AMENDMENT IN THE NATURE OF A SUBSTITUTE TO THE COMMITTEE PRINT OFFERED BY MR. NEAL OF MASSACHUSETTS

In lieu of the proposed recommendations, insert the following:

Subtitle F—Infrastructure Financing and Community Development

SEC. 135001. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

PART 1—INFRASTRUCTURE FINANCING

Subpart A—Bond Financing

SEC. 135101. CREDIT TO ISSUER FOR CERTAIN INFRASTRUCTURE BONDS.

(a) IN GENERAL.—Subchapter B of chapter 65 is amended by inserting before section 6432 the following new section:

"SEC. 6431A. CREDIT ALLOWED TO ISSUER FOR QUALIFIED INFRASTRUCTURE BONDS.

"(a) IN GENERAL.—In the case of a qualified infrastructure bond, the issuer of such bond shall be allowed a credit with respect to each interest payment under such bond which shall be payable by the Secretary as provided in subsection (b).

"(b) PAYMENT OF CREDIT.—

"(1) IN GENERAL.—The Secretary shall pay (contemporaneously with each date on which interest is paid, including any interest paid after the originally scheduled payment date) to the issuer of such bond (or, at the direction of the issuer, to any person who makes such interest payments on behalf of such issuer) an amount equal to the applicable percentage of such interest so paid.

"(2) APPLICABLE PERCENTAGE.—For purposes of this subsection, except as provided in subsection (d), the applicable percentage with respect to any bond shall be determined under the following table:

"In the case of a bond issued during calendar year:	**The applicable percentage is:**
2022 through 2024	35%
2025	32%
2026	30%
2027 and thereafter	28%

"(3) LIMITATION.—

"(A) IN GENERAL.—The amount of any interest payment taken into account under

paragraph (1) with respect to a bond for any payment date shall not exceed the amount of interest which would have been payable under such bond for such payment date if interest were determined at the applicable credit rate multiplied by the applicable amount for such bond for such payment date.

"(B) APPLICABLE CREDIT RATE.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The applicable credit rate is the rate which the Secretary estimates will permit the issuance of qualified infrastructure bonds with a specified maturity or redemption date without discount and without additional interest cost to the issuer.

"(ii) DATE OF DETERMINATION.—The applicable credit rate with respect to any qualified infrastructure bond shall be determined as of the first day on which there is a binding, written contract for the sale or exchange of the bond.

"(C) APPLICABLE AMOUNT.—

"(i) BONDS WITH MORE THAN DE MINIMIS ORIGINAL ISSUE DISCOUNT.—In

the case of any bond that has more than a de minimis amount of original issue discount (determined under the rules of section 1273(a)(3)), the applicable amount for a payment date is the issue price of such bond (within the meaning of section 148), as adjusted for any principal payments made prior to such date.

''(ii) OTHER BONDS.—In the case of any other bond, the applicable amount for a payment date is the outstanding principal amount of such bond on such payment date (determined without taking into account any principal payment on such bond on such date).

''(c) QUALIFIED INFRASTRUCTURE BOND.—

''(1) IN GENERAL.—For purposes of this section, the term 'qualified infrastructure bond' means any bond (other than a private activity bond) issued as part of an issue if—

''(A) 100 percent of the excess of available project proceeds of such issue over the amounts in a reasonably required reserve (within the meaning of section 150(a)(3)) with respect to such issue are to be used for—

"(i) capital expenditures or operations and maintenance expenditures in connection with property the acquisition, construction, or improvement of which would be a capital expenditure, or

"(ii) payments made by a State or political subdivision of a State to a custodian of a rail corridor for purposes of the transfer, lease, sale, or acquisition of an established railroad right-of-way consistent with section 8(d) of the National Trails Act of 1968, but only if the Surface Transportation Board has issued a certificate of interim trail use or notice of interim trail use for purposes of authorizing such transfer, lease, sale, or acquisition,

"(B) the interest on such bond would (but for this section) be excludable from gross income under section 103,

"(C) the issue price has not more than a de minimis amount (determined under rules similar to the rules of section 1273(a)(3)) of premium over the stated principal amount of the bond, and

"(D) prior to the issuance of such bond, the issuer makes an irrevocable election to have this section apply.

"(2) APPLICABLE RULES.—For purposes of applying paragraph (1)—

"(A) NOT TREATED AS FEDERALLY GUARANTEED.—For purposes of section 149(b), a qualified infrastructure bond shall not be treated as federally guaranteed by reason of the credit allowed under this section.

"(B) APPLICATION OF ARBITRAGE RULES.—For purposes of section 148, the yield on a qualified infrastructure bond shall be reduced by the credit allowed under this section, except that no such reduction shall apply in determining the amount of gross proceeds of an issue that qualifies as a reasonably required reserve or replacement fund.

"(d) DEFINITION AND SPECIAL RULES.—For purposes of this section—

"(1) INTEREST INCLUDIBLE IN GROSS INCOME.—For purposes of this title, interest on any qualified infrastructure bond shall be includible in gross income.

"(2) AVAILABLE PROJECT PROCEEDS.—The term 'available project proceeds' means—

"(A) the excess of—

"(i) the proceeds from the sale of an issue, over

"(ii) issuance costs financed by the issue (to the extent that such costs do not exceed 2 percent of such proceeds), and

"(B) the proceeds from any investment of the excess described in subparagraph (A).

"(3) CURRENT REFUNDINGS ALLOWED.—

"(A) IN GENERAL.—In the case of a bond issued to refund a qualified infrastructure bond, such refunding bond shall not be treated as a qualified infrastructure bond for purposes of this section unless—

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

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

"(iii) the refunded bond is redeemed not later than 90 days after the date of the issuance of the refunding bond, and

"(iv) the refunded bond was issued more than 30 days after the date of the enactment of this section.

"(B) APPLICABLE PERCENTAGE LIMITATION.—The applicable percentage with respect to any bond to which subparagraph (A) applies shall be 28 percent.

"(C) DETERMINATION OF AVERAGE MATURITY.—For purposes of subparagraph (A)(i), average maturity shall be determined in accordance with section 147(b)(2)(A).

"(4) APPLICATION OF DAVIS-BACON ACT REQUIREMENTS WITH RESPECT TO QUALIFIED INFRASTRUCTURE BONDS.—Subchapter IV of chapter 31 of title 40, United States Code, shall apply to projects financed with the proceeds of qualified infrastructure bonds.

"(e) REGULATIONS.—The Secretary may prescribe such regulations and other guidance as may be necessary or appropriate to carry out this section.".

(b) GROSS-UP OF PAYMENT TO ISSUERS IN CASE OF SEQUESTRATION.—In the case of any payment under sec-

tion 6431A of the Internal Revenue Code of 1986 made after the date of the enactment of this Act to which sequestration applies, the amount of such payment shall be increased to an amount equal to—

(1) such payment (determined before such sequestration), multiplied by

(2) the quotient obtained by dividing 1 by the amount by which 1 exceeds the percentage reduction in such payment pursuant to such sequestration.

