section 505(c) of the Federal Food,
17 Drug, and Cosmetic Act or since the date of li-
18 censure of such drug under section 351(a) of
19 the Public Health Service Act, as applicable.

20 “(B) EXCLUSIONS.—The term ‘extended-
21 monopoly drug’ shall not include any of the fol-
22 lowing:

23 “(i) A vaccine that is licensed under
24 section 351 of the Public Health Service

1 Act and marketed pursuant to such sec-
2 tion.

3 “(ii) A selected drug that had an
4 agreement under this part with the Sec-
5 retary prior to the initial price applicability
6 year 2030.

7 “(C) CLARIFICATION.—Nothing in sub-
8 paragraph (B)(ii) shall limit the transition of a
9 selected drug described in paragraph (2)(A) to
10 a long-monopoly drug if the selected drug meets
11 the definition of a long-monopoly drug.

12 “(5) LONG-MONOPOLY DRUG DEFINED.—

13 “(A) IN GENERAL.—In this part, subject
14 to subparagraph (B), the term ‘long-monopoly
15 drug’ means, as of the selected drug publication
16 date with respect to an initial price applicability
17 year, a selected drug for which at least 16 years
18 have elapsed since the date of approval of such
19 drug under section 505(c) of the Federal Food,
20 Drug, and Cosmetic Act or since the date of li-
21 censure of such drug under section 351(a) of
22 the Public Health Service Act, as applicable.

23 “(B) EXCLUSION.—The term ‘long-monop-
24 oly drug’ shall not include a vaccine that is li-
25 censed under section 351 of the Public Health

1 Service Act and marketed pursuant to such sec-
2 tion.

3 “(6) NON-FEDERAL AVERAGE MANUFACTURER
4 PRICE.—In this part, the term ‘non-Federal average
5 manufacturer price’ has the meaning given such
6 term in section 8126(h)(5) of title 38, United States
7 Code.

8 “(d) TEMPORARY FLOOR FOR SMALL BIOTECH
9 DRUGS.—In the case of a selected drug that is a quali-
10 fying single source drug described in section 1192(d)(2)
11 and with respect to which the first initial price applica-
12 bility year of the price applicability period with respect to
13 such drug is 2028 or 2029, the maximum fair price nego-
14 tiated under this section for such drug for such initial
15 price applicability year may not be less than 66 percent
16 of the average of the non-Federal average manufacturer
17 price for such drug (as defined in subsection (c)(6)) for
18 the first 3 calendar quarters of 2021 (or, in the case that
19 there is not a non-Federal average manufacturer price
20 available for such drug for any of such first 3 calendar
21 quarters of 2021, for the first full year following the mar-
22 ket entry for such drug), increased by the percentage in-
23 crease in the consumer price index for all urban consumers
24 (all items; United States city average) from September
25 2021 (or December of such first full year following the

1 market entry), as applicable, to September of the year
2 prior to the selected drug publication date with respect
3 to the initial price applicability year.

4 “(e) FACTORS.—For purposes of negotiating the
5 maximum fair price of a selected drug under this part with
6 the manufacturer of the drug, the Secretary shall consider
7 the following factors (and, with respect to extended-mo-
8 nopoly drugs and long-monopoly drugs, shall not consider
9 factors other than those described in subparagraphs (B)
10 and (C) of paragraph (1)):

11 “(1) MANUFACTURER-SPECIFIC INFORMA-
12 TION.—The following information, with respect to
13 such selected drug, including as submitted by the
14 manufacturer:

15 “(A) Research and development costs of
16 the manufacturer for the drug and the extent to
17 which the manufacturer has recouped research
18 and development costs.

19 “(B) Market data for the drug, including
20 the distribution of sales across different pro-
21 grams and purchasers and projected future rev-
22 enues for the drug.

23 “(C) Unit costs of production and distribu-
24 tion of the drug.

1 “(D) Prior Federal financial support for
2 novel therapeutic discovery and development
3 with respect to the drug.

4 “(E) Data on patents and on existing and
5 pending exclusivity for the drug.

6 “(F) National sales data for the drug.

7 “(G) Information on clinical trials for the
8 drug.

9 “(2) INFORMATION ON ALTERNATIVE TREAT-
10 MENTS.—The following information, with respect to
11 such selected drug and therapeutic alternatives to
12 such drug:

13 “(A) The extent to which such drug rep-
14 represents a therapeutic advance as compared to
15 existing therapeutic alternatives and, to the ex-
16 tent such information is available, the costs of
17 such existing therapeutic alternatives.

18 “(B) Information on approval by the Food
19 and Drug Administration of such drug and
20 therapeutic alternatives of such drug.

21 “(C) Information on comparative effective-
22 ness of such drug and therapeutic alternatives
23 to such drug, taking into consideration the ef-
24 fects of such drug and therapeutic alternatives
25 of such drug on specific populations, such as in-

1 individuals with disabilities, the elderly, the termi-
2 nally ill, children, and other patient popu-
3 lations.

4 “(D) The extent to which such drug and
5 therapeutic alternatives to such drug address
6 unmet medical needs for a condition for which
7 treatment or diagnosis is not addressed ade-
8 quately by available therapy.

9 In considering information described in subpara-
10 graph (C), the Secretary shall not use evidence or
11 findings from comparative clinical effectiveness re-
12 search in a manner that treats extending the life of
13 an elderly, disabled, or terminally ill individual as of
14 lower value than extending the life of an individual
15 who is younger, nondisabled, or not terminally ill.

16 “(3) ADDITIONAL INFORMATION.—Information
17 submitted to the Secretary, in accordance with a
18 process specified by the Secretary, by other parties
19 that are affected by the establishment of a maximum
20 fair price for the selected drug.

21 “(f) RENEGOTIATION PROCESS.—

22 “(1) IN GENERAL.—In the case of a renegoti-
23 ation-eligible drug (as defined in paragraph (2)) that
24 is selected under paragraph (3), the Secretary shall
25 provide for a process of renegotiation (for years (be-

1 ginning with 2027) during the price applicability pe-
2 riod, with respect to such drug) of the maximum fair
3 price for such drug consistent with paragraph (4).

4 “(2) RENEGOTIATION-ELIGIBLE DRUG DE-
5 FINED.—In this section, the term ‘renegotiation-eli-
6 gible drug’ means a selected drug that is any of the
7 following:

8 “(A) ADDITION OF NEW INDICATION.—A
9 selected drug for which a new indication is
10 added to the drug.

11 “(B) CHANGE OF STATUS TO AN EX-
12 TENDED-MONOPOLY DRUG.—A selected drug
13 that is described in section 1192(d)(1)(A)
14 that—

15 “(i) is not an extended-monopoly or a
16 long-monopoly drug; and

17 “(ii) for which there is a change in
18 status to that of an extended-monopoly
19 drug.

20 “(C) CHANGE OF STATUS TO A LONG-MO-
21 NOPOLY DRUG.—A selected drug that is de-
22 scribed in section 1192(d)(1)(A) that—

23 “(i) is not a long-monopoly drug; and

24 “(ii) for which there is a change in
25 status to that of a long-monopoly drug.

1050

1 “(D) MATERIAL CHANGES.—A selected
2 drug for which the Secretary determines there
3 has been a material change of factors described
4 in paragraph (1) or (2) of subsection (e).

5 “(3) SELECTION OF DRUGS FOR RENEGOTI-
6 ATION.—Each year the Secretary shall select among
7 renegotiation-eligible drugs for renegotiation as fol-
8 lows:

9 “(A) ALL EXTENDED-MONOPOLY NEGOTIA-
10 TION-ELIGIBLE DRUGS.—The Secretary shall
11 select all renegotiation-eligible drugs described
12 in paragraph (2)(B).

13 “(B) ALL LONG-MONOPOLY NEGOTIATION-
14 ELIGIBLE DRUGS.—The Secretary shall select
15 all renegotiation-eligible drugs described in
16 paragraph (2)(C).

17 “(C) REMAINING DRUGS.—Among the re-
18 maining renegotiation-eligible drugs described
19 in subparagraphs (A) and (D) of paragraph (2),
20 the Secretary shall select renegotiation-eligible
21 drugs for which the Secretary expects renegoti-
22 ation is likely to result in a significant change
23 in the maximum fair price otherwise negotiated.

24 “(4) RENEGOTIATION PROCESS.—The Secretary
25 shall specify the process for renegotiation of max-

1 imum fair prices with the manufacturer of a renegoti-
2 tiation-eligible drug selected for renegotiation under
3 this subsection. Such process shall, to the extent
4 practicable, be consistent with the methodology and
5 process established under subsection (b) and in ac-
6 cordance with subsections (c) and (d), and for pur-
7 poses of applying subsections (c) and (d), the ref-
8 erence to the first initial price applicability year of
9 the price applicability period with respect to such
10 drug shall be treated as the first initial price appli-
11 cability year of such period for which the maximum
12 fair price established pursuant to such renegotiation
13 applies, including for applying subsection (c)(2)(B)
14 in the case of renegotiation-eligible drugs described
15 in paragraph (3)(A) of this subsection and sub-
16 section (c)(2)(C) in the case of renegotiation-eligible
17 drugs described in paragraph (3)(B) of this sub-
18 section.

19 “(5) CLARIFICATION.—A renegotiation-eligible
20 drug for which the Secretary makes a determination
21 described in section 1192(c)(1) before or during the
22 period of renegotiation shall not be subject to the re-
23 negotiation process under this section.

24 “(6) NO ADMINISTRATIVE OR JUDICIAL RE-
25 VIEW.—The determination of renegotiation-eligible

1 drugs under paragraph (2) and the selection of re-
2 negotiation-eligible drugs under paragraph (3) are
3 not subject to administrative or judicial review.

4 “(g) REQUEST FOR INFORMATION.—For purposes of
5 negotiating and, as applicable, renegotiating (including for
6 purposes of determining whether to renegotiate) the max-
7 imum fair price of a selected drug under this part with
8 the manufacturer of the drug, with respect to a price ap-
9 plicability period, and other relevant data for purposes of
10 this section—

11 “(1) the Secretary shall, not later than the se-
12 lected drug publication date with respect to the ini-
13 tial price applicability year of such period, request
14 drug pricing information from the manufacturer of
15 such selected drug, including information described
16 in subsection (e)(1); and

17 “(2) by not later than March 1 following the se-
18 lected drug publication date, the manufacturer of
19 such selected drug shall submit to the Secretary
20 such requested information in such form and man-
21 ner as the Secretary requires.

22 The Secretary shall request, from the manufacturer or
23 parties with data on factors specified in subsection (e),
24 all additional information needed to carry out the negotia-
25 tion and renegotiation process under this section.

1 “(h) CLARIFICATION.—In no case shall the maximum
2 fair price negotiated under this section for a selected drug
3 that is a qualifying single source drug described in sub-
4 paragraph (A) or (B) of section 1192(e)(1) apply before—

5 “(1) in the case the selected drug is a quali-
6 fying single source drug described in such subpara-
7 graph (A), the date that is 9 years after the date on
8 which the drug was approved under section 505(c)
9 of the Federal Food, Drug, and Cosmetic Act; and

10 “(2) in the case the selected drug is a quali-
11 fying single source drug described in such subpara-
12 graph (B), the date that is 13 years after the date
13 on which the drug was licensed under section 351(a)
14 of the Public Health Service Act.

15 **“SEC. 1195. PUBLICATION OF MAXIMUM FAIR PRICES.**

16 “(a) IN GENERAL.—With respect to an initial price
17 applicability year and a selected drug with respect to such
18 year—

19 “(1) not later than November 15 of the year
20 that is 2 years prior to such initial price applicability
21 year, the Secretary shall publish on CMS.gov the
22 maximum fair price for such drug negotiated under
23 this part with the manufacturer of such drug;

24 “(2) not later than November 30 of the year
25 that is 2 years prior to such initial price applicability

1 year, the Secretary shall publish in the Federal Reg-
2 ister the maximum fair price for such drug described
3 in paragraph (1); and

4 “(3) not later than March 1 of the year prior
5 to such initial price applicability year, the Secretary
6 shall publish in the Federal Register, subject to sec-
7 tion 1193(c) and based on the factors as described
8 in section 1194(e), the explanation for the maximum
9 fair price for such drug described in paragraphs (1)
10 and (2).

11 “(b) UPDATES.—

12 “(1) SUBSEQUENT YEAR MAXIMUM FAIR
13 PRICES.—For a selected drug, for each year subse-
14 quent to the first initial price applicability year of
15 the price applicability period with respect to such
16 drug, with respect to which an agreement for such
17 drug is in effect under section 1193, not later than
18 November 30 of the year that is 2 years prior to
19 such subsequent year, the Secretary shall publish in
20 the Federal Register the maximum fair price appli-
21 cable to such drug and year, which shall be—

22 “(A) subject to subparagraph (B), the
23 amount equal to the maximum fair price pub-
24 lished for such drug for the previous year, in-
25 creased by the annual percentage increase in

1 the consumer price index for all urban con-
2 sumers (all items; U.S. city average) for the 12-
3 month period ending with September of such
4 previous year; or

5 “(B) in the case the maximum fair price
6 for such drug was renegotiated, for the first
7 year for which such price as so renegotiated ap-
8 plies, such renegotiated maximum fair price.

9 “(2) PRICES NEGOTIATED AFTER DEADLINE.—

10 In the case of a selected drug with respect to an ini-
11 tial price applicability year for which the maximum
12 fair price is determined under this part after the
13 date of publication under this section, the Secretary
14 shall publish such maximum fair price in the Fed-
15 eral Register by not later than 30 days after the
16 date such maximum price is so determined.

17 **“SEC. 1196. ADMINISTRATIVE DUTIES AND COMPLIANCE**
18 **MONITORING.**

19 “(a) ADMINISTRATIVE DUTIES.—For purposes of
20 section 1191(a)(4), the administrative duties described in
21 this section are the following:

22 “(1) The establishment of procedures to ensure
23 that the maximum fair price for a selected drug is
24 applied before—

1 “(A) any coverage or financial assistance
2 under other health benefit plans or programs
3 that provide coverage or financial assistance for
4 the purchase or provision of prescription drug
5 coverage on behalf of maximum fair price eligi-
6 ble individuals; and

7 “(B) any other discounts.

8 “(2) The establishment of procedures to com-
9 pute and apply the maximum fair price across dif-
10 ferent strengths and dosage forms of a selected drug
11 and not based on the specific formulation or package
12 size or package type of the drug.

13 “(3) The establishment of procedures to carry
14 out the provisions of this part, as applicable, with
15 respect to—

16 “(A) maximum fair price eligible individ-
17 uals who are enrolled under a prescription drug
18 plan under part D of title XVIII or an MA-PD
19 plan under part C of such title; and

20 “(B) maximum fair price eligible individ-
21 uals who are enrolled under part B of such
22 title, including who are enrolled under an MA
23 plan under part C of such title.

24 “(4) The establishment of a negotiation process
25 and renegotiation process in accordance with section

1 1194, including a process for acquiring information
2 described in subsection (e) of such section.

3 “(5) The establishment of an online portal for
4 manufacturers to use to submit information de-
5 scribed in section 1194(b)(2)(A).

6 “(6) The sharing with the Secretary of the
7 Treasury of such information as is necessary to de-
8 termine the tax imposed by section 4192 of the In-
9 ternal Revenue Code of 1986 (relating to enforce-
10 ment of this part).

11 “(7) The establishment of an attestation and
12 verification process for purposes of applying section
13 1192(d)(2)(B) and 1194(e)(2)(B).

14 “(8) The establishment of procedures to ensure
15 that entities described in section 1927(a)(5)(B) do
16 not request access to a maximum fair price under
17 this part with respect to a selected drug that is sub-
18 ject to payment of a rebate to such entities under
19 an agreement described in section 1927(a)(5)(A).

20 “(b) COMPLIANCE MONITORING.—The Secretary
21 shall monitor compliance by a manufacturer with the
22 terms of an agreement under section 1193, including by
23 establishing a mechanism through which violations of such
24 terms shall be reported.

1 **“SEC. 1197. CIVIL MONETARY PENALTY.**

2 “(a) VIOLATIONS RELATING TO OFFERING OF MAX-
3 IMUM FAIR PRICE.—Any manufacturer of a selected drug
4 that has entered into an agreement under section 1193,
5 with respect to a year during the price applicability period
6 with respect to such drug, that does not provide access
7 to a price that is not more than the maximum fair price
8 (or a lesser price) for such drug for such year—

9 “(1) to a maximum fair price eligible individual
10 who with respect to such drug is described in sub-
11 paragraph (A) of section 1191(c)(1) and who is dis-
12 pensed such drug during such year (and to phar-
13 macies, mail order services, and other dispensers,
14 with respect to such maximum fair price eligible in-
15 dividuals who are dispensed such drugs); or

16 “(2) to a hospital, physician, or other provider
17 of services or supplier with respect to maximum fair
18 price eligible individuals who with respect to such
19 drug is described in subparagraph (B) of such sec-
20 tion and is furnished or administered such drug by
21 such hospital, physician, or provider or supplier dur-
22 ing such year;

23 shall be subject to a civil monetary penalty equal to ten
24 times the amount equal to the product of the number of
25 units of such drug so furnished, dispensed, or adminis-
26 tered during such year and the difference between the

1 price for such drug made available for such year by such
2 manufacturer with respect to such individual or hospital,
3 physician, provider of services, or supplier and the max-
4 imum fair price for such drug for such year.

5 “(b) VIOLATIONS OF CERTAIN TERMS OF AGREE-
6 MENT.—Any manufacturer of a selected drug that has en-
7 tered into an agreement under section 1193, with respect
8 to a year during the price applicability period with respect
9 to such drug, that is in violation of a requirement imposed
10 pursuant to section 1193(a)(5), including the requirement
11 to submit information pursuant to section 1193(a)(4),
12 shall be subject to a civil monetary penalty equal to
13 \$1,000,000 for each day of such violation.

14 “(c) FALSE INFORMATION.—Any manufacturer that
15 knowingly provides false information for the attestation
16 process or verification process established pursuant to sec-
17 tion 1196(a)(7), shall be subject to a civil monetary pen-
18 alty equal to \$100,000,000 for each item of such false in-
19 formation.