For purposes of this subsection, the term ''sequestration'' means any reduction in direct spending ordered in accordance with a sequestration report prepared by the Director of the Office and Management and Budget pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 or the Statutory Pay-As-You-Go Act of 2010.

(c) CONFORMING AMENDMENTS.—

(1) Section 1324(b)(2) of title 31, United States Code, is amended by striking ''or 6431'' and inserting ''6431, or 6431A''.

(2) The table of sections for subchapter B of chapter 65 is amended by inserting before the item relating to section 6432 the following new item:

''Sec. 6431A. Credit allowed to issuer for qualified infrastructure bonds.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 2021.

SEC. 135102. ADVANCE REFUNDING BONDS.

(a) IN GENERAL.—Section 149(d) is amended—

(1) by striking ''to advance refund another bond.'' in paragraph (1) and inserting ''as part of an issue described in paragraph (2), (3), or (4).'',

(2) by redesignating paragraphs (2) and (3) as paragraphs (5) and (7), respectively,

(3) by inserting after paragraph (1) the following new paragraphs:

''(2) CERTAIN PRIVATE ACTIVITY BONDS.—An issue is described in this paragraph if any bond (issued as part of such issue) is issued to advance refund a private activity bond (other than a qualified 501(c)(3) bond).

''(3) OTHER BONDS.—

''(A) IN GENERAL.—An issue is described in this paragraph if any bond (issued as part of such issue), hereinafter in this paragraph referred to as the 'refunding bond', is issued to advance refund a bond unless—

''(i) the refunding bond is only—

''(I) the first advance refunding of the original bond if the original bond is issued after 1985, or

"(II) the first or second advance refunding of the original bond if the original bond was issued before 1986,

"(ii) in the case of refunded bonds issued before 1986, the refunded bond is redeemed not later than the earliest date on which such bond may be redeemed at par or at a premium of 3 percent or less,

"(iii) in the case of refunded bonds issued after 1985, the refunded bond is redeemed not later than the earliest date on which such bond may be redeemed,

"(iv) the initial temporary period under section 148(c) ends—

"(I) with respect to the proceeds of the refunding bond not later than 30 days after the date of issue of such bond, and

"(II) with respect to the proceeds of the refunded bond on the date of issue of the refunding bond, and

"(v) in the case of refunded bonds to which section 148(e) did not apply, on and after the date of issue of the refunding bond, the amount of proceeds of the re-

funded bond invested in higher yielding investments (as defined in section 148(b)) which are nonpurpose investments (as defined in section 148(f)(6)(A)) does not exceed—

"(I) the amount so invested as part of a reasonably required reserve or replacement fund or during an allowable temporary period, and

"(II) the amount which is equal to the lesser of 5 percent of the proceeds of the issue of which the refunded bond is a part or $100,000 (to the extent such amount is allocable to the refunded bond).

"(B) SPECIAL RULES FOR REDEMPTIONS.—

"(i) ISSUER MUST REDEEM ONLY IF DEBT SERVICE SAVINGS.—Clause (ii) and (iii) of subparagraph (A) shall apply only if the issuer may realize present value debt service savings (determined without regard to administrative expenses) in connection with the issue of which the refunding bond is a part.

"(ii) REDEMPTIONS NOT REQUIRED BEFORE 90TH DAY.—For purposes of clauses (ii) and (iii) of subparagraph (A), the earliest date referred to in such clauses shall not be earlier than the 90th day after the date of issuance of the refunding bond.

"(4) ABUSIVE TRANSACTIONS PROHIBITED.—An issue is described in this paragraph if any bond (issued as part of such issue) is issued to advance refund another bond and a device is employed in connection with the issuance of such issue to obtain a material financial advantage (based on arbitrage) apart from savings attributable to lower interest rates.", and

(4) by inserting after paragraph (5) (as so redesignated) the following new paragraph:

"(6) SPECIAL RULES FOR PURPOSES OF PARAGRAPH (3).—For purposes of paragraph (3), bonds issued before October 22, 1986, shall be taken into account under subparagraph (A)(i) thereof except—

"(A) a refunding which occurred before 1986 shall be treated as an advance refunding only if the refunding bond was issued more than 180 days before the redemption of the refunded bond, and

"(B) a bond issued before 1986, shall be treated as advance refunded no more than once before March 15, 1986.".

(b) CONFORMING AMENDMENT.—Section 148(f)(4)(C) is amended by redesignating clauses (xiv) through (xvi) as clauses (xv) to (xvii), respectively, and by inserting after clause (xiii) the following new clause:

"(xiv) DETERMINATION OF INITIAL TEMPORARY PERIOD.—For purposes of this subparagraph, the end of the initial section temporary period shall be determined without regard to section 149(d)(3)(A)(iv).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to advance refunding bonds issued more than 30 days after the date of the enactment of this Act.

SEC. 135103. PERMANENT MODIFICATION OF SMALL ISSUER EXCEPTION TO TAX-EXEMPT INTEREST EXPENSE ALLOCATION RULES FOR FINANCIAL INSTITUTIONS.

(a) PERMANENT INCREASE IN LIMITATION.—Subparagraphs (C)(i), (D)(i), and (D)(iii)(II) of section 265(b)(3) are each amended by striking "$10,000,000" and inserting "$30,000,000".

(b) PERMANENT MODIFICATION OF OTHER SPECIAL RULES.—Section 265(b)(3) is amended—

(1) by redesignating clauses (iv), (v), and (vi) of subparagraph (G) as clauses (ii), (iii), and (iv), respectively, and moving such clauses to the end of subparagraph (H) (as added by paragraph (2)), and

(2) by striking so much of subparagraph (G) as precedes such clauses and inserting the following:

"(G) QUALIFIED 501(c)(3) BONDS TREATED AS ISSUED BY EXEMPT ORGANIZATION.—In the case of a qualified 501(c)(3) bond (as defined in section 145), this paragraph shall be applied by treating the 501(c)(3) organization for whose benefit such bond was issued as the issuer.

"(H) SPECIAL RULE FOR QUALIFIED FINANCINGS.—

"(i) IN GENERAL.—In the case of a qualified financing issue—

"(I) subparagraph (F) shall not apply, and

"(II) any obligation issued as a part of such issue shall be treated as a qualified tax-exempt obligation if the requirements of this paragraph

are met with respect to each qualified portion of the issue (determined by treating each qualified portion as a separate issue which is issued by the qualified borrower with respect to which such portion relates).''.

(c) INFLATION ADJUSTMENT.—Section 265(b)(3), as amended by subsection (b), is amended by adding at the end the following new subparagraph:

''(I) INFLATION ADJUSTMENT.—In the case of any calendar year after 2021, the $30,000,000 amounts contained in subparagraphs (C)(i), (D)(i), and (D)(iii)(II) shall each be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 2020' for 'calendar year 2016' in subparagraph (A)(ii) thereof.

Any increase determined under the preceding sentence shall be rounded to the nearest multiple of $100,000.''.

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

SEC. 135104. MODIFICATIONS TO QUALIFIED SMALL ISSUE BONDS.

(a) MANUFACTURING FACILITIES TO INCLUDE PRODUCTION OF INTANGIBLE PROPERTY AND FUNCTIONALLY RELATED FACILITIES.—Subparagraph (C) of section 144(a)(12) is amended to read as follows:

"(C) MANUFACTURING FACILITY.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'manufacturing facility' means any facility which—

"(I) is used in the manufacturing or production of tangible personal property (including the processing resulting in a change in the condition of such property),

"(II) is used in the creation or production of intangible property which is described in section 197(d)(1)(C)(iii), or

"(III) is functionally related and subordinate to a facility described in

subclause (I) or (II) if such facility is located on the same site as the facility described in subclause (I) or (II).

"(ii) CERTAIN FACILITIES INCLUDED.—The term 'manufacturing facility' includes facilities that are directly related and ancillary to a manufacturing facility (determined without regard to this clause) if—

"(I) those facilities are located on the same site as the manufacturing facility, and

"(II) not more than 25 percent of the net proceeds of the issue are used to provide those facilities.

"(iii) LIMITATION ON OFFICE SPACE.—A rule similar to the rule of section 142(b)(2) shall apply for purposes of clause (i).

"(iv) LIMITATION ON REFUNDINGS FOR CERTAIN PROPERTY.—Subclauses (II) and (III) of clause (i) shall not apply to any bond issued on or before the date of the enactment of the Act to provide for reconciliation pursuant to title II of S.

Con. Res. 14, or to any bond issued to refund a bond issued on or before such date (other than a bond to which clause (iii) of this subparagraph (as in effect before the date of the enactment of such Act) applies), either directly or in a series of refundings.''.

(b) INCREASE IN LIMITATIONS.—Section 144(a)(4) is amended—

(1) in subparagraph (A)(i), by striking ''$10,000,000'' and inserting ''$30,000,000'', and

(2) in the heading, by striking ''$10,000,000'' and inserting ''$30,000,000''.

(c) ADJUSTMENT FOR INFLATION.—Section 144(a)(4) is amended by adding at the end the following new subparagraph:

''(H) ADJUSTMENT FOR INFLATION.—In the case of any calendar year after 2021, the $30,000,000 amount in subparagraph (A) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting

'calendar year 2020' for 'calendar year 2016' in subparagraph (A)(ii) thereof.

If any amount as increased under the preceding sentence is not a multiple of $100,000, such amount shall be rounded to the nearest multiple of $100,000.''.

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

SEC. 135105. EXPANSION OF CERTAIN EXCEPTIONS TO THE PRIVATE ACTIVITY BOND RULES FOR FIRST-TIME FARMERS.

(a) INCREASE IN DOLLAR LIMITATION.—

(1) IN GENERAL.—Section 147(c)(2)(A) is amended by striking ''$450,000'' and inserting ''$552,500''.

(2) REPEAL OF SEPARATE LOWER DOLLAR LIMITATION ON USED FARM EQUIPMENT.—Section 147(c)(2) is amended by striking subparagraph (F) and by redesignating subparagraphs (G) and (H) as subparagraphs (F) and (G), respectively.

(3) QUALIFIED SMALL ISSUE BOND LIMITATION CONFORMED TO INCREASED DOLLAR LIMITATION.—Section 144(a)(11)(A) is amended by striking ''$250,000'' and inserting ''$552,500''.

(4) INFLATION ADJUSTMENT.—

(A) IN GENERAL.—Section 147(c)(2)(G), as redesignated by paragraph (2), is amended—

(i) by striking ''after 2008, the dollar amount in subparagraph (A) shall be increased'' and inserting ''after 2021, the dollar amounts in subparagraph (A) and section 144(a)(11)(A) shall each be increased'', and

(ii) in clause (ii), by striking ''2007'' and inserting ''2020''.

(B) CROSS-REFERENCE.—Section 144(a)(11) is amended by adding at the end the following new subparagraph:

''(D) INFLATION ADJUSTMENT.—For inflation adjustment of dollar amount contained in subparagraph (A), see section 147(c)(2)(G).''.

(b) SUBSTANTIAL FARMLAND DETERMINED ON BASIS OF AVERAGE RATHER THAN MEDIAN FARM SIZE.—Section 147(c)(2)(E) is amended by striking ''median'' and inserting ''average''.

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

SEC. 135106. CERTAIN WATER AND SEWAGE FACILITY BONDS EXEMPT FROM VOLUME CAP ON PRIVATE ACTIVITY BONDS.

(a) IN GENERAL.—Section 146(g) is amended by striking ''and'' at the end of paragraph (3), striking the period at the end of paragraph (4) and inserting '', and'', and inserting after paragraph (4) the following new paragraph:

''(5) any exempt facility bond issued as part of an issue described in paragraph (4) or (5) of section 142(a) if 95 percent or more of the net proceeds of such issue are to be used to provide facilities which—

''(A) will be used—

''(i) by a person who was, as of July 1, 2020, engaged in operation of a facility described in such paragraph, and

''(ii) to provide service within the area served by such person on such date (or within a county or city any portion of which is within such area), or

''(B) will be used by a successor in interest to such person for the same use and within the same service area as described in subparagraph (A).''.

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

SEC. 135107. EXEMPT FACILITY BONDS FOR ZERO-EMISSION VEHICLE INFRASTRUCTURE.

(a) IN GENERAL.—Section 142 is amended—

(1) in subsection (a)—

(A) in paragraph (14), by striking ''or'' at the end,

(B) in paragraph (15), by striking the period at the end and inserting '', or'', and

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

''(16) zero-emission vehicle infrastructure.'', and

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

''(n) ZERO-EMISSION VEHICLE INFRASTRUCTURE.—

''(1) IN GENERAL.—For purposes of subsection (a)(16), the term 'zero-emission vehicle infrastructure' means any property (not including a building and its structural components) if such property is part of a unit which—

''(A) is used to charge or fuel zero-emissions vehicles,

"(B) is located where the vehicles are charged or fueled,

"(C) is of a character subject to the allowance for depreciation (or amortization in lieu of depreciation),

"(D) is made available for use by members of the general public,

"(E) accepts payment via a credit card reader, including a credit card reader that uses contactless technology, and

"(F) is capable of charging or fueling vehicles produced by more than one manufacturer (within the meaning of section 30D(d)(3)).

"(2) INCLUSION OF UTILITY SERVICE CONNECTIONS, ETC.—The term 'zero-emission vehicle infrastructure' shall include any utility service connections, utility panel upgrades, line extensions and conduit, transformer upgrades, or similar property, in connection with property meeting the requirements of paragraph (1).

"(3) ZERO-EMISSIONS VEHICLE.—The term 'zero-emissions vehicle' means—

"(A) a zero-emission vehicle as defined in section 88.102–94 of title 40, Code of Federal Regulations, or

"(B) a vehicle that produces zero exhaust emissions of any criteria pollutant (or precursor pollutant) or greenhouse gas under any possible operational modes and conditions.