20 “(d) APPLICATION.—The provisions of section 1128A
21 (other than subsections (a) and (b)) shall apply to a civil
22 monetary penalty under this section in the same manner
23 as such provisions apply to a penalty or proceeding under
24 section 1128A(a).”.

1060

1 (b) APPLICATION OF MAXIMUM FAIR PRICES AND
2 CONFORMING AMENDMENTS.—

3 (1) UNDER MEDICARE.—

4 (A) APPLICATION TO PAYMENTS UNDER
5 PART B.—Section 1847A(b)(1)(B) of the Social
6 Security Act (42 U.S.C. 1395w–3a(b)(1)(B)) is
7 amended by inserting “or in the case of such a
8 drug or biological that is a selected drug (as re-
9 ferred to in section 1192(c)), with respect to a
10 price applicability period (as defined in section
11 1191(b)(2)), 106 percent of the maximum fair
12 price (as defined in section 1191(c)(2)) applica-
13 ble for such drug and a year during such pe-
14 riod” after “paragraph (4)”.

15 (B) APPLICATION UNDER MA OF COST-
16 SHARING FOR PART B DRUGS BASED OFF OF
17 NEGOTIATED PRICE.—Section
18 1852(a)(1)(B)(iv) of the Social Security Act
19 (42 U.S.C. 1395w–22(a)(1)(B)(iv)) is amend-
20 ed—

21 (i) by redesignating subclause (VII) as
22 subclause (VIII); and

23 (ii) by inserting after subclause (VI)
24 the following subclause:

1061

1 “(VII) A drug or biological that
2 is a selected drug (as referred to in
3 section 1192(c)).”.

4 (C) EXCEPTION TO PART D NON-INTER-
5 FERENCE.—Section 1860D–11(i) of the Social
6 Security Act (42 U.S.C. 1395w–111(i)) is
7 amended—

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

10 (ii) in paragraph (2), by striking the
11 period at the end and inserting “, except
12 as provided under section 1860D–
13 4(b)(3)(l); and”;

14 (iii) by adding at the end the fol-
15 lowing new paragraph:

16 “(3) may not institute a price structure for the
17 reimbursement of covered part D drugs, except as
18 provided under part E of title XI.”.

19 (D) APPLICATION AS NEGOTIATED PRICE
20 UNDER PART D.—Section 1860D–2(d)(1) of the
21 Social Security Act (42 U.S.C. 1395w–
22 102(d)(1)) is amended—

23 (i) in subparagraph (B), by inserting
24 “, subject to subparagraph (D),” after
25 “negotiated prices”; and

1062

1 (ii) by adding at the end the following
2 new subparagraph:

3 “(D) APPLICATION OF MAXIMUM FAIR
4 PRICE FOR SELECTED DRUGS.—In applying this
5 section, in the case of a covered part D drug
6 that is a selected drug (as referred to in section
7 1192(c)), with respect to a price applicability
8 period (as defined in section 1191(b)(2)), the
9 negotiated prices used for payment (as de-
10 scribed in this subsection) shall be no greater
11 than the maximum fair price (as defined in sec-
12 tion 1191(c)(2)) for such drug and for each
13 year during such period plus any dispensing
14 fees for such drug.”.

15 (E) COVERAGE OF SELECTED DRUGS.—
16 Section 1860D–4(b)(3) of the Social Security
17 Act (42 U.S.C. 1395w–104(b)(3)) is amended
18 by adding at the end the following new sub-
19 paragraph:

20 “(I) REQUIRED INCLUSION OF SELECTED
21 DRUGS.—

22 “(i) IN GENERAL.—For 2025 and
23 each subsequent year, the PDP sponsor of-
24 fering a prescription drug plan shall in-
25 clude each covered part D drug that is a

1 selected drug under section 1192 for which
2 an agreement for such drug is in effect
3 under section 1193 with respect to the
4 year

5 “(ii) CLARIFICATION.—Nothing in
6 clause (i) shall be construed as prohibiting
7 a PDP sponsor from removing such a se-
8 lected drug from a formulary if such re-
9 moval would be permitted under section
10 423.120(b)(5)(iv) of title 42, Code of Fed-
11 eral Regulations (or any successor regula-
12 tion).”.

13 (F) INFORMATION FROM PRESCRIPTION
14 DRUG PLANS AND MA-PD PLANS REQUIRED.—

15 (i) PRESCRIPTION DRUG PLANS.—Sec-
16 tion 1860D-12(b) of the Social Security
17 Act (42 U.S.C. 1395w-112(b)) is amended
18 by adding at the end the following new
19 paragraph:

20 “(8) PROVISION OF INFORMATION RELATED TO
21 MAXIMUM FAIR PRICES.—Each contract entered into
22 with a PDP sponsor under this part with respect to
23 a prescription drug plan offered by such sponsor
24 shall require the sponsor to provide information to

1 the Secretary as requested by the Secretary in ac-
2 cordance with section 1194(g).”.

3 (ii) MA–PD PLANS.—Section
4 1857(f)(3) of the Social Security Act (42
5 U.S.C. 1395w–27(f)(3)) is amended by
6 adding at the end the following new sub-
7 paragraph:

8 “(E) PROVISION OF INFORMATION RE-
9 LATED TO MAXIMUM FAIR PRICES.—Section
10 1860D–12(b)(8).”.

11 (2) DRUG PRICE NEGOTIATION PROGRAM
12 PRICES INCLUDED IN BEST PRICE.—Section
13 1927(e)(1)(C) of the Social Security Act (42 U.S.C.
14 1396r–8(c)(1)(C)) is amended—

15 (A) in clause (i)(VI), by striking “any
16 prices charged” and inserting “subject to clause
17 (ii)(V), any prices charged”; and

18 (B) in clause (ii)—

19 (i) in subclause (III), by striking at
20 the end “; and”;

21 (ii) in subclause (IV), by striking at
22 the end the period and inserting “; and”;
23 and

24 (iii) by adding at the end the fol-
25 lowing new subclause:

1065

1 “(V) in the case of a rebate pe-
2 riod and a covered outpatient drug
3 that is a selected drug (as referred to
4 in section 1192(e)) during such rebate
5 period, shall be inclusive of the max-
6 imum fair price (as defined in section
7 1191(e)(2)) for such drug with re-
8 spect to such period.”.

9 (c) IMPLEMENTATION FOR 2025 THROUGH 2029.—
10 The Secretary shall implement this section, including the
11 amendments made by this section, for 2025, 2026, 2027,
12 2028, and 2029 by program instruction or other forms
13 of program guidance.

14 **SEC. 129002. SELECTED DRUG MANUFACTURER EXCISE TAX**
15 **IMPOSED DURING NONCOMPLIANCE PERI-**
16 **ODS.**

17 (a) IN GENERAL.—Chapter 32 of the Internal Rev-
18 enue Code of 1986 is amended by adding at the end the
19 following new subchapter:

20 **“Subchapter E—Other Items**

 “Sec. 4192. Selected drugs during noncompliance periods.

21 **“SEC. 4192. SELECTED DRUGS DURING NONCOMPLIANCE**
22 **PERIODS.**

23 “(a) IN GENERAL.—There is hereby imposed on the
24 sale by the manufacturer, producer, or importer of any

1 selected drug during a day described in subsection (b) a
2 tax in an amount such that the applicable percentage is
3 equal to the ratio of—

4 “(1) such tax, divided by

5 “(2) the sum of such tax and the price for
6 which so sold.

7 “(b) NONCOMPLIANCE PERIODS.—A day is described
8 in this subsection with respect to a selected drug if it is
9 a day during one of the following periods:

10 “(1) The period beginning on the March 1st
11 immediately following the selected drug publication
12 date and ending on the first date during which the
13 manufacturer of the drug has in place an agreement
14 described in subsection (a) of section 1193 of the
15 Social Security Act with respect to such drug.

16 “(2) The period beginning on the November
17 2nd immediately following the March 1st described
18 in paragraph (1) and ending on the first date during
19 which the manufacturer of the drug and the Sec-
20 retary have agreed to a maximum fair price under
21 such agreement.

22 “(3) In the case of a selected drug with respect
23 to which the Secretary of Health and Human Serv-
24 ices has specified a renegotiation period under such
25 agreement, the period beginning on the first date

1 after the last date of such renegotiation period and
2 ending on the first date during which the manufac-
3 turer of the drug has agreed to a renegotiated max-
4 imum fair price under such agreement.

5 “(4) With respect to information that is re-
6 quired to be submitted to the Secretary of Health
7 and Human Services under such agreement, the pe-
8 riod beginning on the date on which such Secretary
9 certifies that such information is overdue and ending
10 on the date that such information is so submitted.

11 “(c) APPLICABLE PERCENTAGE.—For purposes of
12 this section, the term ‘applicable percentage’ means—

13 “(1) in the case of sales of a selected drug dur-
14 ing the first 90 days described in subsection (b) with
15 respect to such drug, 65 percent,

16 “(2) in the case of sales of such drug during
17 the 91st day through the 180th day described in
18 subsection (b) with respect to such drug, 75 percent,

19 “(3) in the case of sales of such drug during
20 the 181st day through the 270th day described in
21 subsection (b) with respect to such drug, 85 percent,
22 and

23 “(4) in the case of sales of such drug during
24 any subsequent day, 95 percent.

1 “(d) SELECTED DRUG.—For purposes of this sec-
2 tion—

3 “(1) IN GENERAL.—The term ‘selected drug’
4 means any selected drug (within the meaning of sec-
5 tion 1192(e) of the Social Security Act) which is
6 manufactured or produced in the United States or
7 entered into the United States for consumption, use,
8 or warehousing.

9 “(2) UNITED STATES.—The term ‘United
10 States’ has the meaning given such term by section
11 4612(a)(4).

12 “(3) COORDINATION WITH RULES FOR POSSES-
13 SIONS OF THE UNITED STATES.—Rules similar to
14 the rules of paragraphs (2) and (4) of section
15 4132(e) shall apply for purposes of this section.

16 “(e) OTHER DEFINITIONS.—For purposes of this
17 section, the terms ‘selected drug publication date’ and
18 ‘maximum fair price’ have the meaning given such terms
19 in section 1191 of the Social Security Act.

20 “(f) ANTI-ABUSE RULE.—In the case of a sale which
21 was timed for the purpose of avoiding the tax imposed by
22 this section, the Secretary may treat such sale as occur-
23 ring during a day described in subsection (b).”.

24 “(b) NO DEDUCTION FOR EXCISE TAX PAYMENTS.—
25 Section 275(a)(6) of the Internal Revenue Code of 1986

1 is amended by inserting “or by section 4192” before the
2 period at the end.

3 (c) CERTAIN EXEMPTIONS FROM TAX NOT APPLICA-
4 BLE.—

5 (1) Section 4221(a) of the Internal Revenue
6 Code of 1986 is amended by adding at the end the
7 following: “In the case of the tax imposed by section
8 4192, paragraphs (3), (4), (5), and (6) shall not
9 apply.”.

10 (2) Section 6416(b)(2) of such Code is amend-
11 ed by adding at the end the following: “In the case
12 of the tax imposed by section 4192, subparagraphs
13 (B), (C), (D), and (E) shall not apply.”.

14 (d) CLERICAL AMENDMENT.—The table of sub-
15 chapters for chapter 32 of such Code is amended by add-
16 ing at the end the following new item:

“SUBCHAPTER E. OTHER ITEMS”.

17 (e) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to sales after the date of the enact-
19 ment of this Act.

20 **SEC. 129003. FUNDING.**

21 In addition to amounts otherwise available, there is
22 appropriated to the Centers for Medicare & Medicaid Serv-
23 ices, out of any money in the Treasury not otherwise ap-
24 propriated, \$3,000,000,000 for fiscal year 2022, to remain

1070

1 available until expended, to carry out the provisions of,
2 including the amendments made by, this part.

3 **PART 2—PRESCRIPTION DRUG INFLATION**

4 **REBATES**

5 **SEC. 129101. MEDICARE PART B REBATE BY MANUFACTUR-**
6 **ERS.**

7 (a) IN GENERAL.—Section 1847A of the Social Secu-
8 rity Act (42 U.S.C. 1395w–3a) is amended—

9 (1) by redesignating subsection (i) as subsection
10 (j) and by inserting after subsection (h) the fol-
11 lowing subsection:

12 “(i) REBATE BY MANUFACTURERS FOR SINGLE
13 SOURCE DRUGS AND BIOLOGICALS WITH PRICES IN-
14 CREASING FASTER THAN INFLATION.—

15 “(1) REQUIREMENTS.—

16 “(A) SECRETARIAL PROVISION OF INFOR-
17 MATION.—Not later than 6 months after the
18 end of each calendar quarter beginning on or
19 after January 1, 2023, the Secretary shall, for
20 each part B rebatable drug, report to each
21 manufacturer of such part B rebatable drug the
22 following for such calendar quarter:

23 “(i) Information on the total number
24 of billing units of the billing and payment
25 code described in subparagraph (A)(i) of

1071

1 paragraph (3) with respect to such drug
2 and calendar quarter.

3 “(ii) Information on the amount (if
4 any) of the excess average sales price in-
5 crease described in subparagraph (A)(ii) of
6 such paragraph for such drug and calendar
7 quarter.

8 “(iii) The rebate amount specified
9 under such paragraph for such part B
10 rebatable drug and calendar quarter.

11 “(B) MANUFACTURER REQUIREMENT.—
12 For each calendar quarter beginning on or after
13 January 1, 2023, the manufacturer of a part B
14 rebatable drug shall, for such drug, not later
15 than 30 days after the date of receipt from the
16 Secretary of the information described in sub-
17 subparagraph (A) for such calendar quarter, pro-
18 vide to the Secretary a rebate that is equal to
19 the amount specified in paragraph (3) for such
20 drug for such calendar quarter.

21 “(C) TRANSITION RULE FOR REPORT-
22 ING.—The Secretary may, for each part B
23 rebatable drug, delay the timeframe for report-
24 ing the information described in subparagraph
25 (A) for calendar quarters beginning in 2023

1 and 2024 until not later than September 30,
2 2025.

3 “(2) PART B REBATABLE DRUG DEFINED.—

4 “(A) IN GENERAL.—In this subsection, the
5 term ‘part B rebatable drug’ means a single
6 source drug or biological (as defined in sub-
7 paragraph (D) of subsection (c)(6)), including a
8 biosimilar biological product (as defined in sub-
9 paragraph (H) of such subsection) but exclud-
10 ing a qualifying biosimilar biological product
11 (as defined in subsection (b)(8)(B)(iii)), that
12 would be payable under this part if such drug
13 were furnished to an individual enrolled under
14 this part, except such term shall not include
15 such a drug or biological—

16 “(i) if, as determined by the Sec-
17 retary, the average total allowed charges
18 for such drug or biological under this part
19 for a year per individual that uses such a
20 drug or biological are less than, subject to
21 subparagraph (B), \$100; or

22 “(ii) that is a vaccine described in
23 subparagraph (A) or (B) of section
24 1861(s)(10).

1073

1 “(B) INCREASE.—The dollar amount ap-
2 plied under subparagraph (A)(i)—

3 “(i) for 2024, shall be the dollar
4 amount specified under such subparagraph
5 for 2023, increased by the percentage in-
6 crease in the consumer price index for all
7 urban consumers (United States city aver-
8 age) for the 12-month period ending with
9 June of the previous year; and

10 “(ii) for a subsequent year, shall be
11 the dollar amount specified in this clause
12 (or clause (i)) for the previous year (with-
13 out application of subparagraph (C)), in-
14 creased by the percentage increase in the
15 consumer price index for all urban con-
16 sumers (United States city average) for
17 the 12-month period ending with June of
18 the previous year.

19 “(C) ROUNDING.—Any dollar amount de-
20 termined under subparagraph (B) that is not a
21 multiple of \$10 shall be rounded to the nearest
22 multiple of \$10.

23 “(3) REBATE AMOUNT.—

24 “(A) IN GENERAL.—For purposes of para-
25 graph (1), the amount specified in this para-

1074

1 graph for a part B rebatable drug assigned to
2 a billing and payment code for a calendar quar-
3 ter is, subject to subparagraphs (B) and (G)
4 and paragraph (4), the amount equal to the
5 product of—

6 “(i) the total number of billing units
7 determined under subparagraph (B) for
8 the billing and payment code of such drug;
9 and

10 “(ii) the amount (if any) by which—

11 “(I) the amount equal to—

12 “(aa) in the case of a part B
13 rebatable drug described in para-
14 graph (1)(B) of section
15 1847A(b), 106 percent of the
16 amount determined under para-
17 graph (4) of such section for
18 such drug during the calendar
19 quarter; or

20 “(bb) in the case of a part B
21 rebatable drug described in para-
22 graph (1)(C) of such section, the
23 payment amount under such
24 paragraph for such drug during
25 the calendar quarter; exceeds

1075

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) TOTAL NUMBER OF BILLING
7 UNITS.—For purposes of subparagraph (A)(i),
8 the total number of billing units with respect to
9 a part B rebatable drug is determined as fol-
10 lows:

11 “(i) Determine the total number of
12 units equal to—

13 “(I) the total number of units, as
14 reported under subsection (c)(1)(B)
15 for each National Drug Code of such
16 drug during the calendar quarter that
17 is two calendar quarters prior to the
18 calendar quarter as described in sub-
19 paragraph (A), minus

20 “(II) the total number of units
21 with respect to each National Drug
22 Code of such drug for which payment
23 was made under a State plan under
24 title XIX (or waiver of such plan), as
25 reported by States under section

1076

1 1927(b)(2)(A) for the rebate period
2 that is the same calendar quarter as
3 described in subclause (I).

4 “(ii) Convert the units determined
5 under clause (i) to billing units for the bill-
6 ing and payment code of such drug, using
7 a methodology similar to the methodology
8 used under this section, by dividing the
9 units determined under clause (i) for each
10 National Drug Code of such drug by the
11 billing unit for the billing and payment
12 code of such drug.

13 “(iii) Compute the sum of the billing
14 units for each National Drug Code of such
15 drug in clause (ii).

16 “(C) DETERMINATION OF INFLATION-AD-
17 JUSTED PAYMENT AMOUNT.—The inflation-ad-
18 justed payment amount determined under this
19 subparagraph for a part B rebatable drug for
20 a calendar quarter is—

21 “(i) the payment amount for the bill-
22 ing and payment code for such drug in the
23 payment amount benchmark quarter (as
24 defined in subparagraph (D)); increased by

1 “(ii) the percentage by which the re-
2 bate period CPI–U (as defined in subpara-
3 graph (F)) for the calendar quarter ex-
4 ceeds the benchmark period CPI–U (as de-
5 fined in subparagraph (E)).

6 “(D) PAYMENT AMOUNT BENCHMARK
7 QUARTER.—The term ‘payment amount bench-
8 mark quarter’ means the calendar quarter im-
9 mediately prior to the calendar quarter begin-
10 ning October 1, 2021.

11 “(E) BENCHMARK PERIOD CPI–U.—The
12 term ‘benchmark period CPI–U’ means the con-
13 sumer price index for all urban consumers
14 (United States city average) for January 2021.

15 “(F) REBATE PERIOD CPI–U.—The term
16 ‘rebate period CPI–U’ means, with respect to a
17 calendar quarter described in subparagraph
18 (C), the greater of the benchmark period CPI–
19 U and the consumer price index for all urban
20 consumers (United States city average) for the
21 first month of the calendar quarter that is two
22 calendar quarters prior to such described cal-
23 endar quarter.

24 “(G) EXEMPTION FOR SHORTAGES AND
25 SEVERE SUPPLY CHAIN DISRUPTIONS.—The

1 Secretary shall reduce or waive the amount
2 under subparagraph (A) with respect to a part
3 B rebatable drug that is described as currently
4 in shortage on the shortage list in effect under
5 section 506E of the Federal Food, Drug, and
6 Cosmetic Act or in the case of a biosimilar bio-
7 logical product, when the Secretary determines
8 there are severe supply chain disruptions.

9 “(4) SPECIAL TREATMENT OF CERTAIN DRUGS
10 AND EXEMPTION.—

11 “(A) SUBSEQUENTLY APPROVED DRUGS.—

12 In the case of a part B rebatable drug first ap-
13 proved or licensed by the Food and Drug Ad-
14 ministration after December 1, 2020, clause (i)
15 of paragraph (3)(C) shall be applied as if the
16 term ‘payment amount benchmark quarter’
17 were defined under paragraph (3)(D) as the
18 third full calendar quarter after the day on
19 which the drug was first marketed and clause
20 (ii) of paragraph (3)(C) shall be applied as if
21 the term ‘benchmark period CPI-U’ were de-
22 fined under paragraph (3)(E) as if the ref-
23 erence to ‘January 2021’ under such paragraph
24 were a reference to ‘the first month of the first

1 full calendar quarter after the day on which the
2 drug was first marketed’.

3 “(B) TIMELINE FOR PROVISION OF RE-
4 BATES FOR SUBSEQUENTLY APPROVED
5 DRUGS.—In the case of a part B rebatable drug
6 first approved or licensed by the Food and
7 Drug Administration after December 1, 2020,
8 paragraph (1)(B) shall be applied as if the ref-
9 erence to ‘January 1, 2023’ under such para-
10 graph were a reference to the later of the 6th
11 full calendar quarter after the day on which the
12 drug was first marketed or January 1, 2023.

13 “(C) SELECTED DRUGS.—In the case of a
14 part B rebatable drug that is a selected drug
15 (as defined in section 1192(c)) for a price appli-
16 cability period (as defined in section
17 1191(b)(2)), in the case such drug is deter-
18 mined (pursuant to such section 1192(c)) to no
19 longer be a selected drug, beginning the first
20 calendar quarter after the price applicability pe-
21 riod with respect to such drug, clause (i) of
22 paragraph (3)(C) shall be applied as if the term
23 ‘payment amount benchmark quarter’ were de-
24 fined under paragraph (3)(D) as the calendar
25 quarter beginning January 1 of the last year

1 during such price applicability period with re-
2 spect to such selected drug and clause (ii) of
3 paragraph (3)(C) shall be applied as if the term
4 ‘benchmark period CPI–U’ were defined under
5 paragraph (3)(E) as if the reference to ‘Janu-
6 ary 2021’ under such paragraph were a ref-
7 erence to the July of the year preceding such
8 last year.

9 “(5) APPLICATION TO BENEFICIARY COINSUR-
10 ANCE.—In the case of a part B rebatable drug, if
11 the payment amount described in paragraph
12 (3)(A)(ii)(I) (or, in the case of a part B rebatable
13 drug that is a selected drug (as defined in section
14 1192(e), the payment amount described in sub-
15 section (b)(1)(B) for such drug) for a calendar quar-
16 ter exceeds the inflation adjusted payment for such
17 quarter—

18 “(A) in computing the amount of any coin-
19 surance applicable under this part to an indi-
20 vidual to whom such drug is furnished, the
21 computation of such coinsurance shall be equal
22 to 20 percent of the inflation-adjusted payment
23 amount determined under paragraph (3)(C) for
24 such part B rebatable drug; and

1 “(B) the amount of such coinsurance for
2 such calendar quarter, as computed under sub-
3 paragraph (A), shall be applied as a percent, as
4 determined by the Secretary, to the payment
5 amount that would otherwise apply under sub-
6 paragraphs (B) or (C) of subsection (b)(1).

7 “(6) REBATE DEPOSITS.—Amounts paid as re-
8 bates under paragraph (1)(B) shall be deposited into
9 the Federal Supplementary Medical Insurance Trust
10 Fund established under section 1841.

11 “(7) CIVIL MONEY PENALTY.—If a manufac-
12 turer of a part B rebatable drug has failed to com-
13 ply with the requirements under paragraph (1)(B)
14 for such drug for a calendar quarter, the manufac-
15 turer shall be subject to, in accordance with a proc-
16 ess established by the Secretary pursuant to regula-
17 tions, a civil money penalty in an amount equal to
18 at least 125 percent of the amount specified in para-
19 graph (3) for such drug for such calendar quarter.
20 The provisions of section 1128A (other than sub-
21 sections (a) (with respect to amounts of penalties or
22 additional assessments) and (b)) shall apply to a
23 civil money penalty under this paragraph in the
24 same manner as such provisions apply to a penalty
25 or proceeding under section 1128A(a).”; and

1 (2) in subsection (j), as redesignated by para-
2 graph (1)—

3 (A) in paragraph (4), by striking at the
4 end “and”;

5 (B) in paragraph (5), by striking at the
6 end the period and inserting a semicolon; and

7 (C) by adding at the end the following new
8 paragraphs:

9 “(6) the determination of units under sub-
10 section (i);

11 “(7) the determination of whether a drug is a
12 part B rebatable drug under subsection (i);

13 “(8) the calculation of the rebate amount under
14 subsection (i); and

15 “(9) the computation of coinsurance under sub-
16 section (i)(5); and

17 “(10) the computation of amounts paid under
18 section 1833(a)(1)(EE).”.

19 (b) AMOUNTS PAYABLE; COST-SHARING.—Section
20 1833 of the Social Security Act (42 U.S.C. 1395l) is
21 amended—

22 (1) in subsection (a)(1)—

23 (A) in subparagraph (G), by inserting “,
24 subject to subsection (i)(9),” after “the
25 amounts paid”;

1083

1 (B) in subparagraph (S), by striking “with
2 respect to” and inserting “subject to subpara-
3 graph (EE), with respect to”;

4 (C) by striking “and (DD)” and inserting
5 “(DD)”; and

6 (D) by inserting before the semicolon at
7 the end the following: “, and (EE) with respect
8 to a part B rebatable drug (as defined in para-
9 graph (2) of section 1847A(i)) for which the
10 payment amount for a calendar quarter under
11 paragraph (3)(A)(ii)(I) of such section (or, in
12 the case of a part B rebatable drug that is a
13 selected drug (as defined in section 1192(c) for
14 which, the payment amount described in section
15 1847A(b)(1)(B)) for such drug for such quarter
16 exceeds the inflation-adjusted payment under
17 paragraph (3)(A)(ii)(II) of such section for
18 such quarter, the amounts paid shall be equal
19 to the percent of the payment amount under
20 paragraph (3)(A)(ii)(I) of such section or sec-
21 tion 1847A(b)(1)(B), as applicable, that equals
22 the difference between (i) 100 percent, and (ii)
23 the percent applied under section
24 1847A(i)(5)(B)”;

1 (2) in subsection (i), by adding at the end the
2 following new paragraph:

3 “(9) In the case of a part B rebatable drug (as de-
4 fined in paragraph (2) of section 1847A(i)) for which pay-
5 ment under this subsection is not packaged into a payment
6 for a service furnished on or after January 1, 2023, under
7 the revised payment system under this subsection, in lieu
8 of calculation of coinsurance and the amount of payment
9 otherwise applicable under this subsection, the provisions
10 of section 1847A(i)(5) and paragraph (1)(EE) of sub-
11 section (a), shall, as determined appropriate by the Sec-
12 retary, apply under this subsection in the same manner
13 as such provisions of section 1847A(i)(5) and subsection
14 (a) apply under such section and subsection.”; and

15 (3) in subsection (t)(8), by adding at the end
16 the following new subparagraph:

17 “(F) PART B REBATABLE DRUGS.—In the
18 case of a part B rebatable drug (as defined in
19 paragraph (2) of section 1847A(i), except if
20 such drug does not have a copayment amount
21 as a result of application of subparagraph (E))
22 for which payment under this part is not pack-
23 aged into a payment for a covered OPD service
24 (or group of services) furnished on or after
25 January 1, 2023, and the payment for such

1 drug under this subsection is the same as the
2 amount for a calendar quarter under paragraph
3 (3)(A)(ii)(I) of section 1847A(i), under the sys-
4 tem under this subsection, in lieu of calculation
5 of the copayment amount and the amount of
6 payment otherwise applicable under this sub-
7 section (other than the application of the limita-
8 tion described in subparagraph (C)), the provi-
9 sions of section 1847A(i)(5) and paragraph
10 (1)(EE) of subsection (a), shall, as determined
11 appropriate by the Secretary, apply under this
12 subsection in the same manner as such provi-
13 sions of section 1847A(i)(5) and subsection (a)
14 apply under such section and subsection.”.

15 (c) CONFORMING AMENDMENTS.—

16 (1) TO PART B ASP CALCULATION.—Section
17 1847A(c)(3) of the Social Security Act (42 U.S.C.
18 1395w-3a(c)(3)) is amended by inserting “sub-
19 section (i) or” before “section 1927”.

20 (2) EXCLUDING PART B DRUG INFLATION RE-
21 BATE FROM BEST PRICE.—Section
22 1927(e)(1)(C)(ii)(I) of the Social Security Act (42
23 U.S.C. 1396r-8(e)(1)(C)(ii)(I)) is amended by in-
24 serting “or section 1847A(i)” after “this section”.

1086

1 (3) COORDINATION WITH MEDICAID REBATE IN-
2 FORMATION DISCLOSURE.—Section 1927(b)(3)(D)(i)
3 of the Social Security Act (42 U.S.C. 1396r-
4 8(b)(3)(D)(i)) is amended by inserting “and the re-
5 bate” after “the payment amount”.

6 (4) EXCLUDING PART B DRUG INFLATION RE-
7 BATES FROM AVERAGE MANUFACTURER PRICE.—
8 Section 1927(k)(1)(B)(i) of the Social Security Act
9 (42 U.S.C. 1396r-8(k)(1)(B)(i)), as previously
10 amended, is amended—

11 (A) in subclause (IV), by striking “and”;

12 (B) in subclause (V), by striking the period
13 at the end and inserting a semicolon; and

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

16 “(VI) rebates paid by manufac-
17 turers under section 1847A(i); and”.

18 (d) FUNDING.—In addition to amounts otherwise
19 available, there are appropriated to the Centers for Medi-
20 care & Medicaid Services, out of any money in the Treas-
21 ury not otherwise appropriated, \$80,000,000 for fiscal
22 year 2022, including \$12,500,000 to carry out the provi-
23 sions of, including the amendments made by, this section
24 in fiscal year 2022, and \$7,500,000 to carry out the provi-
25 sions of, including the amendments made by, this section

1 in each of fiscal years 2023 through 2031, to remain avail-
2 able until expended.

3 **SEC. 129102. MEDICARE PART D REBATE BY MANUFACTUR-**
4 **ERS.**

5 (a) IN GENERAL.—Part D of title XVIII of the Social
6 Security Act is amended by inserting after section 1860D–
7 14A (42 U.S.C. 1395w–114a) the following new section:

8 **“SEC. 1860D–14B. MANUFACTURER REBATE FOR CERTAIN**
9 **DRUGS WITH PRICES INCREASING FASTER**
10 **THAN INFLATION.**

11 “(a) REQUIREMENTS.—

12 “(1) SECRETARIAL PROVISION OF INFORMA-
13 TION.—Not later than 9 months after the end of
14 each applicable period (as defined in subsection
15 (g)(7)), subject to paragraph (3), the Secretary
16 shall, for each part D rebatable drug, report to each
17 manufacturer of such part D rebatable drug the fol-
18 lowing for such period:

19 “(A) The amount (if any) of the excess an-
20 nual manufacturer price increase described in
21 subsection (b)(1)(A)(ii) for each dosage form
22 and strength with respect to such drug and pe-
23 riod.

1 “(B) The rebate amount specified under
2 subsection (b) for each dosage form and
3 strength with respect to such drug and period.

4 “(2) MANUFACTURER REQUIREMENTS.—For
5 each applicable period, the manufacturer of a part D
6 rebtable drug, for each dosage form and strength
7 with respect to such drug, not later than 30 days
8 after the date of receipt from the Secretary of the
9 information described in paragraph (1) for such pe-
10 riod, shall provide to the Secretary a rebate that is
11 equal to the amount specified in subsection (b) for
12 such dosage form and strength with respect to such
13 drug for such period.

14 “(3) TRANSITION RULE FOR REPORTING.—The
15 Secretary may, for each rebtable covered part D
16 drug, delay the timeframe for reporting the informa-
17 tion and rebate amount described in subparagraphs
18 (A) and (B) of such paragraph for the applicable pe-
19 riod beginning July 1, 2022, until not later than
20 September 30, 2025.

21 “(b) REBATE AMOUNT.—

22 “(1) IN GENERAL.—

23 “(A) CALCULATION.—For purposes of this
24 section, the amount specified in this subsection
25 for a dosage form and strength with respect to

1 a part D rebatable drug and applicable period
2 is, subject to subparagraph (C), paragraph
3 (5)(B), and paragraph (6), the amount equal to
4 the product of—

5 “(i) subject to subparagraph (B) of
6 this paragraph, the total number of units
7 that are used to calculate the average man-
8 ufacturer price of such dosage form and
9 strength with respect to such part D
10 rebatable drug, as reported by the manu-
11 facturer of such drug under section 1927
12 for each month, with respect to such pe-
13 riod; and

14 “(ii) the amount (if any) by which—

15 “(I) the annual manufacturer
16 price (as determined in paragraph
17 (2)) paid for such dosage form and
18 strength with respect to such part D
19 rebatable drug for the period; exceeds

20 “(II) the inflation-adjusted pay-
21 ment amount determined under para-
22 graph (3) for such dosage form and
23 strength with respect to such part D
24 rebatable drug for the period.

1091

1 Federal Food, Drug, and Cosmetic
2 Act;

3 “(II) in the case of a generic (de-
4 fined as a part D rebatable drug de-
5 scribed in subsection (g)(1)(C)(ii)) or
6 a biosimilar (defined as a biological
7 product licensed under section 351(k)
8 of the Public Health Service Act),
9 when the Secretary determines there
10 are severe supply chain disruptions;
11 and

12 “(III) in the case of a generic (as
13 so defined), if the Secretary deter-
14 mines that without such reduction or
15 waiver, access to the drug would be
16 severely reduced.

17 “(ii) ANNUAL REVIEW.—The Sec-
18 retary shall annually review any reduction
19 or waiver with respect to a part D
20 rebatable drug under this subparagraph.

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 period, is the sum of the
2 products 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 period; and

8 “(B) the ratio of—

9 “(i) the total number of units of such
10 dosage form and strength reported under
11 section 1927 with respect to each such cal-
12 endar quarter of such period; to

13 “(ii) the total number of units of such
14 dosage form and strength reported under
15 section 1927 with respect to such period,
16 as determined by the Secretary.

17 “(3) DETERMINATION OF INFLATION-ADJUSTED
18 PAYMENT AMOUNT.—The inflation-adjusted payment
19 amount determined under this paragraph for a dos-
20 age form and strength with respect to a part D
21 rebatable drug for an applicable period, subject to
22 paragraph (5), is—

23 “(A) the benchmark period manufacturer
24 price determined under paragraph (4) for such

1 dosage form and strength with respect to such
2 drug and period; increased by

3 “(B) the percentage by which the applica-
4 ble period CPI-U (as defined in subsection
5 (g)(5)) for the period exceeds the benchmark
6 period CPI-U (as defined in subsection (g)(4)).

7 “(4) DETERMINATION OF BENCHMARK PERIOD
8 MANUFACTURER PRICE.—The benchmark period
9 manufacturer price determined under this paragraph
10 for a dosage form and strength, with respect to a
11 part D rebatable drug and an applicable period, is
12 the sum of the products of—

13 “(A) the average manufacturer price (as
14 defined in subsection (g)(6)) of such dosage
15 form and strength, as calculated for a unit of
16 such drug, with respect to each of the calendar
17 quarters of the payment amount benchmark pe-
18 riod (as defined in subsection (g)(3)); and

19 “(B) the ratio of—

20 “(i) the total number of units re-
21 ported under section 1927 of such dosage
22 form and strength with respect to each
23 such calendar quarter of such payment
24 amount benchmark period; to

1 “(ii) the total number of units re-
2 ported under section 1927 of such dosage
3 form and strength with respect to such
4 payment amount benchmark period.

5 “(5) SPECIAL TREATMENT OF CERTAIN DRUGS
6 AND EXEMPTION.—

7 “(A) SUBSEQUENTLY APPROVED DRUGS.—

8 In the case of a part D rebatable drug first ap-
9 proved or licensed by the Food and Drug Ad-
10 ministration after October 1, 2021, subpara-
11 graphs (A) and (B) of paragraph (4) shall be
12 applied as if the term ‘payment amount bench-
13 mark period’ were defined under subsection
14 (g)(3) as the first calendar year beginning after
15 the day on which the drug was first marketed
16 and subparagraph (B) of paragraph (3) shall be
17 applied as if the term ‘benchmark period CPI-
18 U’ were defined under subsection (g)(4) as if
19 the reference to ‘January 2021’ under such
20 subsection were a reference to ‘January of the
21 first year beginning after the date on which the
22 drug was first marketed’.