"(4) ZERO-EMISSIONS VEHICLE INFRASTRUCTURE LOCATED WITHIN OTHER FACILITIES OR PROJECTS.—For purposes of subsection (a), any zero-emission vehicle infrastructure located within—

"(A) a facility or project described in subsection (a), or

"(B) an area adjacent to a facility or project described in subsection (a) that primarily serves vehicles traveling to or from such facility or project,

shall be treated as described in the paragraph in which such facility or project is described.

"(5) EXCEPTION FOR REFUELING PROPERTY FOR FLEET VEHICLES.—Subparagraphs (D), (E), and (F) of paragraph (1) shall not apply to property which is part of a unit which is used exclusively by fleets of commercial or governmental vehicles.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2021.

SEC. 135108. APPLICATION OF DAVIS-BACON ACT REQUIREMENTS WITH RESPECT TO CERTAIN EXEMPT FACILITY BONDS.

(a) IN GENERAL.—Section 142(b) is amended by adding at the end the following new paragraph:

"(3) APPLICATION OF DAVIS-BACON ACT REQUIREMENTS WITH RESPECT TO CERTAIN EXEMPT FACILITY BONDS.—If any proceeds of any issue are used for construction, alteration, or repair of any facility otherwise described in paragraph (4), (5), (15), or (16) of subsection (a), such facility shall be treated for purposes of subsection (a) as described in such paragraph only if each entity that receives such proceeds to conduct such construction, alteration, or repair agrees to comply with the provisions of subchapter IV of chapter 31 of title 40, United States Code with respect to such construction, alteration, or repair.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after the date of the enactment of this Act.

Subpart B—Other Provisions Related to Infrastructure Financing

SEC. 135111. CREDIT FOR OPERATIONS AND MAINTENANCE COSTS OF GOVERNMENT-OWNED BROADBAND.

(a) IN GENERAL.—Subchapter B of chapter 65, as amended by the preceding provisions of this Act, is amended by inserting before section 6432 the following new section:

"SEC. 6431B. CREDIT FOR OPERATIONS AND MAINTENANCE COSTS OF GOVERNMENT-OWNED BROADBAND.

"(a) IN GENERAL.—In the case of any eligible governmental entity, there shall be allowed a credit equal to the applicable percentage of the qualified broadband expenses paid or incurred by such entity during the taxable year which credit shall be payable by the Secretary as provided in subsection (b).

"(b) PAYMENT OF CREDIT.—Upon receipt from an eligible governmental entity of such information as the Secretary may require for purposes of carrying out this section, the Secretary shall pay to such entity the amount of the credit determined under subsection (a) for the taxable year.

"(c) LIMITATION.—The amount of qualified broadband expenses taken into account under this section

for any taxable year with respect to any qualified broadband network shall not exceed the product of $400 multiplied by the number of qualified households subscribed to the qualified broadband service provided by such network (determined as of any time during such taxable year).

"(d) DEFINITIONS.—For purposes of this section—

"(1) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means—

"(A) in the case of any taxable year beginning in 2021 through 2026, 30 percent,

"(B) in the case of any taxable year beginning in 2027, 26 percent, and

"(C) in the case of any taxable year beginning in 2028, 24 percent.

"(2) ELIGIBLE GOVERNMENTAL ENTITY.—The term 'eligible governmental entity' means—

"(A) any State, local, or Indian tribal government,

"(B) any political subdivision or instrumentality of any government described in subparagraph (A), and

"(C) any entity wholly owned by one or more entities described in subparagraph (A) or (B).

For purposes of this paragraph, the term 'State' includes any possession of the United States.

"(3) QUALIFIED BROADBAND EXPENSES.—The term 'qualified broadband expenses' means so much of the amounts paid or incurred for the operation and maintenance of a qualified broadband network as are properly allocable to qualified households subscribed to the qualified broadband service provided by such network.

"(4) QUALIFIED HOUSEHOLD.—The term 'qualified household' means a personal residence which—

"(A) is located in a low-income community (as defined in section 45D(e)), and

"(B) did not have access to qualified broadband service from the eligible governmental entity (determined as of the beginning of the taxable year of such entity).

"(5) QUALIFIED BROADBAND NETWORK.—The term 'qualified broadband network' means property owned by an eligible governmental entity and used for the purpose of providing qualified broadband service.

"(6) QUALIFIED BROADBAND SERVICE.—The term 'qualified broadband service' means fixed, ter-

restrial broadband service providing downloads at a speed of at least 25 megabits per second and uploads at a speed of at least 3 megabits per second.

"(7) TAXABLE YEAR.—Except as otherwise provided by the Secretary, the term 'taxable year' means, with respect to any eligible governmental entity, the fiscal year of such entity.

"(e) SPECIAL RULES.—

"(1) ALLOCATIONS.—For purposes of subsection (d)(3), amounts shall be treated as properly allocated if allocated ratably among the subscribers of the qualified broadband service.

"(2) DENIAL OF DOUBLE BENEFIT.—Qualified broadband expenses shall not include any amount which is paid or reimbursed (directly or indirectly) by any grant from the Federal Government.

"(f) REGULATIONS.—The Secretary may prescribe such regulations and other guidance as may be necessary or appropriate to carry out this section.

"(g) TERMINATION.—No credit shall be allowed under this section for any taxable year beginning after December 31, 2028.".

(b) PAYMENTS MADE UNDER SECTION 6431B(b) OF INTERNAL REVENUE CODE OF 1986.—Section 255(h) of the Balanced Budget and Emergency Deficit Control Act

of 1985 (2 U.S.C. 905(h)) is amended by inserting: ''Payments made under section 6431B(b) of the Internal Revenue Code of 1986'' after the item related to Payments for Foster Care and Permanency.

(c) CONFORMING AMENDMENTS.—

(1) Section 1324(b)(2) of title 31, United States Code, as amended by the preceding provisions of this Act, is amended by striking ''or 6431A'' and inserting ''6431A, or 6431B''.

(2) The table of sections for subchapter B of chapter 65, as amended by the preceding provisions of this Act, is amended by inserting before the item relating to section 6432 the following new item:

''Sec. 6431B. Credit for operations and maintenance costs of government-owned broadband.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2020.

PART 2—NEW MARKETS TAX CREDIT

SEC. 135201. PERMANENT EXTENSION OF NEW MARKETS TAX CREDIT.

(a) TEMPORARY LIMIT INCREASE AND PERMANENT EXTENSION.—Section 45D(f)(1) is amended by striking ''and'' at the end of subparagraph (G) and by striking subparagraph (H) and inserting the following new subparagraphs:

"(H) $5,000,000,000 for each of calendar years 2020 and 2021,

"(I) $7,000,000,000 for calendar year 2022,

"(J) $6,000,000,000 for calendar year 2023, and

"(K) $5,000,000,000 for calendar year 2024 and each calendar year thereafter.".

(b) ALTERNATIVE MINIMUM TAX RELIEF.—Section 38(c)(4)(B) is amended—

(1) by redesignating clauses (v) through (xii) as clauses (vi) through (xiii), respectively, and

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

"(v) the credit determined under section 45D, but only with respect to credits determined with respect to qualified equity investments (as defined in section 45D(b)) initially made after December 31, 2021,".

(c) INFLATION ADJUSTMENT.—Section 45D(f) is amended by adding at the end the following new paragraph:

"(4) INFLATION ADJUSTMENT.—

"(A) IN GENERAL.—In the case of any calendar year beginning after 2024, the dollar

amount paragraph (1)(H) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting 'calendar year 2023' for 'calendar year 2016' in subparagraph (A)(ii) thereof.

"(B) ROUNDING RULE.—Any increase under subparagraph (A) which is not a multiple of $1,000,000 shall be rounded to the nearest multiple of $1,000,000.".

(d) CONFORMING AMENDMENT.—Section 45D(f)(3) is amended by striking the last sentence.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to new markets tax credit limitation determined for calendar years after 2021.

(2) ALTERNATIVE MINIMUM TAX RELIEF.—The amendments made by subsection (b) shall apply to credits determined with respect to qualified equity investments (as defined in section 45D(b) of the Internal Revenue Code of 1986) initially made after December 31, 2021.

PART 3—REHABILITATION TAX CREDIT

SEC. 135301. DETERMINATION OF CREDIT PERCENTAGE.

(a) IN GENERAL.—Section 47(a)(2) is amended by striking ''20 percent'' and inserting ''the applicable percentage''.

(b) APPLICABLE PERCENTAGE.—Section 47(a) is amended by adding at the end the following new paragraph:

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

''In the case of taxable years beginning:	The applicable percentage is:
Before 2020	20 percent
In 2020 through 2025	30 percent
In 2026	26 percent
In 2027	23 percent
After 2027	20 percent

''(4) APPLICATION OF PERCENTAGES TO YEAR OF EXPENDITURE.—In the case of qualified rehabilitation expenditures with respect to the qualified rehabilitated building that are paid or incurred in 2 or more taxable years for which there is a different applicable percentage under paragraph (3), the ratable share shall be determined by applying to such expenditures the applicable percentage corresponding

to the taxable year in which such expenditures were paid or incurred.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after March 31, 2021.

SEC. 135302. INCREASE IN THE REHABILITATION CREDIT FOR CERTAIN SMALL PROJECTS.

(a) IN GENERAL.—Section 47 is amended by adding at the end the following new subsection:

''(e) SPECIAL RULE REGARDING CERTAIN SMALLER PROJECTS.—

''(1) IN GENERAL.—In the case of any smaller project—

''(A) the applicable percentage determined under subsection (a)(3) shall be 30 percent, and

''(B) the qualified rehabilitation expenditures taken into account under this section with respect to such project shall not exceed $2,500,000.

''(2) SMALLER PROJECT.—For purposes of this subsection, the term 'smaller project' means the rehabilitation of any qualified rehabilitated building if—

''(A) the qualified rehabilitation expenditures taken into account under this section (or

which would be so taken into account but for paragraph (1)(B)) with respect to such rehabilitation do not exceed $3,750,000,

''(B) no credit was allowed under this section with respect to such building to any taxpayer for either of the 2 taxable years immediately preceding the first taxable year in which expenditures described in subparagraph (A) were paid or incurred, and

''(C) the taxpayer elects (at such time and manner as the Secretary may provide) to have this subsection apply with respect to such rehabilitation.''.

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

SEC. 135303. MODIFICATION OF DEFINITION OF SUBSTANTIALLY REHABILITATED.

(a) IN GENERAL.—Section 47(c)(1)(B)(i)(I) is amended by inserting ''50 percent of'' before ''the adjusted basis''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to determinations with respect to 24-month periods (referred to in clause (i) of section 47(c)(1)(B) of the Internal Revenue Code of 1986) and

60-month periods (referred to in clause (ii) of such section) which end after December 31, 2021.

SEC. 135304. ELIMINATION OF REHABILITATION CREDIT BASIS ADJUSTMENT.

(a) IN GENERAL.—Section 50(c) is amended by adding at the end the following new paragraph:

"(6) EXCEPTION FOR REHABILITATION CREDIT.—In the case of the rehabilitation credit, paragraph (1) shall not apply.".

(b) TREATMENT IN CASE OF CREDIT ALLOWED TO LESSEE.—Section 50(d) is amended by adding at the end the following: "In the case of the rehabilitation credit, paragraph (5)(B) of the section 48(d) referred to in paragraph (5) of this subsection shall not apply.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2022.

SEC. 135305. MODIFICATIONS REGARDING CERTAIN TAX-EXEMPT USE PROPERTY.

(a) IN GENERAL.—Section 47(c)(2)(B)(v) is amended by adding at the end the following new subclause:

"(III) DISQUALIFIED LEASE RULES TO APPLY ONLY IN CASE OF GOVERNMENT ENTITY.—For purposes of subclause (I), except in the case of

a tax-exempt entity described in section 168(h)(2)(A)(i) (determined without regard to the last sentence of section 168(h)(2)(A)), the determination of whether property is tax-exempt use property shall be made under section 168(h) without regard to whether the property is leased in a disqualified lease (as defined in section 168(h)(1)(B)(ii)).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to leases entered into after December 31, 2021.

SEC. 135306. QUALIFICATION OF REHABILITATION EXPENDITURES FOR PUBLIC SCHOOL BUILDINGS FOR REHABILITATION CREDIT.

(a) IN GENERAL.—Section 47(c)(2)(B)(v), as amended by the preceding provisions of this Act, is amended by adding at the end the following new subclause:

''(IV) CLAUSE NOT TO APPLY TO PUBLIC SCHOOLS.—This clause shall not apply in the case of the rehabilitation of any building which was used as a qualified public educational facility (as defined in section 142(k)(1),

determined without regard to subparagraph (B) thereof) at any time during the 5-year period ending on the date that such rehabilitation begins and which is used as such a facility immediately after such rehabilitation.''.

(b) REPORT.—Not later than the date which is 5 years after the date of the enactment of this Act, the Secretary of the Treasury, after consultation with the heads of appropriate Federal agencies, shall report to Congress on the effects resulting from the amendment made by subsection (a), including—

(1) the number of qualified public education facilities rehabilitated (stated separately with respect to each State) and the number of students using such facilities (stated separately with respect to each such State),

(2) the number of qualified public education facilities rehabilitated in low income communities (as section 45D(e)(1) of the Internal Revenue Code of 1986) and the number of students using such facilities,

(3) the amount of qualified rehabilitation expenditures for each qualified public education facility rehabilitated, and

(4) and any other data determined by the Secretary to be useful in evaluating the impact of such amendment.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2021.

PART 4—DISASTER AND RESILIENCY

SEC. 135401. EXCLUSION OF AMOUNTS RECEIVED FROM STATE-BASED CATASTROPHE LOSS MITIGATION PROGRAMS.