23 “(B) TREATMENT OF NEW FORMULA-
24 TIONS.—

1 “(i) IN GENERAL.—In the case of a
2 part D rebatable drug that is a line exten-
3 sion of a part D rebatable drug that is an
4 oral solid dosage form, the Secretary shall
5 establish a formula for determining the re-
6 bate amount under paragraph (1) and the
7 inflation adjusted payment amount under
8 paragraph (3) with respect to such part D
9 rebatable drug and an applicable period,
10 consistent with the formula applied under
11 subsection (c)(2)(C) of section 1927 for
12 determining a rebate obligation for a re-
13 bate period under such section.

14 “(ii) LINE EXTENSION DEFINED.—In
15 this subparagraph, the term ‘line exten-
16 sion’ means, with respect to a part D
17 rebatable drug, a new formulation of the
18 drug, such as an extended release formula-
19 tion, but does not include an abuse-deter-
20 rent formulation of the drug (as deter-
21 mined by the Secretary), regardless of
22 whether such abuse-deterrent formulation
23 is an extended release formulation.

24 “(C) SELECTED DRUGS.—In the case of a
25 part D rebatable drug that is a selected drug

1 (as defined in section 1192(e)) for a price appli-
2 cability period (as defined in section
3 1191(b)(2)), in the case such drug is deter-
4 mined (pursuant to such section 1192(e)) to no
5 longer be a selected drug, for each applicable
6 period beginning after the price applicability pe-
7 riod with respect to such drug, subparagraphs
8 (A) and (B) of paragraph (4) shall be applied
9 as if the term ‘payment amount benchmark pe-
10 riod’ were defined under subsection (g)(3) as
11 the last year beginning during such price appli-
12 cability period with respect to such selected
13 drug and subparagraph (B) of paragraph (3)
14 shall be applied as if the term ‘benchmark pe-
15 riod CPI-U’ were defined under subsection
16 (g)(4) as if the reference to ‘January 2021’
17 under such subsection were a reference to Jan-
18 uary of the last year beginning during such
19 price applicability period with respect to such
20 drug.

21 “(6) RECONCILIATION IN CASE OF REVISED
22 AMP REPORTS.—The Secretary shall provide for a
23 method and process under which, in the case of a
24 manufacturer of a part D rebatable drug that sub-
25 mits revisions to information submitted under sec-

1 tion 1927 by the manufacturer with respect to such
2 drug, the Secretary determines, pursuant to such re-
3 visions, adjustments, if any, to the calculation of the
4 amount specified in this subsection for a dosage
5 form and strength with respect to such part D
6 rebtable drug and an applicable period and rec-
7 onciles any overpayments or underpayments in
8 amounts paid as rebates under this subsection. Any
9 identified underpayment shall be rectified by the
10 manufacturer not later than 30 days after the date
11 of receipt from the Secretary of information on such
12 underpayment.

13 “(c) REBATE DEPOSITS.—Amounts paid as rebates
14 under subsection (b) shall be deposited into the Medicare
15 Prescription Drug Account in the Federal Supplementary
16 Medical Insurance Trust Fund established under section
17 1841.

18 “(d) INFORMATION.—For purposes of carrying out
19 this section, the Secretary shall use information submitted
20 by manufacturers under section 1927(b)(3) and informa-
21 tion submitted by States under section 1927(b)(2)(A).

22 “(e) CIVIL MONEY PENALTY.—If a manufacturer of
23 a part D rebtable drug has failed to comply with the re-
24 quirement under subsection (a)(2) with respect to such
25 drug for an applicable period, the manufacturer shall be

1 subject to, in accordance with a process established by the
2 Secretary pursuant to regulations, a civil money penalty
3 in an amount equal to 125 percent of the amount specified
4 in subsection (b) for such drug for such period. The provi-
5 sions of section 1128A (other than subsections (a) (with
6 respect to amounts of penalties or additional assessments)
7 and (b)) shall apply to a civil money penalty under this
8 subsection in the same manner as such provisions apply
9 to a penalty or proceeding under section 1128A(a).

10 “(f) NO ADMINISTRATIVE OR JUDICIAL REVIEW.—
11 There shall be no administrative or judicial review of the
12 following:

13 “(1) The determination of units under this sec-
14 tion.

15 “(2) The determination of whether a drug is a
16 part D rebatable drug under this section.

17 “(3) The calculation of the rebate amount
18 under this section.

19 “(g) DEFINITIONS.—In this section:

20 “(1) PART D REBATABLE DRUG.—

21 “(A) IN GENERAL.—Except as provided in
22 subparagraph (B), the term ‘part D rebatable
23 drug’ means a drug or biological described in
24 subparagraph (C) that would (without applica-
25 tion of this section) be a covered part D drug

1 (as such term is defined under section 1860D–
2 2(e)).

3 “(B) EXCLUSION.—

4 “(i) IN GENERAL.—Such term shall,
5 with respect to an applicable period, not
6 include a drug or biological if the average
7 annual total cost under this part for such
8 period per individual who uses such a drug
9 or biological, as determined by the Sec-
10 retary, is less than, subject to clause (ii),
11 \$100, as determined by the Secretary
12 using the most recent data available or, if
13 data is not available, as estimated by the
14 Secretary.

15 “(ii) INCREASE.—The dollar amount
16 applied under clause (i)—

17 “(I) for the applicable period be-
18 ginning July 1, 2023, shall be the dol-
19 lar amount specified under such
20 clause for the applicable period begin-
21 ning July 1, 2022, increased by the
22 percentage increase in the consumer
23 price index for all urban consumers
24 (United States city average) for the

1100

1 12-month period beginning with July
2 of 2023; and

3 “(II) for a subsequent applicable
4 period, shall be the dollar amount
5 specified in this clause for the pre-
6 vious applicable period, increased by
7 the percentage increase in the con-
8 sumer price index for all urban con-
9 sumers (United States city average)
10 for the 12-month period beginning
11 with July of the previous period.

12 Any dollar amount specified under this
13 clause that is not a multiple of \$10 shall
14 be rounded to the nearest multiple of \$10.

15 “(C) DRUG OR BIOLOGICAL DESCRIBED.—

16 A drug or biological described in this subpara-
17 graph is—

18 “(i) a drug approved under a new
19 drug application under section 505(c) of
20 the Federal Food, Drug, and Cosmetic
21 Act;

22 “(ii) a drug approved under an abbrevi-
23 ated new drug application under section
24 505(j) of the Federal Food, Drug, and
25 Cosmetic Act, in the case where—

1101

1 “(I) the reference listed drug ap-
2 proved under section 505(c) of the
3 Federal Food, Drug, and Cosmetic
4 Act, including any ‘authorized generic
5 drug’ (as that term is defined in sec-
6 tion 505(t)(3) of the Federal Food,
7 Drug, and Cosmetic Act, is not being
8 marketed, as identified in the Food
9 and Drug Administration’s National
10 Drug Code Directory;

11 “(II) there is no other drug ap-
12 proved under section 505(j) of the
13 Federal Food, Drug, and Cosmetic
14 Act that is rated as therapeutically
15 equivalent (under the Food and Drug
16 Administration’s most recent publica-
17 tion of ‘Approved Drug Products with
18 Therapeutic Equivalence Evaluations’)
19 and that is being marketed, as identi-
20 fied in the Food and Drug Adminis-
21 tration’s National Drug Code Direc-
22 tory;

23 “(III) the manufacturer is not a
24 ‘first applicant’ during the ‘180-day
25 exclusivity period’, as those terms are

1 defined in section 505(j)(5)(B)(iv) of
2 the Federal Food, Drug, and Cos-
3 metic Act; and

4 “(IV) the manufacturer is not a
5 ‘first approved applicant’ for a com-
6 petitive generic therapy, as that term
7 is defined in section 505(j)(5)(B)(v)
8 of the Federal Food, Drug, and Cos-
9 metic Act; and

10 “(iii) a biological licensed under sec-
11 tion 351 of the Public Health Service Act.

12 “(2) UNIT.—The term ‘unit’ means, with re-
13 spect to a part D rebatable drug, the lowest dispen-
14 sable amount (such as a capsule or tablet, milligram
15 of molecules, or grams) of the part D rebatable
16 drug, as reported under section 1927.

17 “(3) PAYMENT AMOUNT BENCHMARK PE-
18 RIOD.—The term ‘payment amount benchmark pe-
19 riod’ means the period beginning January 1, 2021,
20 and ending in the month immediately prior to Octo-
21 ber 1, 2021.

22 “(4) BENCHMARK PERIOD CPI-U.—The term
23 ‘benchmark period CPI-U’ means the consumer
24 price index for all urban consumers (United States
25 city average) for January 2021.

1 “(5) APPLICABLE PERIOD CPI-U.—The term
2 ‘applicable period CPI-U’ means, with respect to an
3 applicable period, the consumer price index for all
4 urban consumers (United States city average) for
5 the first month of such applicable period.

6 “(6) AVERAGE MANUFACTURER PRICE.—The
7 term ‘average manufacturer price’ has the meaning,
8 with respect to a part D rebatable drug of a manu-
9 facturer, given such term in section 1927(k)(1), with
10 respect to a covered outpatient drug of a manufac-
11 turer for a rebate period under section 1927.

12 “(7) APPLICABLE PERIOD.—The term ‘applica-
13 ble period’ means a 12-month period beginning with
14 July 1 of a year (beginning with July 1, 2022).

15 “(h) IMPLEMENTATION FOR 2022, 2023, AND
16 2024.—The Secretary shall implement this section for
17 2022, 2023, and 2024 by program instruction or other
18 forms of program guidance.”.

19 (b) CONFORMING AMENDMENTS.—

20 (1) TO PART B ASP CALCULATION.—Section
21 1847A(c)(3) of the Social Security Act (42 U.S.C.
22 1395w-3a(e)(3)), as amended by section
23 129101(c)(1), is amended by striking “subsection (i)
24 or section 1927” and inserting “subsection (i), sec-
25 tion 1927, or section 1860D-14B”.

1 (2) EXCLUDING PART D DRUG INFLATION RE-
2 BATE FROM BEST PRICE.—Section
3 1927(c)(1)(C)(ii)(I) of the Social Security Act (42
4 U.S.C. 1396r–8(c)(1)(C)(ii)(I)), as amended by sec-
5 tion 129101(c)(2), is amended by striking “or sec-
6 tion 1847A(i)” and inserting “, section 1847A(i), or
7 section 1860D–14B”.

8 (3) COORDINATION WITH MEDICAID REBATE IN-
9 FORMATION DISCLOSURE.—Section 1927(b)(3)(D)(i)
10 of the Social Security Act (42 U.S.C. 1396r–
11 8(b)(3)(D)(i)), as amended by section 129101(c)(3),
12 is amended by striking “or to carry out section
13 1847B” and inserting “or to carry out section
14 1847B or section 1860D–14B”.

15 (4) EXCLUDING PART D DRUG INFLATION RE-
16 BATES FROM AVERAGE MANUFACTURER PRICE.—
17 Section 1927(k)(1)(B)(i) of the Social Security Act
18 (42 U.S.C. 1396r–8(k)(1)(B)(i)), as previously
19 amended, is amended by adding at the end the fol-
20 lowing new subclause:

21 “(VII) rebates paid by manufac-
22 turers under section 1860D-14B.”.

23 (c) FUNDING.—In addition to amounts otherwise
24 available, there are appropriated to the Centers for Medi-
25 care & Medicaid Services, out of any money in the Treas-

1 ury not otherwise appropriated, \$80,000,000 for fiscal
2 year 2022, including \$12,500,000 to carry out the provi-
3 sions of, including the amendments made by, this section
4 in fiscal year 2022, and \$7,500,000 to carry out the provi-
5 sions of, including the amendments made by, this section
6 for in each of fiscal years 2023 through 2031, to remain
7 available until expended.

8 **PART 3—PART D IMPROVEMENTS AND MAXIMUM**
9 **OUT-OF-POCKET CAP FOR MEDICARE BENE-**
10 **FICIARIES**

11 **SEC. 129201. MEDICARE PART D BENEFIT REDESIGN.**

12 (a) BENEFIT STRUCTURE REDESIGN.—Section
13 1860D–2(b) of the Social Security Act (42 U.S.C. 1395w–
14 102(b)) is amended—

15 (1) in paragraph (2)—

16 (A) in subparagraph (A), in the matter
17 preceding clause (i), by inserting “for a year
18 preceding 2024 and for costs above the annual
19 deductible specified in paragraph (1) and up to
20 the annual out-of-pocket threshold specified in
21 paragraph (4)(B) for 2024 and each subsequent
22 year” after “paragraph (3)”;

23 (B) in subparagraph (C)—

24 (i) in clause (i), in the matter pre-
25 ceding subclause (I), by inserting “for a

1 year preceding 2024,” after “paragraph
2 (4),”; and

3 (ii) in clause (ii)(III), by striking
4 “and each subsequent year” and inserting
5 “through 2023”; and

6 (C) in subparagraph (D)—

7 (i) in clause (i)—

8 (I) in the matter preceding sub-
9 clause (I), by inserting “for a year
10 preceding 2024,” after “paragraph
11 (4),”; and

12 (II) in subclause (I)(bb), by
13 striking “a year after 2018” and in-
14 serting “each of years 2019 through
15 2023”; and

16 (ii) in clause (ii)(V), by striking
17 “2019 and each subsequent year” and in-
18 serting “each of years 2019 through
19 2023”;

20 (2) in paragraph (3)(A)—

21 (A) in the matter preceding clause (i), by
22 inserting “for a year preceding 2024,” after
23 “and (4),”; and

1107

1 (B) in clause (ii), by striking “for a subse-
2 quent year” and inserting “for each of years
3 2007 through 2023”; and

4 (3) in paragraph (4)—

5 (A) in subparagraph (A)—

6 (i) in clause (i)—

7 (I) by redesignating subclauses
8 (I) and (II) as items (aa) and (bb),
9 respectively, and moving the margin
10 of each such redesignated item 2 ems
11 to the right;

12 (II) in the matter preceding item
13 (aa), as redesignated by subclause (I),
14 by striking “is equal to the greater
15 of—” and inserting “is equal to—

16 “(I) for a year preceding 2024,
17 the greater of—”;

18 (III) by striking the period at the
19 end of item (bb), as redesignated by
20 subclause (I), and inserting “; and”;
21 and

22 (IV) by adding at the end the fol-
23 lowing:

24 “(II) for 2024 and each suc-
25 ceeding year, \$0.”; and

1108

1 (ii) in clause (ii)—

2 (I) by striking “clause (i)(I)” and
3 inserting “clause (i)(I)(aa)”; and

4 (II) by adding at the end the fol-
5 lowing new sentence: “The Secretary
6 shall continue to calculate the dollar
7 amounts specified in clause (i)(I)(aa),
8 including with the adjustment under
9 this clause, after 2023 for purposes of
10 section 1860D–14(a)(1)(D)(iii).”;

11 (B) in subparagraph (B)—

12 (i) in clause (i)—

13 (I) in subclause (V), by striking
14 “or” at the end;

15 (II) in subclause (VI)—

16 (aa) by striking “for a sub-
17 sequent year” and inserting “for
18 each of years 2021 through
19 2023”; and

20 (bb) by striking the period
21 at the end and inserting a semi-
22 colon; and

23 (III) by adding at the end the
24 following new subclauses:

1109

1 “(VII) for 2024, is equal to
2 \$2,000; or

3 “(VIII) for a subsequent year, is
4 equal to the amount specified in this
5 subparagraph for the previous year,
6 increased by the annual percentage in-
7 crease described in paragraph (6) for
8 the year involved.”; and

9 (ii) in clause (ii), by striking “clause
10 (i)(II)” and inserting “clause (i)”;

11 (C) in subparagraph (C)—

12 (i) in clause (i), by striking “and for
13 amounts” and inserting “and, for a year
14 preceding 2024, for amounts”; and

15 (ii) in clause (iii)—

16 (I) by redesignating subclauses
17 (I) through (IV) as items (aa)
18 through (dd) and indenting appro-
19 priately;

20 (II) by striking “if such costs are
21 borne or paid” and inserting “if such
22 costs—

23 “(I) are borne or paid—”; and

24 (III) in item (dd), by striking “;
25 and” and inserting “; or”; and

1110

1 (IV) by adding at the end the fol-
2 lowing new subclause:

3 “(II) for 2024 and subsequent
4 years, are reimbursed through insur-
5 ance, a group health plan, or certain
6 other third party payment arrange-
7 ments, but not including the coverage
8 provided by a prescription drug plan
9 or an MA–PD plan that is basic pre-
10 scription drug coverage (as defined in
11 subsection (a)(3)) or any payments by
12 a manufacturer under the manufac-
13 turer discount program under section
14 1860D–14C; and”; and

15 (D) in subparagraph (E), by striking “In
16 applying” and inserting “For each of years
17 2011 through 2023, in applying”.

18 (b) REINSURANCE PAYMENT AMOUNT.—Section
19 1860D–15(b) of the Social Security Act (42 U.S.C.
20 1395w–115(b)) is amended—

21 (1) in paragraph (1)—

22 (A) by striking “equal to 80 percent” and
23 inserting “equal to—

24 “(A) for a year preceding 2024, 80 per-
25 cent”;

1111

1 (B) in subparagraph (A), as added by sub-
2 paragraph (A), by striking the period at the
3 end and inserting “; and”; and

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

6 “(B) for 2024 and each subsequent year,
7 the sum of—

8 “(i) with respect to applicable drugs
9 (as defined in section 1860D–14C(g)(2)),
10 an amount equal to 20 percent of such al-
11 lowable reinsurance costs attributable to
12 that portion of gross covered prescription
13 drug costs as specified in paragraph (3) in-
14 curred in the coverage year after such indi-
15 vidual has incurred costs that exceed the
16 annual out-of-pocket threshold specified in
17 section 1860D–2(b)(4)(B); and

18 “(ii) with respect to covered part D
19 drugs that are not applicable drugs (as so
20 defined), an amount equal to 40 percent of
21 such allowable reinsurance costs attrib-
22 utable to that portion of gross covered pre-
23 scription drug costs as specified in para-
24 graph (3) incurred in the coverage year
25 after such individual has incurred costs

1112

1 that exceed the annual out-of-pocket
2 threshold specified in section 1860D–
3 2(b)(4)(B).”;

4 (2) in paragraph (2)—

5 (A) by striking “COSTS.—For purposes”
6 and inserting “COSTS.—

7 “(A) IN GENERAL.—Subject to subpara-
8 graph (B), for purposes”; and

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

11 “(B) INCLUSION OF MANUFACTURER DIS-
12 COUNTS ON APPLICABLE DRUGS.—For purposes
13 of applying subparagraph (A), the term ‘allow-
14 able reinsurance costs’ shall include the portion
15 of the negotiated price (as defined in section
16 1860D–14C(g)(6)) of an applicable drug (as
17 defined in section 1860D–14C(g)(2)) that was
18 paid by a manufacturer under the manufacturer
19 discount program under section 1860D–14C.”;
20 and

21 (3) in paragraph (3)—

22 (A) in the first sentence, by striking “For
23 purposes” and inserting “Subject to paragraph
24 (2)(B), for purposes”; and

1113

1 (B) in the second sentence, by inserting
2 “(or, with respect to 2024 and subsequent
3 years, in the case of an applicable drug, as de-
4 fined in section 1860D–14C(g)(2), by a manu-
5 facturer)” after “by the individual or under the
6 plan”.

7 (c) REDUCED COST-SHARING; BENEFICIARY PRE-
8 MIUM PERCENTAGE.—

9 (1) COST-SHARING.—

10 (A) IN GENERAL.—Section 1860D–
11 2(b)(2)(A) of the Social Security Act (42
12 U.S.C. 1395w–102(b)(2)(A)) is amended—

13 (i) in the subparagraph header, by
14 striking “25 PERCENT COINSURANCE” and
15 inserting “COINSURANCE”;

16 (ii) in clause (i), by inserting “(or, for
17 2024 and each subsequent year, 23 per-
18 cent)” after “25 percent”; and

19 (iii) in clause (ii), by inserting “(or,
20 for 2024 and each subsequent year, 23
21 percent)” after “25 percent”.

22 (B) CONFORMING AMENDMENT.—Section
23 1860D–14(a)(2)(D) of the Social Security Act
24 (42 U.S.C. 1395w–114(a)(2)(D)) is amended
25 by inserting “(or, for 2024 and each subsequent

1 year, instead of coinsurance of ‘23 percent’)’
2 after “instead of coinsurance of ‘25 percent’”.

3 (2) BENEFICIARY PREMIUM PERCENTAGE.—

4 (A) IN GENERAL.—Section 1860D–
5 13(a)(3)(A) of the Social Security Act (42
6 U.S.C. 1395w–113(a)(3)(A)) is amended by in-
7 serting “(or, for 2024 and each subsequent
8 year, 23.5 percent)” after “25.5 percent”.

9 (B) CONFORMING AMENDMENTS.—

10 (i) Section 1860D–11(g)(6) of the So-
11 cial Security Act (42 U.S.C. 1395w–
12 111(g)(6)) is amended by inserting “(or,
13 for 2024 and each subsequent year, 23.5
14 percent)” after “25.5 percent”.

15 (ii) Section 1860D–13(a)(7)(B)(i) of
16 the Social Security Act (42 U.S.C. 1395w–
17 113(a)(7)(B)(i)) is amended—

18 (I) in subclause (I), by inserting
19 “(or, for 2024 and each subsequent
20 year, 23.5 percent)” after “25.5 per-
21 cent”; and

22 (II) in subclause (II), by insert-
23 ing “(or, for 2024 and each subse-
24 quent year, 23.5 percent)” after “25.5
25 percent”.

1115

1 (iii) Section 1860D–15(a) of the So-
2 cial Security Act (42 U.S.C. 1395w–
3 115(a)) is amended by inserting “(or, for
4 2024 and each subsequent year, 76.5 per-
5 cent)” after “74.5 percent”.

6 (d) MANUFACTURER DISCOUNT PROGRAM.—

7 (1) IN GENERAL.—Part D of title XVIII of the
8 Social Security Act (42 U.S.C. 1395w–101 through
9 42 U.S.C. 1395w–153), as amended by section
10 129102, is amended by inserting after section
11 1860D–14B the following new sections:

12 **“SEC. 1860D–14C. MANUFACTURER DISCOUNT PROGRAM.**

13 “(a) ESTABLISHMENT.—The Secretary shall estab-
14 lish a manufacturer discount program (in this section re-
15 ferred to as the ‘program’). Under the program, the Sec-
16 retary shall enter into agreements described in subsection
17 (b) with manufacturers and provide for the performance
18 of the duties described in subsection (c).

19 “(b) TERMS OF AGREEMENT.—

20 “(1) IN GENERAL.—

21 “(A) AGREEMENT.—An agreement under
22 this section shall require the manufacturer to
23 provide, in accordance with this section, dis-
24 counted prices for applicable drugs of the man-

1 manufacturer that are dispensed to applicable bene-
2 ficiaries on or after January 1, 2024.

3 “(B) CLARIFICATION.—Nothing in this
4 section shall be construed as affecting—

5 “(i) the application of a coinsurance
6 of 23 percent of the negotiated price, as
7 applied under paragraph (2)(A) of section
8 1860D–2(b), for costs described in such
9 paragraph; or

10 “(ii) the application of the copayment
11 amount described in paragraph (4)(A) of
12 such section, with respect to costs de-
13 scribed in such paragraph.

14 “(C) TIMING OF AGREEMENT.—

15 “(i) SPECIAL RULE FOR 2024.—In
16 order for an agreement with a manufac-
17 turer to be in effect under this section with
18 respect to the period beginning on January
19 1, 2024, and ending on December 31,
20 2024, the manufacturer shall enter into
21 such agreement not later than March 1,
22 2023.

23 “(ii) 2025 AND SUBSEQUENT
24 YEARS.—In order for an agreement with a
25 manufacturer to be in effect under this

1 section with respect to plan year 2025 or
2 a subsequent plan year, the manufacturer
3 shall enter into such agreement not later
4 than a calendar quarter or semi-annual
5 deadline established by the Secretary.

6 “(2) PROVISION OF APPROPRIATE DATA.—Each
7 manufacturer with an agreement in effect under this
8 section shall collect and have available appropriate
9 data, as determined by the Secretary, to ensure that
10 it can demonstrate to the Secretary compliance with
11 the requirements under the program.

12 “(3) COMPLIANCE WITH REQUIREMENTS FOR
13 ADMINISTRATION OF PROGRAM.—Each manufac-
14 turer with an agreement in effect under this section
15 shall comply with requirements imposed by the Sec-
16 retary, as applicable, for purposes of administering
17 the program, including any determination under
18 subparagraph (A) of subsection (c)(1) or procedures
19 established under such subsection (c)(1).

20 “(4) LENGTH OF AGREEMENT.—

21 “(A) IN GENERAL.—An agreement under
22 this section shall be effective for an initial pe-
23 riod of not less than 12 months and shall be
24 automatically renewed for a period of not less

1 than 1 year unless terminated under subpara-
2 graph (B).

3 “(B) TERMINATION.—

4 “(i) BY THE SECRETARY.—The Sec-
5 retary shall provide for termination of an
6 agreement under this section for a knowing
7 and willful violation of the requirements of
8 the agreement or other good cause shown.
9 Such termination shall not be effective ear-
10 lier than 30 days after the date of notice
11 to the manufacturer of such termination.
12 The Secretary shall provide, upon request,
13 a manufacturer with a hearing concerning
14 such a termination, and such hearing shall
15 take place prior to the effective date of the
16 termination with sufficient time for such
17 effective date to be repealed if the Sec-
18 retary determines appropriate.

19 “(ii) BY A MANUFACTURER.—A man-
20 ufacturer may terminate an agreement
21 under this section for any reason. Any
22 such termination shall be effective, with re-
23 spect to a plan year—

24 “(I) if the termination occurs be-
25 fore January 31 of a plan year, as of

1119

1 the day after the end of the plan year;
2 and

3 “(II) if the termination occurs on
4 or after January 31 of a plan year, as
5 of the day after the end of the suc-
6 ceeding plan year.

7 “(iii) EFFECTIVENESS OF TERMI-
8 NATION.—Any termination under this sub-
9 paragraph shall not affect discounts for
10 applicable drugs of the manufacturer that
11 are due under the agreement before the ef-
12 fective date of its termination.

13 “(5) EFFECTIVE DATE OF AGREEMENT.—An
14 agreement under this section shall take effect at the
15 start of a calendar quarter or another date specified
16 by the Secretary.

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 to
25 ensure that, not later than the applicable num-

1 ber of calendar days after the dispensing of an
2 applicable drug by a pharmacy or mail order
3 service, the pharmacy or mail order service is
4 reimbursed for an amount equal to the dif-
5 ference between—

6 “(i) the negotiated price of the appli-
7 cable drug; and

8 “(ii) the discounted price of the appli-
9 cable drug;

10 “(C) the establishment of procedures to
11 ensure that the discounted price for an applica-
12 ble drug under this section is applied before any
13 coverage or financial assistance under other
14 health benefit plans or programs that provide
15 coverage or financial assistance for the pur-
16 chase or provision of prescription drug coverage
17 on behalf of applicable beneficiaries as specified
18 by the Secretary; and

19 “(D) providing a reasonable dispute resolu-
20 tion mechanism to resolve disagreements be-
21 tween manufacturers and applicable bene-
22 ficiaries.

23 “(2) MONITORING COMPLIANCE.—The Sec-
24 retary shall monitor compliance by a manufacturer
25 with the terms of an agreement under this section.

1 “(3) COLLECTION OF DATA FROM PRESCRIP-
2 TION DRUG PLANS AND MA-PD PLANS.—The Sec-
3 retary may collect appropriate data from prescrip-
4 tion drug plans and MA-PD plans in a timeframe
5 that allows for discounted prices to be provided for
6 applicable drugs under this section.

7 “(d) ADMINISTRATION.—

8 “(1) IN GENERAL.—Subject to paragraph (2),
9 the Secretary shall provide for the implementation of
10 this section, including the performance of the duties
11 described in subsection (c).

12 “(2) LIMITATION.—In providing for the imple-
13 mentation of this section, the Secretary shall not re-
14 ceive or distribute any funds of a manufacturer
15 under the program.

16 “(e) ENFORCEMENT.—

17 “(1) AUDITS.—Each manufacturer with an
18 agreement in effect under this section shall be sub-
19 ject to periodic audit by the Secretary.

20 “(2) CIVIL MONEY PENALTY.—

21 “(A) IN GENERAL.—A manufacturer that
22 fails to provide discounted prices for applicable
23 drugs of the manufacturer dispensed to applica-
24 ble beneficiaries in accordance with such agree-
25 ment shall be subject to a civil money penalty

1122

1 for each such failure in an amount the Sec-
2 retary determines is equal to the sum of—

3 “(i) the amount that the manufac-
4 turer would have paid with respect to such
5 discounts under the agreement, which will
6 then be used to pay the discounts which
7 the manufacturer had failed to provide;
8 and

9 “(ii) 25 percent of such amount.

10 “(B) APPLICATION.—The provisions of
11 section 1128A (other than subsections (a) and
12 (b)) shall apply to a civil money penalty under
13 this paragraph in the same manner as such
14 provisions apply to a penalty or proceeding
15 under section 1128A(a).

16 “(f) CLARIFICATION REGARDING AVAILABILITY OF
17 OTHER COVERED PART D DRUGS.—Nothing in this sec-
18 tion shall prevent an applicable beneficiary from pur-
19 chasing a covered part D drug that is not an applicable
20 drug (including a generic drug or a drug that is not on
21 the formulary of the prescription drug plan or MA-PD
22 plan that the applicable beneficiary is enrolled in).

23 “(g) DEFINITIONS.—In this section:

1123

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 “(i) in the case of an individual not
12 described in clause (ii) or (iii), the annual
13 deductible for such year, as specified in
14 section 1860D-2(b)(1);

15 “(ii) in the case of a subsidy eligible
16 individual described in section 1860D-
17 14(a)(1), the annual deductible for such
18 year, as specified in subparagraph (B) of
19 such section; and

20 “(iii) in the case of a subsidy eligible
21 individual described in section 1860D-
22 14(a)(2), the annual deductible for such
23 year, as specified in subparagraph (B) of
24 such section.

1 “(2) APPLICABLE DRUG.—The term ‘applicable
2 drug’, with respect to an applicable beneficiary—

3 “(A) means a covered part D drug—

4 “(i) approved under a new drug appli-
5 cation under section 505(c) of the Federal
6 Food, Drug, and Cosmetic Act or, in the
7 case of a biologic product, licensed under
8 section 351 of the Public Health Service
9 Act; and

10 “(ii)(I) if the PDP sponsor of the pre-
11 scription drug plan or the MA organization
12 offering the MA–PD plan uses a for-
13 mulary, which is on the formulary of the
14 prescription drug plan or MA–PD plan
15 that the applicable beneficiary is enrolled
16 in;

17 “(II) if the PDP sponsor of the pre-
18 scription drug plan or the MA organization
19 offering the MA–PD plan does not use a
20 formulary, for which benefits are available
21 under the prescription drug plan or MA–
22 PD plan that the applicable beneficiary is
23 enrolled in; or

24 “(III) is provided through an excep-
25 tion or appeal; and

1 “(B) does not include a selected drug (as
2 referred to under section 1192(c)) during a
3 price applicability period (as defined in section
4 1191(b)(2)) with respect to such drug.

5 “(3) APPLICABLE NUMBER OF CALENDAR
6 DAYS.—The term ‘applicable number of calendar
7 days’ means—

8 “(A) with respect to claims for reimburse-
9 ment submitted electronically, 14 days; and

10 “(B) with respect to claims for reimburse-
11 ment submitted otherwise, 30 days.

12 “(4) DISCOUNTED PRICE.—

13 “(A) IN GENERAL.—The term ‘discounted
14 price’ means, subject to subparagraphs (B) and
15 (C), with respect to an applicable drug of a
16 manufacturer dispensed during a year to an ap-
17 plicable beneficiary—

18 “(i) who has not incurred costs, as de-
19 termined in accordance with section
20 1860D–2(b)(4)(C), for covered part D
21 drugs in the year that are equal to or ex-
22 ceed the annual out-of-pocket threshold
23 specified in section 1860D–2(b)(4)(B)(i)
24 for the year, 90 percent of the negotiated
25 price of such drug; and

1 “(ii) who has incurred such costs, as
2 so determined, in the year that are equal
3 to or exceed such threshold for the year,
4 80 percent of the negotiated price of such
5 drug.

6 “(B) PHASE-IN FOR CERTAIN DRUGS DIS-
7 PENSED TO LIS BENEFICIARIES.—

8 “(i) IN GENERAL.—In the case of an
9 applicable drug of a specified manufacturer
10 (as defined in clause (ii)) that is marketed
11 as of the date of enactment of this sub-
12 paragraph and dispensed for an applicable
13 beneficiary who is a subsidy eligible indi-
14 vidual (as defined in section 1860D-
15 14(a)(3)), the term ‘discounted price’
16 means the specified LIS percent (as de-
17 fined in clause (iii)) of the negotiated price
18 of the applicable drug of the manufacturer.

19 “(ii) SPECIFIED MANUFACTURER.—

20 “(I) IN GENERAL.—In this sub-
21 paragraph, subject to subclause (II),
22 the term ‘specified manufacturer’
23 means a manufacturer of an applica-
24 ble drug for which, in 2021—

1127

1 “(aa) the manufacturer had
2 a coverage gap discount agree-
3 ment under section 1860D-14A;

4 “(bb) the total expenditures
5 for all of the specified drugs of
6 the manufacturer covered by
7 such agreement or agreements
8 for such year and covered under
9 this part during such year rep-
10 resented less than 1.0 percent of
11 the total expenditures under this
12 part for all covered Part D drugs
13 during such year; and

14 “(cc) the total expenditures
15 for all of the specified drugs of
16 the manufacturer that are single
17 source drugs and biological prod-
18 ucts covered under part B during
19 such year represented less than
20 1.0 percent of the total expendi-
21 tures under part B for all drugs
22 or biological products covered
23 under such part during such
24 year.

25 “(II) SPECIFIED DRUGS.—

1128

1 “(aa) IN GENERAL.—For
2 purposes of this clause, the term
3 ‘specified drug’ means, with re-
4 spect to a specified manufac-
5 turer, for 2021, an applicable
6 drug that is produced, prepared,
7 propagated, compounded, con-
8 verted, or processed by the man-
9 ufacturer.

10 “(bb) AGGREGATION
11 RULE.—All persons treated as a
12 single employer under subsection
13 (a) or (b) of section 52 of the In-
14 ternal Revenue Code of 1986
15 shall be treated as one manufac-
16 turer for purposes of this sub-
17 paragraph. For purposes of mak-
18 ing a determination pursuant to
19 the previous sentence, an agree-
20 ment under this section shall re-
21 quire that a manufacturer pro-
22 vide and attest to such informa-
23 tion as specified by the Secretary
24 as necessary.

1 “(III) LIMITATION.—The term
2 ‘specified manufacturer’ shall not in-
3 clude a manufacturer described in
4 subclause (I) if such manufacturer is
5 acquired after 2021 by another manu-
6 facturer that is not a specified manu-
7 facturer, effective at the beginning of
8 the plan year immediately following
9 such acquisition or, in the case of an
10 acquisition before 2024, effective Jan-
11 uary 1, 2024.