(a) IN GENERAL.—Section 139 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) STATE-BASED CATASTROPHE LOSS MITIGATION PROGRAMS.—

"(1) IN GENERAL.—Gross income shall not include any amount received by an individual as a qualified catastrophe mitigation payment under a program established by a State, or a political subdivision or instrumentality thereof, for the purpose of making such payments.

"(2) QUALIFIED CATASTROPHE MITIGATION PAYMENT.—For purposes of this section, the term 'qualified catastrophe mitigation payment' means any amount which is received by an individual to make improvements to such individual's residence for the sole purpose of reducing the damage that would be done to such residence by a windstorm, earthquake, or wildfire.

"(3) NO INCREASE IN BASIS.—Rules similar to the rules of subsection (g)(3) shall apply in the case of this subsection.".

(b) CONFORMING AMENDMENTS.—

(1) Section 139(d) is amended by striking "and qualified" and inserting ", qualified catastrophe mitigation payments, and qualified".

(2) Section 139(i) (as redesignated by subsection (a)) is amended by striking "or qualified" and inserting ", qualified catastrophe mitigation payment, or qualified".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2020.

SEC. 135402. REPEAL OF TEMPORARY LIMITATION ON PERSONAL CASUALTY LOSSES.

(a) IN GENERAL.—Section 165(h) is amended by striking paragraph (5).

(b) EXTENSION OF PERIOD OF LIMITATION ON FILING CLAIM IN CERTAIN CIRCUMSTANCES.—In the case of a claim for credit or refund which is properly allocable to a loss which is—

(1) deductible under section 165(a) of the Internal Revenue Code of 1986,

(2) described in Revenue Procedure 2017-60 (as modified by Revenue Procedure 2018-14), and

(3) claimed for a taxable year beginning after December 31, 2016,

the period of limitation prescribed in section 6511 of the Internal Revenue Code of 1986 for the filing of such claim shall be treated as not expiring earlier than the date that is 1 year after the date of the enactment of this Act.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to losses incurred in taxable years beginning after December 31, 2017.

(d) REGULATIONS.—The Secretary of the Treasury (or the Secretary's delegate) shall issue such regulations or other guidance as are necessary to implement the amendment made by this section, including regulations or

guidance consistent with Revenue Procedure 2017–60 (as so modified).

SEC. 135403. CREDIT FOR QUALIFIED WILDFIRE MITIGATION EXPENDITURES.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 is amended by inserting after section 27 the following new section:

"SEC. 28. QUALIFIED WILDFIRE MITIGATION EXPENDITURES.

"(a) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 30 percent of the qualified wildfire mitigation expenditures paid or incurred by the taxpayer during such taxable year with respect to real property owned or leased by the taxpayer.

"(b) QUALIFIED WILDFIRE MITIGATION EXPENDITURES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified wildfire mitigation expenditures' means any specified wildfire mitigation expenditure made pursuant to a qualified State wildfire mitigation program of a State which requires expenditures for wildfire mitigation to be paid both by the taxpayer and such State. Such term shall not include any item of expenditure unless the ratio of the State's expenditure for such

item to the sum of the State's and taxpayer's expenditures for such item is not less than 25 percent.

''(2) SPECIFIED WILDFIRE MITIGATION EXPENDITURE.—The term 'specified wildfire mitigation expenditure' means, with respect to any real property owned or leased by the taxpayer, any amount paid or incurred to reduce the risk of wildfire by removing accumulations of vegetation (including establishing, expanding, or maintaining fuel breaks to serve as fire breaks) on such real property.

''(3) QUALIFIED STATE WILDFIRE MITIGATION PROGRAM.—The term 'qualified State wildfire mitigation program' means any program of a State the primary purpose of which is to mitigate the risk of wildfires in such State.

''(4) TREATMENT OF REIMBURSEMENTS.—Any amount originally paid or incurred by the taxpayer which is reimbursed by a State under a qualified wildfire mitigation program of such State shall be treated as paid by such State (and not by such taxpayer).

''(c) APPLICATION WITH OTHER CREDITS.—

''(1) BUSINESS CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—So much of the credit which would be allowed under subsection (a) for any

taxable year (determined without regard to this subsection) that is attributable to expenditures made in the ordinary course of the taxpayer's trade or business (or, in the case of expenditures made by a State, would have been expenditures made in the ordinary course of the taxpayer's trade or business if made by the taxpayer) shall be treated as a credit listed in section 38(b) for taxable year (and not allowed under subsection (a)).

"(2) PERSONAL CREDIT.—For purposes of this title, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.

"(d) REDUCTION OF CREDIT PERCENTAGE WHERE TAXPAYER EXPENDITURES LESS THAN 30 PERCENT.—

"(1) IN GENERAL.—If the expenditure percentage with respect to any item of qualified wildfire mitigation expenditure is less than 30 percent, subsection (a) shall be applied by substituting 'the expenditure percentage' for '30 percent' with respect to such item of expenditure.

"(2) EXPENDITURE PERCENTAGE.—For purposes of this section, the term 'expenditure percentage' means, with respect to any item of qualified

wildfire mitigation expenditure any portion of which is paid or incurred by a State, the ratio (expressed as a percentage) of—

"(A) the taxpayer's expenditure for such item, divided by

"(B) the sum of the taxpayer's and such State's expenditures for such item.

"(e) SPECIAL RULES.—

"(1) TREATMENT OF EXPENDITURES RELATED TO MARKETABLE TIMBER.—An expenditure shall not be taken into account for purposes of this section (whether made by the taxpayer or a State pursuant to a qualified State wildfire mitigation program of such State) if such expenditure is properly allocable to timber which is sold or exchanged by the taxpayer. The preceding sentence shall not apply to the extent that such amount exceeds the gain on such sale or exchange.

"(2) BASIS REDUCTION.—For purposes of this subtitle, if the basis of any property would (but for this paragraph) be determined by taking into account any qualified wildfire mitigation expenditure, the basis of such property shall be reduced by the amount of the credit allowed under subsection (a)

with respect to such expenditure (determined without regard to subsection (c)).

''(3) DENIAL OF DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for any expenditure for which a credit is allowable under subsection (a) shall be reduced by the amount of credit allowed under such subsection for such expenditure (determined without regard to subsection (c)).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b), as amended by the preceding provisions of this Act, is amended by striking ''plus'' at the end of paragraph (33), by striking the period at the end of paragraph (34) and inserting '', plus'', and by adding at the end the following new paragraph:

''(35) the portion of the qualified wildfire mitigation expenditures credit to which section 28(c)(1) applies.''.

(2) Section 1016(a) is amended by redesignating paragraphs (35) through (38) as paragraphs (36) through (39), respectively, and by inserting after paragraph (34) the following new paragraph:

''(35) to the extent provided in section 28(e)(2),''.

(3) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 27 the following new item:

"Sec. 28. Qualified wildfire mitigation expenditures.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures paid or incurred after the date of the enactment of this Act, in taxable years ending after such date.