12 “(iii) SPECIFIED LIS PERCENT.—In
13 this subparagraph, the ‘specified LIS per-
14 cent’ means, with respect to a year—

15 “(I) for an applicable drug dis-
16 pensed for an applicable beneficiary
17 described in clause (i) who has not in-
18 curred costs, as determined in accord-
19 ance with section 1860D–2(b)(4)(C),
20 for covered part D drugs in the year
21 that are equal to or exceed the annual
22 out-of-pocket threshold specified in
23 section 1860D–2(b)(4)(B)(i) for the
24 year—

25 “(aa) for 2024, 99 percent;

1130

1 “(bb) for 2025, 98 percent;

2 “(cc) for 2026, 95 percent;

3 “(dd) for 2027, 92 percent;

4 and

5 “(ee) for 2028 and each

6 subsequent year, 90 percent; and

7 “(II) for an applicable drug dis-

8 pensed for an applicable beneficiary

9 described in clause (i) who has in-

10 curred costs, as determined in accord-

11 ance with section 1860D–2(b)(4)(C),

12 for covered part D drugs in the year

13 that are equal to or exceed the annual

14 out-of-pocket threshold specified in

15 section 1860D–2(b)(4)(B)(i) for the

16 year—

17 “(aa) for 2024, 99 percent;

18 “(bb) for 2025, 98 percent;

19 “(cc) for 2026, 95 percent;

20 “(dd) for 2027, 92 percent;

21 “(ee) for 2028, 90 percent;

22 “(ff) for 2029, 85 percent;

23 and

24 “(gg) for 2030 and each

25 subsequent year, 80 percent.

1131

1 “(C) PHASE-IN FOR SPECIFIED SMALL
2 MANUFACTURERS.—

3 “(i) IN GENERAL.—In the case of an
4 applicable drug of a specified small manu-
5 facturer (as defined in clause (ii)) that is
6 marketed as of the date of enactment of
7 this subparagraph and dispensed for an
8 applicable beneficiary, the term ‘discounted
9 price’ means the specified small manufac-
10 turer percent (as defined in clause (iii)) of
11 the negotiated price of the applicable drug
12 of the manufacturer.

13 “(ii) SPECIFIED SMALL MANUFAC-
14 Turer.—

15 “(I) IN GENERAL.—In this sub-
16 paragraph, subject to subclause (III),
17 the term ‘specified small manufac-
18 turer’ means a manufacturer of an
19 applicable drug for which, in 2021—

20 “(aa) the manufacturer is a
21 specified manufacturer (as de-
22 fined in subparagraph (B)(ii));
23 and

24 “(bb) the total expenditures
25 under part D for any one of the

1132

1 specified small manufacturer
2 drugs of the manufacturer that
3 are covered by the agreement or
4 agreements under section
5 1860D–14A of such manufac-
6 turer for such year and covered
7 under this part during such year
8 are equal to or more than 80 per-
9 cent of the total expenditures
10 under this part for all specified
11 small manufacturer drugs of the
12 manufacturer that are covered by
13 such agreement or agreements
14 for such year and covered under
15 this part during such year.

16 “(II) SPECIFIED SMALL MANU-
17 FACTURER DRUGS.—

18 “(aa) IN GENERAL.—For
19 purposes of this clause, the term
20 ‘specified small manufacturer
21 drugs’ means, with respect to a
22 specified small manufacturer, for
23 2021, an applicable drug that is
24 produced, prepared, propagated,

1133

1 compounded, converted, or proc-
2 essed by the manufacturer.

3 “(bb) AGGREGATION
4 RULE.—All persons treated as a
5 single employer under subsection
6 (a) or (b) of section 52 of the In-
7 ternal Revenue Code of 1986
8 shall be treated as one manufac-
9 turer for purposes of this sub-
10 paragraph. For purposes of mak-
11 ing a determination pursuant to
12 the previous sentence, an agree-
13 ment under this section shall re-
14 quire that a manufacturer pro-
15 vide and attest to such informa-
16 tion as specified by the Secretary
17 as necessary.

18 “(III) LIMITATION.—The term
19 ‘specified small manufacturer’ shall
20 not include a manufacturer described
21 in subclause (I) if such manufacturer
22 is acquired after 2021 by another
23 manufacturer that is not a specified
24 small manufacturer, effective at the
25 beginning of the plan year imme-

1134

1 diately following such acquisition or,
2 in the case of an acquisition before
3 2024, effective January 1, 2024.

4 “(iii) SPECIFIED SMALL MANUFAC-
5 Turer Percent.—In this subparagraph,
6 the term ‘specified small manufacturer per-
7 cent’ means, with respect to a year—

8 “(I) for an applicable drug dis-
9 pensed for an applicable beneficiary
10 who has not incurred costs, as deter-
11 mined in accordance with section
12 1860D–2(b)(4)(C), for covered part D
13 drugs in the year that are equal to or
14 exceed the annual out-of-pocket
15 threshold specified in section 1860D–
16 2(b)(4)(B)(i) for the year—

17 “(aa) for 2024, 99 percent;

18 “(bb) for 2025, 98 percent;

19 “(cc) for 2026, 95 percent;

20 “(dd) for 2027, 92 percent;

21 and

22 “(ee) for 2028 and each
23 subsequent year, 90 percent; and

24 “(II) for an applicable drug dis-
25 pensed for an applicable beneficiary

1135

1 who has incurred costs, as determined
2 in accordance with section 1860D–
3 2(b)(4)(C), for covered part D drugs
4 in the year that are equal to or exceed
5 the annual out-of-pocket threshold
6 specified in section 1860D–
7 2(b)(4)(B)(i) for the year—

8 “(aa) for 2024, 99 percent;
9 “(bb) for 2025, 98 percent;
10 “(cc) for 2026, 95 percent;
11 “(dd) for 2027, 92 percent;
12 “(ee) for 2028, 90 percent;
13 “(ff) for 2029, 85 percent;

14 and

15 “(gg) for 2030 and each
16 subsequent year, 80 percent.

17 “(D) TOTAL EXPENDITURES.—For pur-
18 poses of this paragraph, the term ‘total expend-
19 itures’ includes, in the case of expenditures with
20 respect to part D, the total gross covered pre-
21 scription drug costs as defined in section
22 1860D–15(b)(3). The term ‘total expenditures’
23 excludes, in the case of expenditures with re-
24 spect to part B, expenditures for a drug or bio-

1 logical that are bundled or packaged into the
2 payment for another service.

3 “(E) SPECIAL CASE FOR CERTAIN
4 CLAIMS.—

5 “(i) CLAIMS SPANNING DEDUCT-
6 IBLE.—In the case where the entire
7 amount of the negotiated price of an indi-
8 vidual claim for an applicable drug with re-
9 spect to an applicable beneficiary does not
10 fall above the annual deductible specified
11 in section 1860D–2(b)(1) for the year, the
12 manufacturer of the applicable drug shall
13 provide the discounted price under this
14 section on only the portion of the nego-
15 tiated price of the applicable drug that
16 falls above such annual deductible.

17 “(ii) CLAIMS SPANNING OUT-OF-POCK-
18 ET THRESHOLD.—In the case where the
19 entire amount of the negotiated price of an
20 individual claim for an applicable drug
21 with respect to an applicable beneficiary
22 does not fall entirely below or entirely
23 above the annual out-of-pocket threshold
24 specified in section 1860D–2(b)(4)(B)(i)
25 for the year, the manufacturer of the ap-

1 applicable drug shall provide the discounted
2 price—

3 “(I) in accordance with subpara-
4 graph (A)(i) on the portion of the ne-
5 gotiated price of the applicable drug
6 that falls below such threshold; and

7 “(II) in accordance with subpara-
8 graph (A)(ii) on the portion of such
9 price of such drug that falls at or
10 above such threshold.

11 “(5) MANUFACTURER.—The term ‘manufac-
12 turer’ means any entity which is engaged in the pro-
13 duction, preparation, propagation, compounding,
14 conversion, or processing of prescription drug prod-
15 ucts, either directly or indirectly by extraction from
16 substances of natural origin, or independently by
17 means of chemical synthesis, or by a combination of
18 extraction and chemical synthesis. Such term does
19 not include a wholesale distributor of drugs or a re-
20 tail pharmacy licensed under State law.

21 “(6) NEGOTIATED PRICE.—The term ‘nego-
22 tiated price’ has the meaning given such term for
23 purposes of section 1860D–2(d)(1)(B), and, with re-
24 spect to an applicable drug, such negotiated price
25 shall include any dispensing fee and, if applicable,

1 any vaccine administration fee for the applicable
2 drug.

3 “(7) QUALIFIED RETIREE PRESCRIPTION DRUG
4 PLAN.—The term ‘qualified retiree prescription drug
5 plan’ has the meaning given such term in section
6 1860D–22(a)(2).

7 **“SEC. 1860D–14D. SELECTED DRUG SUBSIDY PROGRAM.**

8 “With respect to covered part D drugs that would
9 be applicable drugs (as defined in section 1860D–
10 14C(g)(2)) but for the application of subparagraph (B)
11 of such section, the Secretary shall provide a process
12 whereby, in the case of an applicable beneficiary (as de-
13 fined in section 1860D–14C(g)(1)) who, with respect to
14 a year, is enrolled in a prescription drug plan or is enrolled
15 in an MA–PD plan, has not incurred costs that are equal
16 to or exceed the annual out-of-pocket threshold specified
17 in section 1860D–2(b)(4)(B)(i), and is dispensed such a
18 drug, the Secretary (periodically and on a timely basis)
19 provides the PDP sponsor or the MA organization offering
20 the plan, a subsidy with respect to such drug that is equal
21 to 10 percent of the negotiated price (as defined in section
22 1860D–14C(g)(6)) of such drug.”.

23 (2) SUNSET OF MEDICARE COVERAGE GAP DIS-
24 COUNT PROGRAM.—Section 1860D–14A of the So-

1 cial Security Act (42 U.S.C. 1395–114a) is amend-
2 ed—

3 (A) in subsection (a), in the first sentence,
4 by striking “The Secretary” and inserting
5 “Subject to subsection (h), the Secretary”; and

6 (B) by adding at the end the following new
7 subsection:

8 “(h) SUNSET OF PROGRAM.—

9 “(1) IN GENERAL.—The program shall not
10 apply with respect to applicable drugs dispensed on
11 or after January 1, 2024, and, subject to paragraph
12 (2), agreements under this section shall be termi-
13 nated as of such date.

14 “(2) CONTINUED APPLICATION FOR APPLICA-
15 BLE DRUGS DISPENSED PRIOR TO SUNSET.—The
16 provisions of this section (including all responsibil-
17 ities and duties) shall continue to apply on and after
18 January 1, 2024, with respect to applicable drugs
19 dispensed prior to such date.”.

20 (3) SELECTED DRUG SUBSIDY PAYMENTS FROM
21 MEDICARE PRESCRIPTION DRUG ACCOUNT.—Section
22 1860D–16(b)(1) of the Social Security Act (42
23 U.S.C. 1395w–116(b)(1)) is amended—

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

1140

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

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

5 “(E) payments under section 1860D–14D
6 (relating to selected drug subsidy payments).”.

7 (e) MEDICARE PART D PREMIUM STABILIZATION.—

8 (1) IN GENERAL.—Section 1860D–13 of the
9 Social Security Act (42 U.S.C. 1395w–113) is
10 amended—

11 (A) in subsection (a)—

12 (i) in paragraph (1)(A), by inserting
13 “or (8) (as applicable)” after “paragraph
14 (2)”;

15 (ii) in paragraph (2), in the matter
16 preceding subparagraph (A), by striking
17 “The base” and inserting “Subject to
18 paragraph (8), the base”;

19 (iii) in paragraph (7)—

20 (I) in subparagraph (B)(ii), by
21 inserting “or (8) (as applicable)” after
22 “paragraph (2)”; and

23 (II) in subparagraph (E)(i), by
24 inserting “or (8) (as applicable)” after
25 “paragraph (2)”; and

1 (iv) by adding at the end the following
2 new paragraph:

3 “(8) PREMIUM STABILIZATION.—

4 “(A) IN GENERAL.—The base beneficiary
5 premium under this paragraph for a prescrip-
6 tion drug plan for a month in 2023 through
7 2027 shall be computed as follows:

8 “(i) 2023.—The base beneficiary pre-
9 mium for a month in 2023 shall be equal
10 to the lesser of—

11 “(I) the base beneficiary pre-
12 mium computed under paragraph (2)
13 for a month in 2022 increased by 4
14 percent; or

15 “(II) the base beneficiary pre-
16 mium computed under paragraph (2)
17 for a month in 2023 that would have
18 applied if this paragraph had not been
19 enacted.

20 “(ii) 2024.—The base beneficiary pre-
21 mium for a month in 2024 shall be equal
22 to the lesser of—

23 “(I) the base beneficiary pre-
24 mium computed under clause (i) for a

1142

1 month in 2023 increased by 4 per-
2 cent; or

3 “(II) the base beneficiary pre-
4 mium computed under paragraph (2)
5 for a month in 2024 that would have
6 applied if this paragraph had not been
7 enacted.

8 “(iii) 2025.—The base beneficiary
9 premium for a month in 2025 shall be
10 equal to the lesser of—

11 “(I) the base beneficiary pre-
12 mium computed under clause (ii) for
13 a month in 2024 increased by 4 per-
14 cent; or

15 “(II) the base beneficiary pre-
16 mium computed under paragraph (2)
17 for a month in 2025 that would have
18 applied if this paragraph had not been
19 enacted.

20 “(iv) 2026.—The base beneficiary
21 premium for a month in 2026 shall be
22 equal to the lesser of—

23 “(I) an amount equal to—

24 “(aa) the base beneficiary
25 premium computed under clause

1143

1 (iii) for a month in 2025 in-
2 creased by 4 percent; plus

3 “(bb) 25 percent of the dif-
4 ference between—

5 “(AA) the base bene-
6 ficiary premium for a month
7 under item (aa) (as so in-
8 creased); and

9 “(BB) the base bene-
10 ficiary premium computed
11 under paragraph (2) for a
12 month in 2026 that would
13 have applied if this para-
14 graph had not been enacted;
15 or

16 “(II) the base beneficiary pre-
17 mium computed under paragraph (2)
18 for a month in 2026 that would have
19 applied if this paragraph had not been
20 enacted.

21 “(v) 2027.—The base beneficiary pre-
22 mium for a month in 2027 shall be equal
23 to the lesser of—

24 “(I) an amount equal to—

1144

1 “(aa) the base beneficiary
2 premium computed under clause
3 (iv) for a month in 2026 in-
4 creased by 4 percent; plus

5 “(bb) 50 percent of the dif-
6 ference between—

7 “(AA) the base bene-
8 ficiary premium for a month
9 under item (aa) (as so in-
10 creased); and

11 “(BB) the base bene-
12 ficiary premium computed
13 under paragraph (2) for a
14 month in 2027 that would
15 have applied if this para-
16 graph had not been enacted;
17 or

18 “(II) the base beneficiary pre-
19 mium computed under paragraph (2)
20 for a month in 2027 that would have
21 applied if this paragraph had not been
22 enacted.

23 “(B) CLARIFICATION REGARDING 2028 AND
24 SUBSEQUENT YEARS.—The base beneficiary
25 premium for a month in 2028 or a subsequent

1 year shall be computed under paragraph (2)
2 without regard to this paragraph.”; and

3 (B) in subsection (b)(3)(A)(ii), by striking
4 “subsection (a)(2)” and inserting “paragraph
5 (2) or (8) of subsection (a) (as applicable)”.

6 (2) CONFORMING AMENDMENTS.—

7 (A) PART C.—Section 1854(b)(2)(B) of
8 the Social Security Act 42 U.S.C. 1395w–
9 24(b)(2)(B)) is amended by striking “section
10 1860D–13(a)(2)” and inserting “paragraph (2)
11 or (8) (as applicable) of section 1860D–13(a)”.

12 (B) PART D.—Section 1860D–15(a) of the
13 Social Security Act (42 U.S.C. 1395w–115(a))
14 is amended—

15 (i) in the matter preceding paragraph
16 (1), by inserting “(or the percent applica-
17 ble as a result of the application of section
18 1860D–13(a)(8))” after “74.5 percent”;
19 and

20 (ii) in paragraph (1)(B), by striking
21 “paragraph (2) of section 1860D–13(a)”
22 and inserting “paragraph (2) or (8) of sec-
23 tion 1860D–13(a) (as applicable)”.

24 (f) CONFORMING AMENDMENTS.—

1146

1 (1) Section 1860D–2 of the Social Security Act
2 (42 U.S.C. 1395w–102) is amended—

3 (A) in subsection (a)(2)(A)(i)(I), by strik-
4 ing “, or an increase in the initial” and insert-
5 ing “or, for a year preceding 2024, an increase
6 in the initial”;

7 (B) in subsection (c)(1)(C)—

8 (i) in the subparagraph heading, by
9 striking “AT INITIAL COVERAGE LIMIT”;
10 and

11 (ii) by inserting “for a year preceding
12 2024 or the annual out-of-pocket threshold
13 specified in subsection (b)(4)(B) for the
14 year for 2024 and each subsequent year”
15 after “subsection (b)(3) for the year” each
16 place it appears; and

17 (C) in subsection (d)(1)(A), by striking “or
18 an initial” and inserting “or, for a year pre-
19 ceding 2024, an initial”.

20 (2) Section 1860D–4(a)(4)(B)(i) of the Social
21 Security Act (42 U.S.C. 1395w–104(a)(4)(B)(i)) is
22 amended by striking “the initial” and inserting “for
23 a year preceding 2024, the initial”.

24 (3) Section 1860D–14(a) of the Social Security
25 Act (42 U.S.C. 1395w–114(a)) is amended—

- 1 (A) in paragraph (1)—
- 2 (i) in subparagraph (C), by striking
- 3 “The continuation” and inserting “For a
- 4 year preceding 2024, the continuation”;
- 5 (ii) in subparagraph (D)(iii), by strik-
- 6 ing “1860D–2(b)(4)(A)(i)(I)” and insert-
- 7 ing “1860D–2(b)(4)(A)(i)(I)(aa)”;
- 8 and
- 9 (iii) in subparagraph (E), by striking
- 10 “The elimination” and inserting “For a
- 11 year preceding 2024, the elimination”;
- 12 (B) in paragraph (2)—
- 13 (i) in subparagraph (C), by striking
- 14 “The continuation” and inserting “For a
- 15 year preceding 2024, the continuation”;
- 16 and
- 17 (ii) in subparagraph (E), by striking
- 18 “1860D–2(b)(4)(A)(i)(I)” and inserting
- 19 “1860D–2(b)(4)(A)(i)(I)(aa) (for a year
- 20 preceding 2024)”.
- 21 (4) Section 1860D–21(d)(7) of the Social Secu-
- 22 rity Act (42 U.S.C. 1395w–131(d)(7)) is amended
- 23 by striking “section 1860D–2(b)(4)(B)(i)” and in-
- serting “section 1860D–2(b)(4)(C)(i)”.

1 (5) Section 1860D–22(a)(2)(A) of the Social
2 Security Act (42 U.S.C. 1395w–132(a)(2)(A)) is
3 amended—

4 (A) by striking “the value of any discount”
5 and inserting the following: “the value of—

6 “*(i)* for years prior to 2024, any dis-
7 count”;

8 (B) in clause (i), as inserted by subpara-
9 graph (A) of this paragraph, by striking the pe-
10 riod at the end and inserting “; and”; and

11 (C) by adding at the end the following new
12 clause:

13 “*(ii)* for 2024 and each subsequent
14 year, any discount provided pursuant to
15 section 1860D–14C.”.

16 (6) Section 1860D–41(a)(6) of the Social Secu-
17 rity Act (42 U.S.C. 1395w–151(a)(6)) is amended—

18 (A) by inserting “for a year before 2024”
19 after “1860D–2(b)(3)”; and

20 (B) by inserting “for such year” before the
21 period.

22 (7) Section 1860D–43 of the Social Security
23 Act (42 U.S.C. 1395w–153) is amended—

24 (A) in subsection (a)—

1149

1 (i) by striking paragraph (1) and in-
2 serting the following:

3 “(1) participate in—

4 “(A) for 2011 through 2023, the Medicare
5 coverage gap discount program under section
6 1860D–14A; and

7 “(B) for 2024 and each subsequent year,
8 the manufacturer discount program under sec-
9 tion 1860D–14C;”;

10 (ii) by striking paragraph (2) and in-
11 serting the following:

12 “(2) have entered into and have in effect—

13 “(A) for 2011 through 2023, an agreement
14 described in subsection (b) of section 1860D–
15 14A with the Secretary; and

16 “(B) for 2024 and each subsequent year,
17 an agreement described in subsection (b) of sec-
18 tion 1860D–14C with the Secretary; and”;

19 (iii) in paragraph (3), by striking
20 “such section” and inserting “section
21 1860D–14A”; and

22 (B) by striking subsection (b) and insert-
23 ing the following:

24 “(b) EFFECTIVE DATE.—Paragraphs (1)(A), (2)(A),
25 and (3) of subsection (a) shall apply to covered part D

1 drugs dispensed under this part on or after January 1,
2 2011, and before January 1, 2024, and paragraphs (1)(B)
3 and (2)(B) of such subsection shall apply to covered part
4 D drugs dispensed under this part on or after January
5 1, 2024.”.

6 (8) Section 1927 of the Social Security Act (42
7 U.S.C. 1396r-8) is amended—

8 (A) in subsection (c)(1)(C)(i)(VI), by in-
9 serting before the period at the end the fol-
10 lowing: “or under the manufacturer discount
11 program under section 1860D-14C”; and

12 (B) in subsection (k)(1)(B)(i)(V), by in-
13 serting before the period at the end the fol-
14 lowing: “or under section 1860D-14C”.

15 (g) IMPLEMENTATION FOR 2023 THROUGH 2025.—
16 The Secretary shall implement this section, including the
17 amendments made by this section, for 2023, 2024, and
18 2025 by program instruction or other forms of program
19 guidance.

20 (h) FUNDING.—In addition to amounts otherwise
21 available, there are appropriated to the Centers for Medi-
22 care & Medicaid Services, out of any money in the Treas-
23 ury not otherwise appropriated, **【\$341,000,000】** for fiscal
24 year 2022, including \$47,000,000 and \$38,000,000 to
25 carry out the provisions of, including the amendments

1 made by, this section in fiscal years 2022 and 2023, re-
2 spectively, and \$32,000,000 to carry out the provisions of,
3 including the amendments made by, this section in each
4 of fiscal years 2024 through 2031, to remain available
5 until expended.

6 **SEC. 129202. MAXIMUM MONTHLY CAP ON COST-SHARING**
7 **PAYMENTS UNDER PRESCRIPTION DRUG**
8 **PLANS AND MA-PD PLANS.**

9 (a) IN GENERAL.—Section 1860D–2(b) of the Social
10 Security Act (42 U.S.C. 1395w–102(b)), as amended by
11 section 129201, is amended—

12 (1) in paragraph (2)—

13 (A) in subparagraph (A), by striking “and
14 (D)” and inserting “, (D), and (E)”; and

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

17 “(E) MAXIMUM MONTHLY CAP ON COST-
18 SHARING PAYMENTS.—

19 “(i) IN GENERAL.—For plan years be-
20 ginning on or after January 1, 2025, each
21 PDP sponsor offering a prescription drug
22 plan and each MA organization offering an
23 MA–PD plan shall provide to any enrollee
24 of such plan, including an enrollee who is
25 a subsidy eligible individual (as defined in

1 paragraph (3) of section 1860D-14(a)), the
2 option to elect with respect to a plan year
3 to pay cost-sharing under the plan in
4 monthly amounts that are capped in ac-
5 cordance with this subparagraph.

6 “(ii) DETERMINATION OF MAXIMUM
7 MONTHLY CAP.—For each month in the
8 plan year for which an enrollee in a pre-
9 scription drug plan or an MA–PD plan has
10 made an election pursuant to clause (i),
11 the PDP sponsor or MA organization shall
12 determine a maximum monthly cap (as de-
13 fined in clause (iv)) for such enrollee.

14 “(iii) BENEFICIARY MONTHLY PAY-
15 MENTS.—With respect to an enrollee who
16 has made an election pursuant to clause
17 (i), for each month described in clause (ii),
18 the PDP sponsor or MA organization shall
19 bill such enrollee an amount (not to exceed
20 the maximum monthly cap) for the out-of-
21 pocket costs of such enrollee in such
22 month.

23 “(iv) MAXIMUM MONTHLY CAP DE-
24 FINED.—In this subparagraph, the term

1153

1 ‘maximum monthly cap’ means, with re-
2 spect to an enrollee—

3 “(I) for the first month for which
4 the enrollee has made an election pur-
5 suant to clause (i), an amount deter-
6 mined by calculating—

7 “(aa) the annual out-of-
8 pocket threshold specified in
9 paragraph (4)(B) minus the in-
10 curred costs of the enrollee as de-
11 scribed in paragraph (4)(C); di-
12 vided by

13 “(bb) the number of months
14 remaining in the plan year; and

15 “(II) for a subsequent month, an
16 amount determined by calculating—

17 “(aa) the sum of any re-
18 maining out-of-pocket costs owed
19 by the enrollee from a previous
20 month that have not yet been
21 billed to the enrollee and any ad-
22 ditional out-of-pocket costs in-
23 curred by the enrollee; divided by

24 “(bb) the number of months
25 remaining in the plan year.

1 “(v) ADDITIONAL REQUIREMENTS.—

2 The following requirements shall apply
3 with respect to the option to make an elec-
4 tion pursuant to clause (i) under this sub-
5 paragraph:

6 “(I) SECRETARIAL RESPONSIBIL-
7 ITIES.—The Secretary shall provide
8 information to part D eligible individ-
9 uals on the option to make such elec-
10 tion through educational materials, in-
11 cluding through the notices provided
12 under section 1804(a).

13 “(II) TIMING OF ELECTION.—An
14 enrollee in a prescription drug plan or
15 an MA–PD plan may make such an
16 election—

17 “(aa) prior to the beginning
18 of the plan year; or

19 “(bb) in any month during
20 the plan year.

21 “(III) PDP SPONSOR AND MA OR-
22 GANIZATION RESPONSIBILITIES.—
23 Each PDP sponsor offering a pre-
24 scription drug plan or MA organiza-
25 tion offering an MA–PD plan—

1155

1 “(aa) may not limit the op-
2 tion for an enrollee to make such
3 an election to certain covered
4 part D drugs;

5 “(bb) shall, prior to the plan
6 year, notify prospective enrollees
7 of the option to make such an
8 election in promotional materials;

9 “(cc) shall include informa-
10 tion on such option in enrollee
11 educational materials;

12 “(dd) shall have in place a
13 mechanism to notify a pharmacy
14 during the plan year when an en-
15 rollee incurs out-of-pocket costs
16 with respect to covered part D
17 drugs that make it likely the en-
18 rollee may benefit from making
19 such an election;

20 “(ee) shall provide that a
21 pharmacy, after receiving a noti-
22 fication described in item (dd)
23 with respect to an enrollee, in-
24 forms the enrollee of such notifi-
25 cation;

1156

1 “(ff) shall ensure that such
2 an election by an enrollee has no
3 effect on the amount paid to
4 pharmacies (or the timing of
5 such payments) with respect to
6 covered part D drugs dispensed
7 to the enrollee; and

8 “(gg) shall have in place a
9 financial reconciliation process to
10 correct inaccuracies in payments
11 made by an enrollee under this
12 subparagraph with respect to
13 covered part D drugs during the
14 plan year.

15 “(IV) FAILURE TO PAY AMOUNT
16 BILLED.—If an enrollee fails to pay
17 the amount billed for a month as re-
18 quired under this subparagraph—

19 “(aa) the election of the en-
20 rollee pursuant to clause (i) shall
21 be terminated and the enrollee
22 shall pay the cost-sharing other-
23 wise applicable for any covered
24 part D drugs subsequently dis-
25 pensed to the enrollee up to the

1157

1 annual out-of-pocket threshold
2 specified in paragraph (4)(B);
3 and

4 “(bb) the PDP sponsor or
5 MA organization may preclude
6 the enrollee from making an elec-
7 tion pursuant to clause (i) in a
8 subsequent plan year.

9 “(V) CLARIFICATION REGARDING
10 PAST DUE AMOUNTS.—Nothing in this
11 subparagraph shall be construed as
12 prohibiting a PDP sponsor or an MA
13 organization from billing an enrollee
14 for an amount owed under this sub-
15 paragraph.

16 “(VI) TREATMENT OF UNSET-
17 TLED BALANCES.—Any unsettled bal-
18 ances with respect to amounts owed
19 under this subparagraph shall be
20 treated as plan losses and the Sec-
21 retary shall not be liable for any such
22 balances outside of those assumed as
23 losses estimated in plan bids.”; and

24 (2) in paragraph (4)—

1 (A) in subparagraph (C), by striking “sub-
2 paragraph (E)” and inserting “subparagraph
3 (E) or subparagraph (F)”; and

4 (B) by adding at the end the following new
5 subparagraph:

6 “(F) INCLUSION OF COSTS PAID UNDER
7 MAXIMUM MONTHLY CAP OPTION.—In applying
8 subparagraph (A), with respect to an enrollee
9 who has made an election pursuant to clause (i)
10 of paragraph (2)(E), costs shall be treated as
11 incurred if such costs are paid by a PDP spon-
12 sor or an MA organization under the option
13 provided under such paragraph.”.

14 (b) APPLICATION TO ALTERNATIVE PRESCRIPTION
15 DRUG COVERAGE.—Section 1860D–2(c) of the Social Se-
16 curity Act (42 U.S.C. 1395w–102(c)) is amended by add-
17 ing at the end the following new paragraph:

18 “(4) SAME MAXIMUM MONTHLY CAP ON COST-
19 SHARING.—The maximum monthly cap on cost-shar-
20 ing payments shall apply to coverage with respect to
21 an enrollee who has made an election pursuant to
22 clause (i) of subsection (b)(2)(E) under the option
23 provided under such subsection.”.

24 (c) IMPLEMENTATION FOR 2025.—The Secretary
25 shall implement this section, including the amendments

1 made by this section, for 2025 by program instruction or
2 other forms of program guidance.

3 (d) FUNDING.—In addition to amounts otherwise
4 available, there are appropriated to the Centers for Medi-
5 care & Medicaid Services, out of any money in the Treas-
6 ury not otherwise appropriated, \$10,000,000 for fiscal
7 year 2022, to remain available until expended, to carry
8 out the provisions of, including the amendments made by,
9 this section.

10 **PART 4—REPEAL OF PRESCRIPTION DRUG**

11 **REBATE RULE**

12 **SEC. 129301. PROHIBITING IMPLEMENTATION OF RULE RE-**
13 **LATING TO ELIMINATING THE ANTI-KICK-**
14 **BACK STATUTE SAFE HARBOR PROTECTION**
15 **FOR PRESCRIPTION DRUG REBATES.**

16 Beginning January 1, 2026, the Secretary of Health
17 and Human Services shall not implement, administer, or
18 enforce the provisions of the final rule published by the
19 Office of the Inspector General of the Department of
20 Health and Human Services on November 30, 2020, and
21 titled “Fraud and Abuse; Removal of Safe Harbor Protec-
22 tion for Rebates Involving Prescription Pharmaceuticals
23 and Creation of New Safe Harbor Protection for Certain
24 Point-of-Sale Reductions in Price on Prescription Phar-

1 maceuticals and Certain Pharmacy Benefit Manager Serv-
2 ices Fees” (85 Fed. Reg. 76666).

3 **PART 5—MISCELLANEOUS**

4 **SEC. 129401. APPROPRIATE COST-SHARING FOR COVERED**
5 **INSULIN PRODUCTS UNDER MEDICARE PART**
6 **D.**

7 (a) IN GENERAL.—Section 1860D–2 of the Social
8 Security Act (42 U.S.C. 1395w–102), as amended by sec-
9 tions 129201 and 129202, is amended—

10 (1) in subsection (b)—

11 (A) in paragraph (1)(A), by striking “The
12 coverage” and inserting “Subject to paragraph
13 (8), the coverage”;

14 (B) in paragraph (2)—

15 (i) in subparagraph (A), by inserting
16 “and paragraph (8)” after “and (E)”;

17 (ii) in subparagraph (C)(i), in the
18 matter preceding subclause (I), by striking
19 “paragraph (4)” and inserting “para-
20 graphs (4) and (8)”;

21 (iii) in subparagraph (D)(i), in the
22 matter preceding subclause (I), by striking
23 “paragraph (4)” and inserting “para-
24 graphs (4) and (8)”;

1161

1 (C) in paragraph (4)(A)(i), by striking
2 “The coverage” and inserting “Subject to para-
3 graph (8), the coverage”; and

4 (D) by adding at the end the following new
5 paragraph:

6 “(8) TREATMENT OF COST-SHARING FOR COV-
7 ERED INSULIN PRODUCTS.—

8 “(A) NO APPLICATION OF DEDUCTIBLE.—
9 For plan year 2023 and subsequent plan years,
10 the deductible under paragraph (1) shall not
11 apply with respect to any covered insulin prod-
12 uct.

13 “(B) APPLICATION OF COST-SHARING.—

14 “(i) PLAN YEAR 2023.—For plan year
15 2023, the coverage provides benefits for
16 such insulin products, regardless of wheth-
17 er an individual has reached the initial cov-
18 erage limit under paragraph (3) or the
19 out-of-pocket threshold under paragraph
20 (4), with cost-sharing that does not exceed
21 the applicable copayment amount.

22 “(ii) PLAN YEAR 2024 AND SUBSE-
23 QUENT PLAN YEARS.—For plan year 2024
24 and subsequent plan years, the coverage
25 provides benefits for such insulin products,

1 prior to an individual reaching the out-of-
2 pocket threshold under paragraph (4), with
3 cost-sharing that does not exceed the appli-
4 cable copayment amount.

5 “(C) INSULIN PRODUCT.—In this para-
6 graph, the term ‘insulin product’ means an in-
7 sulin product that is approved under section
8 505 of the Federal Food, Drug, and Cosmetic
9 Act or licensed under section 351 of the Public
10 Health Service Act and marketed pursuant to
11 such approval or licensure, including any cov-
12 ered insulin product that has been deemed to be
13 licensed under section 351 of the Public Health
14 Service Act pursuant to section 7002(e)(4) of
15 the Biologics Price Competition and Innovation
16 Act of 2009 and marketed pursuant to such
17 section.

18 “(D) APPLICABLE COPAYMENT AMOUNT.—
19 In this paragraph, the term ‘applicable copay-
20 ment amount’ means, with respect to an insulin
21 product under a prescription drug plan or an
22 MA–PD plan furnished—

23 “(i) on or after January 1, 2023, and
24 before January 1, 2025, \$35; and

1163

1 “(ii) during plan year **【2025】** or sub-
2 sequent plan year, the lesser of—

3 “(I) \$35; or

4 “(II) an amount equal to 25 per-
5 cent of the negotiated price of the cov-
6 ered insulin product under the pre-
7 scription drug plan or MA–PD plan
8 net of all price concessions received or
9 expected to be received by the plan or
10 a pharmacy benefit manager on behalf
11 of the plan for such product.”; and

12 (2) in subsection (c), by adding at the end the
13 following new paragraph:

14 “(5) TREATMENT OF COST-SHARING FOR COV-
15 ERED INSULIN PRODUCTS.—The coverage is pro-
16 vided in accordance with subsection (b)(8).”.

17 (b) CONFORMING AMENDMENTS TO COST-SHARING
18 FOR LOW-INCOME INDIVIDUALS.—Section 1860D–14(a)
19 of the Social Security Act (42 U.S.C. 1395w–114(a)) is
20 amended—

21 (1) in paragraph (1)—

22 (A) in subparagraph (D)(iii), by adding at
23 the end the following new sentence: “For plan
24 year 2023 and subsequent plan years, the co-
25 payment amount applicable under the preceding

1 sentence to an insulin product (as defined in
2 section 1860D–2(b)(8)(C)) furnished to the in-
3 dividual may not exceed the applicable copay-
4 ment amount for the product under the pre-
5 scription drug plan or MA–PD plan in which
6 the individual is enrolled.”; and

7 (B) in subparagraph (E), by inserting the
8 following before the period at the end: “or
9 under section 1860D–2(b)(8) in the case of an
10 insulin product (as defined in subparagraph (C)
11 of such section)”;

12 (2) in paragraph (2)—

13 (A) in subparagraph (D), by adding at the
14 end the following new sentence: “For plan year
15 2023 and subsequent plan years, the amount of
16 the coinsurance applicable under the preceding
17 sentence to an insulin product (as defined in
18 section 1860D–2(b)(8)(C)) furnished to the in-
19 dividual may not exceed the applicable copay-
20 ment amount for the product under the pre-
21 scription drug plan or MA–PD plan in which
22 the individual is enrolled.”; and

23 (B) in subparagraph (E), by adding at the
24 end the following new sentence: “For plan year
25 2023 and subsequent plan years, the amount of

1 the copayment or coinsurance applicable under
2 the preceding sentence to an insulin product (as
3 defined in section 1860D–2(b)(8)(C)) furnished
4 to the individual may not exceed the applicable
5 copayment amount for the product under the
6 prescription drug plan or MA–PD plan in which
7 the individual is enrolled.”.