PART 5—HOUSING

Subpart A—Low Income Housing Tax Credit

SEC. 135501. INCREASES IN STATE ALLOCATIONS.

(a) IN GENERAL.—Section 42(h)(3)(I) is amended to read as follows:

"(I) INCREASE IN STATE HOUSING CREDIT CEILING FOR 2022 THROUGH 2028.—

"(i) IN GENERAL.—In the case of calendar years 2022 through 2028, the dollar amounts under subclauses (I) and (II) of subparagraph (C)(ii) for any such calendar shall be determined under clause (ii) and in accordance with the following table:

"In the case of calendar year:	The subclause (I) amount shall be:	The subclause (II) amount shall be:
2022	$3.22	$3,711,575
2023	$3.70	$4,269,471

"In the case of calendar year:	The subclause (I) amount shall be:	The subclause (II) amount shall be:
2024	$4.25	$4,901,620
2025	$4.88	$5,632,880

"(ii) INFLATION ADJUSTMENT FOR 2026, 2027, AND 2028.—In the case of calendar years 2026, 2027, and 2028, the subclause (I) and (II) dollar amounts shall be the respective dollar amounts corresponding to calendar year 2025 in the table under clause (i) each increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 2025' for 'calendar year 2016' in paragraph (A)(ii) thereof.

Any increase under this clause shall be rounded to the nearest cent in the case of the subclause (I) amount and the nearest dollar in the case of the subclause (II) amount.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after December 31, 2021.

SEC. 135502. TAX-EXEMPT BOND FINANCING REQUIREMENT.

(a) IN GENERAL.—Section 42(h)(4)(B) is amended by adding at the end the following: ''The preceding sentence shall be applied by substituting '25 percent' for '50 percent' in the case of any building which is financed by any obligation issued in calendar year 2022, 2023, 2024, 2025, 2026, 2027, or 2028 (and not by any obligation on which the application of this subparagraph is based during any taxable year beginning during calendar year 2019, 2020, or 2021).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to buildings placed in service in taxable years beginning after December 31, 2021.

SEC. 135503. BUILDINGS DESIGNATED TO SERVE EXTREMELY LOW-INCOME HOUSEHOLDS.

(a) RESERVED STATE ALLOCATION.—

(1) IN GENERAL.—Section 42(h) is amended—

(A) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (9), respectively, and

(B) by inserting after paragraph (5) the following new paragraph:

"(6) PORTION OF STATE CEILING SET-ASIDE FOR PROJECTS DESIGNATED TO SERVE EXTREMELY LOW-INCOME HOUSEHOLDS.—

"(A) IN GENERAL.—Not more than 90 percent of the portion of the State housing credit ceiling amount described in paragraph (3)(C)(ii) for any State for any calendar year shall be allocated to buildings other than buildings described in subparagraph (B).

"(B) BUILDINGS DESCRIBED.—A building is described in this subparagraph if 20 percent or more of the residential units in such building are rent-restricted (determined as if the imputed income limitation applicable to such units were 30 percent of area median gross income) and are designated by the taxpayer for occupancy by households the aggregate household income of which does not exceed the greater of—

"(i) 30 percent of area median gross income, or

"(ii) 100 percent of an amount equal to the Federal poverty line (within the meaning of section 36B(d)(3)).

"(C) STATE MAY NOT OVERRIDE SET-ASIDE.—Nothing in subparagraph (F) of paragraph (3) shall be construed to permit a State not to comply with subparagraph (A) of this paragraph.

"(D) TERMINATION.—This paragraph shall not apply to allocations after December 31, 2031.".

(2) CONFORMING AMENDMENT.—Section 42(b)(4)(C) is amended by striking "(h)(7)" and inserting "(h)(8)".

(b) INCREASE IN CREDIT.—Paragraph (5) of section 42(d) is amended by adding at the end the following new subparagraph:

"(C) INCREASE IN CREDIT FOR PROJECTS DESIGNATED TO SERVE EXTREMELY LOW-INCOME HOUSEHOLDS.—

"(i) IN GENERAL.—In the case of any building—

"(I) which is described in subsection (h)(6)(B), and

"(II) which is designated by the housing credit agency as requiring the increase in credit under this subparagraph in order for such building to be financially feasible as part of a qualified low-income housing project,

subparagraph (B) shall not apply to the portion of such building which is comprised of such units, and the eligible basis of such portion of the building shall be 150 percent of such basis determined without regard to this subparagraph.

"(ii) ALLOCATION RULES APPLICABLE TO PROJECTS TO WHICH CLAUSE (i) APPLIES.—

"(I) STATE HOUSING CREDIT CEILING.—For any calendar year, the housing credit agency shall not allocate more than 15 percent of the portion of the State housing credit ceiling amount described in subsection (h)(3)(C)(ii) to buildings to which clause (i) applies, and

"(II) PRIVATE ACTIVITY BOND VOLUME CAP.—In the case of projects

financed by tax-exempt bonds as described in subsection (h)(4), for any calendar year, the State shall not issue more than 10 percent of the private activity bond volume cap as described in section 146(d)(1) to buildings to which clause (i) applies.

''(iii) TERMINATION.—This subparagraph shall not apply to allocations after December 31, 2031.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to allocations, and determinations, of housing credit dollar amount after December 31, 2021.

SEC. 135504. INCLUSION OF RURAL AREAS AS DIFFICULT DEVELOPMENT AREAS.

(a) IN GENERAL.—Subclause (I) of section 42(d)(5)(B)(iii) is amended by inserting before the period the following: '', and any rural area''.

(b) RURAL AREA.—Clause (iii) of section 42(d)(5)(B) is amended by redesignating subclause (II) as subclause (III) and by inserting after subclause (I) the following new subclause:

''(II) RURAL AREA.—For purposes of subclause (I), the term 'rural area' means any non-metropolitan

area, or any rural area as defined by section 520 of the Housing Act of 1949, which is identified by the qualified allocation plan under subsection (m)(1)(B).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to buildings placed in service after December 31, 2021.

SEC. 135505. REPEAL OF QUALIFIED CONTRACT OPTION.

(a) TERMINATION OF OPTION FOR CERTAIN BUILDINGS.—

(1) IN GENERAL.—Subclause (II) of section 42(h)(7)(E)(i), as redesignated by section 135503, is amended by inserting ''in the case of a building described in clause (iii),'' before ''on the last day''.

(2) BUILDINGS DESCRIBED.—Subparagraph (E) of section 42(h)(7), as so redesignated, is amended by adding at the end the following new clause:

''(iii) BUILDINGS DESCRIBED.—A building described in this clause is a building—

''(I) which received its allocation of housing credit dollar amount before January 1, 2022, or

"(II) in the case of a building any portion of which is financed as described in paragraph (4), which received before January 1, 2022, a determination from the issuer of the tax-exempt bonds or the housing credit agency that the building is eligible to receive an allocation of housing credit dollar amount under the rules of paragraphs (1) and (2) of subsection (m).".