8 (c) IMPLEMENTATION FOR 2023 THROUGH 2025.—
9 The Secretary shall implement this section for plan years
10 2023, 2024, and 2025 by program instruction or other
11 forms of program guidance.

12 (d) FUNDING.—In addition to amounts otherwise
13 available, there is appropriated to the Centers for Medi-
14 care & Medicaid Services, out of any money in the Treas-
15 ury not otherwise appropriated, \$1,500,000 for fiscal year
16 2022, to remain available until expended, to carry out the
17 provisions of, including the amendments made by, this sec-
18 tion.

19 **SEC. 129402. COVERAGE OF ADULT VACCINES REC-**
20 **COMMENDED BY THE ADVISORY COMMITTEE**
21 **ON IMMUNIZATION PRACTICES UNDER MEDI-**
22 **CARE PART D.**

23 (a) ENSURING TREATMENT OF COST-SHARING IS
24 CONSISTENT WITH TREATMENT OF VACCINES UNDER
25 MEDICARE PART B.—Section 1860D–2 of the Social Se-

1 curity Act (42 U.S.C. 1395w–102), as amended by sec-
2 tions 129201, 129202, and 129401, is amended—

3 (1) in subsection (b)—

4 (A) in paragraph (2)(A), by striking
5 “paragraph (8)” and inserting “paragraphs (8)
6 and (9)”;

7 (B) in paragraph (4)(A)(i), by striking
8 “paragraph (8)” and inserting “paragraphs (8)
9 and (9)”; and

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

12 “(9) TREATMENT OF COST-SHARING FOR
13 ADULT VACCINES RECOMMENDED BY THE ADVISORY
14 COMMITTEE ON IMMUNIZATION PRACTICES CON-
15 SISTENT WITH TREATMENT OF VACCINES UNDER
16 PART B.—

17 “(A) IN GENERAL.—For plan years begin-
18 ning on or after January 1, 2024, the following
19 shall apply with respect to an adult vaccine rec-
20 ommended by the Advisory Committee on Im-
21 munization Practices (as defined in subpara-
22 graph (B)):

23 “(i) NO APPLICATION OF DEDUCT-
24 IBLE.—The deductible under paragraph

1 (1) shall not apply with respect to such
2 vaccine.

3 “(ii) NO APPLICATION OF COINSUR-
4 ANCE OR ANY OTHER COST-SHARING.—
5 There shall be no coinsurance or other
6 cost-sharing under this part with respect
7 to such vaccine.

8 “(B) ADULT VACCINES RECOMMENDED BY
9 THE ADVISORY COMMITTEE ON IMMUNIZATION
10 PRACTICES.—For purposes of this paragraph,
11 the term ‘adult vaccine recommended by the
12 Advisory Committee on Immunization Prac-
13 tices’ means a covered part D drug that is a
14 vaccine licensed under section 351 of the Public
15 Health Service Act for use by adult populations
16 and administered in accordance with rec-
17 ommendations of the Advisory Committee on
18 Immunization Practices of the Centers for Dis-
19 ease Control and Prevention.”; and

20 (2) in subsection (c), by adding at the end the
21 following new paragraph:

22 “(6) TREATMENT OF COST-SHARING FOR
23 ADULT VACCINES RECOMMENDED BY THE ADVISORY
24 COMMITTEE ON IMMUNIZATION PRACTICES.—The
25 coverage is in accordance with subsection (b)(9).”.

1 (b) CONFORMING AMENDMENTS TO COST-SHARING
2 FOR LOW-INCOME INDIVIDUALS.—Section 1860D–14(a)
3 of the Social Security Act (42 U.S.C. 1395w–114(a)), as
4 amended by section 129201 is amended—

5 (1) in paragraph (1)(D), in each of clauses (ii)
6 and (iii), by striking “In the case” and inserting
7 “Subject to paragraph (6), in the case”;

8 (2) in paragraph (2)—

9 (A) in subparagraph (B), by striking “For
10 years” and inserting “Subject to paragraph (6),
11 for years”;

12 (B) in subparagraph (D), by striking “The
13 substitution” and inserting “Subject to para-
14 graph (6), the substitution”; and

15 (C) in subparagraph (E), by striking “and
16 subsection (c)” and inserting “, paragraph (6)
17 of this subsection, and subsection (c)”; and

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

20 “(6) NO APPLICATION OF COST-SHARING FOR
21 ADULT VACCINES RECOMMENDED BY THE ADVISORY
22 COMMITTEE ON IMMUNIZATION PRACTICES.—For
23 plan years beginning on or after January 1, 2024,
24 there shall be no cost-sharing under this section, in-
25 cluding no annual deductible applicable under this

1 section, with respect to an adult vaccine rec-
2 ommended by the Advisory Committee on Immuniza-
3 tion Practices (as defined in subparagraph (B) of
4 such section).”.

5 (c) **RULE OF CONSTRUCTION.**—Nothing in this sec-
6 tion shall be construed as limiting coverage under part D
7 of title XVIII of the Social Security Act for vaccines that
8 are not recommended by the Advisory Committee on Im-
9 munization Practices.

10 (d) **IMPLEMENTATION FOR 2024.**—The Secretary
11 shall implement this section, including the amendments
12 made by this section, for 2024 by program instruction or
13 other forms of program guidance.

14 **SEC. 129403. PAYMENT FOR BIOSIMILAR BIOLOGICAL**
15 **PRODUCTS DURING INITIAL PERIOD.**

16 Section 1847A(c)(4) of the Social Security Act (42
17 U.S.C. 1395w-3a(c)(4)) is amended—

18 (1) in each of subparagraphs (A) and (B), by
19 redesignating clauses (i) and (ii) as subclauses (I)
20 and (II), respectively, and moving such subclauses 2
21 ems to the right;

22 (2) by redesignating subparagraphs (A) and
23 (B) as clauses (i) and (ii) and moving such clauses
24 2 ems to the right;

1170

1 (3) by striking “UNAVAILABLE.—In the case”
2 and inserting “UNAVAILABLE.—

3 “(A) IN GENERAL.—Subject to subpara-
4 graph (B), in the case”; and

5 (4) by adding at the end the following new sub-
6 paragraph:

7 “(B) LIMITATION ON PAYMENT AMOUNT
8 FOR BIOSIMILAR BIOLOGICAL PRODUCTS DUR-
9 ING INITIAL PERIOD.—In the case of a bio-
10 similar biological product furnished on or after
11 July 1, 2023, during the initial period described
12 in subparagraph (A) with respect to the bio-
13 similar biological product, the amount payable
14 under this section for the biosimilar biological
15 product is the lesser of the following:

16 “(i) The amount determined under
17 clause (ii) of such subparagraph for the
18 biosimilar biological product.

19 “(ii) The amount determined under
20 subsection (b)(1)(B) for the reference bio-
21 logical product.”.

1171

1 **SEC. 129404. TEMPORARY INCREASE IN MEDICARE PART B**
2 **PAYMENT FOR CERTAIN BIOSIMILAR BIO-**
3 **LOGICAL PRODUCTS.**

4 Section 1847A(b)(8) of the Social Security Act (42
5 U.S.C. 1395w-3a(b)(8)) is amended—

6 (1) by redesignating subparagraphs (A) and
7 (B) as clauses (i) and (ii), respectively, and moving
8 the margin of each such redesignated clause 2 ems
9 to the right;

10 (2) by striking “PRODUCT.—The amount” and
11 inserting the following: “PRODUCT.—

12 “(A) IN GENERAL.—Subject to subpara-
13 graph (B), the amount”; and

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

16 “(B) TEMPORARY PAYMENT INCREASE.—

17 “(i) IN GENERAL.—In the case of a
18 qualifying biosimilar biological product
19 that is furnished during the applicable 5-
20 year period for such product, the amount
21 specified in this paragraph for such prod-
22 uct with respect to such period is the sum
23 determined under subparagraph (A), ex-
24 cept that clause (ii) of such subparagraph
25 shall be applied by substituting ‘8 percent’
26 for ‘6 percent’.

1172

1 “(ii) APPLICABLE 5-YEAR PERIOD.—

2 For purposes of clause (i), the applicable
3 5-year period for a qualifying biosimilar bi-
4 ological product is—

5 “(I) in the case of such a product
6 for which payment was made under
7 this paragraph as of March 31, 2022,
8 the 5-year period beginning on April
9 1, 2022; and

10 “(II) in the case of such a prod-
11 uct for which payment is first made
12 under this paragraph during a cal-
13 endar quarter during the period be-
14 ginning April 1, 2022, and ending
15 March 31, 2027, the 5-year period be-
16 ginning on the first day of such cal-
17 endar quarter during which such pay-
18 ment is first made.

19 “(iii) QUALIFYING BIOSIMILAR BIO-
20 LOGICAL PRODUCT DEFINED.—For pur-
21 poses of this subparagraph, the term
22 ‘qualifying biosimilar biological product’
23 means a biosimilar biological product de-
24 scribed in paragraph (1)(C) with respect to
25 which—

1173

1 “(I) in the case of a product de-
2 scribed in clause (ii)(I), the average
3 sales price under paragraph (8)(A)(i)
4 for a calendar quarter during the 5-
5 year period described in such clause is
6 not more than the average sales price
7 under paragraph (4)(A) for such
8 quarter for the reference biological
9 product; and

10 “(II) in the case of a product de-
11 scribed in clause (ii)(II), the average
12 sales price under paragraph (8)(A)(i)
13 for a calendar quarter during the 5-
14 year period described in such clause is
15 not more than the average sales price
16 under paragraph (4)(A) for such
17 quarter for the reference biological
18 product.”.

19 **SEC. 129405. IMPROVING ACCESS TO ADULT VACCINES**
20 **UNDER MEDICAID AND CHIP.**

21 (a) **MEDICAID.—**

22 (1) **REQUIRING COVERAGE OF ADULT VACCINA-**
23 **TIONS.—**

24 (A) **IN GENERAL.—**Section 1902(a)(10)(A)
25 of the Social Security Act (42 U.S.C.

1174

1 1396a(a)(10)(A)) is amended in the matter pre-
2 ceding clause (i) by inserting “(13)(B),” after
3 “(5),”.

4 (B) MEDICALLY NEEDED.—Section
5 1902(a)(10)(C)(iv) of such Act (42 U.S.C.
6 1396a(a)(10)(C)(iv)) is amended by inserting “,
7 (13)(B),” after “(5)”.

8 (2) NO COST SHARING FOR VACCINATIONS.—

9 (A) GENERAL COST-SHARING LIMITA-
10 TIONS.—Section 1916 of the Social Security
11 Act (42 U.S.C. 1396o) is amended—

12 (i) in subsection (a)(2)—

13 (I) in subparagraph (G), by in-
14 serting a comma after “State plan”;

15 (II) in subparagraph (H), by
16 striking “; or” and inserting a
17 comma;

18 (III) in subparagraph (I), by
19 striking “; and” and inserting “, or”;
20 and

21 (IV) by adding at the end the fol-
22 lowing new subparagraph:

23 “(J) vaccines described in section
24 1905(a)(13)(B) and the administration of such
25 vaccines; and”;

1175

1 (ii) in subsection (b)(2)—

2 (I) in subparagraph (G), by in-
3 serting a comma after “State plan”;

4 (II) in subparagraph (H), by
5 striking “; or” and inserting a
6 comma;

7 (III) in subparagraph (I), by
8 striking “; and” and inserting “, or”;
9 and

10 (IV) by adding at the end the fol-
11 lowing new subparagraph:

12 “(J) vaccines described in section
13 1905(a)(13)(B) and the administration of such
14 vaccines; and”.

15 (B) APPLICATION TO ALTERNATIVE COST
16 SHARING.—Section 1916A(b)(3)(B) of the So-
17 cial Security Act (42 U.S.C. 1396o–1(b)(3)(B))
18 is amended by adding at the end the following
19 new clause:

20 “(xiv) Vaccines described in section
21 1905(a)(13)(B) and the administration of
22 such vaccines.”.

23 (3) INCREASED FMAP FOR ADULT VACCINES
24 AND THEIR ADMINISTRATION.—Section 1905(b) of

1 the Social Security Act (42 U.S.C. 1396d(b)) is
2 amended—

3 (A) by striking “and (5)” and inserting
4 “(5)”;

5 (B) by striking “services and vaccines de-
6 scribed in subparagraphs (A) and (B) of sub-
7 section (a)(13), and prohibits cost-sharing for
8 such services and vaccines” and inserting “serv-
9 ices described in subsection (a)(13)(A), and
10 prohibits cost-sharing for such services”;

11 (C) by striking “medical assistance for
12 such services and vaccines” and inserting “med-
13 ical assistance for such services”; and

14 (D) by inserting “, and (6) during the first
15 8 fiscal quarters beginning on or after the effec-
16 tive date of this clause, in the case of a State
17 which, as of the date of enactment of the Act
18 titled ‘An Act to provide for reconciliation pur-
19 suant to title II of S. Con. Res. 14’, provides
20 medical assistance for vaccines described in
21 subsection (a)(13)(B) and their administration
22 and prohibits cost-sharing for such vaccines, the
23 Federal medical assistance percentage, as deter-
24 mined under this subsection and subsection (y),
25 shall be increased by 1 percentage point with

1 respect to medical assistance for such vaccines
2 and their administration” before the first pe-
3 riod.

4 (b) CHIP.—

5 (1) REQUIRING COVERAGE OF ADULT VACCINA-
6 TIONS.—Section 2103(c) of the Social Security Act
7 (42 U.S.C. 1397cc(c)) is amended by adding at the
8 end the following paragraph:

9 “(12) REQUIRED COVERAGE OF APPROVED,
10 RECOMMENDED ADULT VACCINES AND THEIR AD-
11 MINISTRATION.—Regardless of the type of coverage
12 elected by a State under subsection (a), if the State
13 child health plan or a waiver of such plan provides
14 child health assistance or pregnancy-related assist-
15 ance (as defined in section 2112) to an individual
16 who is 19 years of age or older, such assistance shall
17 include coverage of vaccines described in section
18 1905(a)(13)(B) and their administration.”.

19 (2) NO COST-SHARING FOR VACCINATIONS.—
20 Section 2103(e)(2) of such Act (42 U.S.C.
21 1397cc(e)(2)) is amended by inserting “vaccines de-
22 scribed in subsection (c)(12) (and the administration
23 of such vaccines),” after “in vitro diagnostic prod-
24 ucts described in subsection (c)(10) (and administra-
25 tion of such products),”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section take effect on the 1st day of the 1st fiscal
3 quarter that begins on or after the date that is 1 year
4 after the date of enactment of this Act and shall apply
5 to expenditures made under a State plan or waiver of such
6 plan under title XIX of the Social Security Act (42 U.S.C.
7 1396 through 1396w–6) or under a State child health plan
8 or waiver of such plan under title XXI of such Act (42
9 U.S.C. 1397aa through 1397mm) on or after such effec-
10 tive date.

11 **Subtitle J—Supplemental Security**
12 **Income for the Territories**

13 **SEC. 121001. EXTENSION OF THE SUPPLEMENTAL SECU-**
14 **RITY INCOME PROGRAM TO PUERTO RICO,**
15 **THE UNITED STATES VIRGIN ISLANDS, GUAM,**
16 **AND AMERICAN SAMOA.**

17 (a) IN GENERAL.—Section 303 of the Social Security
18 Amendments of 1972 (86 Stat. 1484) is amended by strik-
19 ing subsection (b).

20 (b) CONFORMING AMENDMENTS.—

21 (1) DEFINITION OF STATE.—Section
22 1101(a)(1) of the Social Security Act (42 U.S.C.
23 1301(a)(1)) is amended by striking the 5th sentence
24 and inserting the following: “Such term when used

1 in title XVI includes Puerto Rico, the United States
2 Virgin Islands, Guam, and American Samoa.”.

3 (2) EXEMPTION OF SSI PAYMENTS FROM LIMIT
4 ON TOTAL PAYMENTS TO THE TERRITORIES.—Sec-
5 tion 1108(a)(1) of such Act (42 U.S.C. 1308(a)(1))
6 is amended by striking “under titles I, X, XIV, and
7 XVI”.

8 (3) UNITED STATES NATIONALS TREATED THE
9 SAME AS CITIZENS.—Section 1614(a)(1)(B) of such
10 Act (42 U.S.C. 1382c(a)(1)(B)) is amended—

11 (A) in clause (i)(I), by inserting “or na-
12 tional of the United States,” after “citizen”;

13 (B) in clause (i)(II), by adding “; or” at
14 the end; and

15 (C) in clause (ii), by inserting “or na-
16 tional” after “citizen”.

17 (4) TERRITORIES INCLUDED IN GEOGRAPHIC
18 MEANING OF UNITED STATES.—Section 1614(e) of
19 such Act (42 U.S.C. 1382c(e)) is amended by strik-
20 ing “and the District of Columbia” and inserting “,
21 the District of Columbia, Puerto Rico, the United
22 States Virgin Islands, Guam, and American
23 Samoa”.

24 (c) WAIVER AUTHORITY.—The Commissioner of So-
25 cial Security may waive or modify any statutory require-

1 ment relating to the provision of benefits under the Sup-
2 plemental Security Income Program under title XVI of the
3 Social Security Act in Puerto Rico, the United States Vir-
4 gin Islands, Guam, or American Samoa, to the extent that
5 the Commissioner deems it necessary in order to adapt
6 the program to the needs of the territory involved.

7 (d) EFFECTIVE DATE.—This section and the amend-
8 ments made by this section shall take effect on January
9 1, 2024.