(b) RULES RELATING TO EXISTING PROJECTS.—Subparagraph (F) of section 42(h)(7), as redesignated by section 135503, is amended by striking "the nonlow-income portion" and all that follows and inserting "the nonlow-income portion and the low-income portion of the building for fair market value (determined by the housing credit agency by taking into account the rent restrictions required for the low-income portion of the building to continue to meet the standards of paragraphs (1) and (2) of subsection (g)). The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this paragraph.".

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (7) of section 42(h), as redesignated by section 135503, is amended by striking subparagraph (G) and by redesignating subparagraphs (H), (I), (J), and (K) as subparagraphs (G), (H), (I), and (J), respectively.

(2) Subclause (II) of section 42(h)(7)(E)(i), as so redesignated and as amended by subsection (a), is further amended by striking ''subparagraph (I)'' and inserting ''subparagraph (H)''.

(d) EFFECTIVE DATE.—

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

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to buildings with respect to which a written request described in section 42(h)(7)(H) of the Internal Revenue Code of 1986, as redesignated by section 135503 and subsection (c), is submitted after the date of the enactment of this Act.

SEC. 135506. MODIFICATION AND CLARIFICATION OF RIGHTS RELATING TO BUILDING PURCHASE.

(a) MODIFICATION OF RIGHT OF FIRST REFUSAL.—

(1) IN GENERAL.—Subparagraph (A) of section 42(i)(7) is amended by striking ''a right of 1st refusal'' and inserting ''an option''.

(2) CONFORMING AMENDMENT.—The heading of paragraph (7) of section 42(i) is amended by striking ''RIGHT OF 1ST REFUSAL'' and inserting ''OPTION''.

(b) CLARIFICATION WITH RESPECT TO RIGHT OF FIRST REFUSAL AND PURCHASE OPTIONS.—

(1) PURCHASE OF PARTNERSHIP INTEREST.—Subparagraph (A) of section 42(i)(7), as amended by subsection (a), is amended by striking ''the property'' and inserting ''the property or all of the partnership interests (other than interests of the person exercising such option or a related party thereto (within the meaning of section 267(b) or 707(b)(1))) relating to the property''.

(2) PROPERTY INCLUDES ASSETS RELATING TO THE BUILDING.—Paragraph (7) of section 42(i) is amended by adding at the end the following new subparagraph:

''(C) PROPERTY.—For purposes of subparagraph (A), the term 'property' may include all or any of the assets held for the develop-

ment, operation, or maintenance of a building.''.

(3) EXERCISE OF RIGHT OF FIRST REFUSAL AND PURCHASE OPTIONS.—Subparagraph (A) of section 42(i)(7), as amended by subsection (a) and paragraph (1)(A), is amended by adding at the end the following: ''For purposes of determining whether an option, including a right of first refusal, to purchase property or partnership interests holding (directly or indirectly) such property is described in the preceding sentence—

''(i) such option or right of first refusal shall be exercisable with or without the approval of any owner of the project (including any partner, member, or affiliated organization of such an owner), and

''(ii) a right of first refusal shall be exercisable in response to any offer to purchase the property or partnership interests, including an offer by a related party.''.

(c) CONFORMING AMENDMENTS.—Subparagraph (B) of section 42(i)(7) is amended by striking ''the sum of'' and all that follows and inserting ''the principal amount of outstanding indebtedness secured by the building (other than indebtedness incurred within the 5-year period end-

ing on the date of the sale to the tenants). In the case of a purchase of a partnership interest, the minimum purchase price is an amount not less than such interest's ratable share of the amount determined under the first sentence of this subparagraph.''.

(d) EFFECTIVE DATES.—

(1) MODIFICATION OF RIGHT OF FIRST REFUSAL.—The amendments made by subsections (a) and (c) shall apply to agreements entered into or amended after the date of the enactment of this Act.

(2) CLARIFICATION.—The amendments made by subsection (b) shall apply to agreements among the owners of the project (including partners, members, and their affiliated organizations) and persons described in section 42(i)(7)(A) of the Internal Revenue Code of 1986 entered into before, on, or after the date of the enactment of this Act.

(3) NO EFFECT ON AGREEMENTS.—None of the amendments made by this section is intended to supersede express language in any agreement with respect to the terms of a right of first refusal or option permitted by section 42(i)(7) of the Internal Revenue Code of 1986 in effect on the date of the enactment of this Act.

SEC. 135507. INCREASE IN CREDIT FOR BOND-FINANCED PROJECTS DESIGNATED BY HOUSING CREDIT AGENCY.

(a) IN GENERAL.—Section 42(d)(5)(B)(v) is amended by striking ''The preceding sentence'' and inserting ''In the case of determinations of housing credit dollar amount after December 31, 2028, the preceding sentence''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to buildings which receive a determination of housing credit dollar amount pursuant to section 42(m)(2)(D) of the Internal Revenue Code of 1986 after the date of the enactment of this Act.

Subpart B—Neighborhood Homes Investment Act

SEC. 135511. NEIGHBORHOOD HOMES CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 is amended by inserting after section 42 the following new section:

''SEC. 42A. NEIGHBORHOOD HOMES CREDIT.

''(a) ALLOWANCE OF CREDIT.—For purposes of section 38, the neighborhood homes credit determined under this section for the taxable year is, with respect to each qualified residence sold by the taxpayer during such taxable year in an affordable sale, the lesser of—

''(1) the excess (if any) of—

"(A) the reasonable development costs paid or incurred by the taxpayer with respect to such qualified residence, over

"(B) the sale price of such qualified residence (reduced by any reasonable expenses paid or incurred by the taxpayer in connection with such sale), or

"(2) 35 percent of the lesser of—

"(A) the eligible development costs paid or incurred by the taxpayer with respect to such qualified residence, or

"(B) 80 percent of the national median sale price for new homes (as determined pursuant to the most recent census data available as of the date on which the neighborhood homes credit agency makes an allocation for the qualified project).

"(b) DEVELOPMENT COSTS.—For purposes of this section—

"(1) REASONABLE DEVELOPMENT COSTS.—

"(A) IN GENERAL.—The term 'reasonable development costs' means amounts paid or incurred for the acquisition of buildings and land, construction, substantial rehabilitation, demolition of structures, or environmental remedi-

ation, to the extent that the neighborhood homes credit agency determines that such amounts meet the standards specified pursuant to subsection (f)(1)(C) (as of the date on which construction or substantial rehabilitation is substantially complete, as determined by such agency) and are necessary to ensure the financial feasibility of such qualified residence.

"(B) CONSIDERATIONS IN MAKING DETERMINATION.—In making the determination under subparagraph (A), the neighborhood homes credit agency shall consider—

"(i) the sources and uses of funds and the total financing,

"(ii) any proceeds or receipts generated or expected to be generated by reason of tax benefits, and

"(iii) the reasonableness of the developmental costs and fees.

"(2) ELIGIBLE DEVELOPMENT COSTS.—The term 'eligible development costs' means the amount which would be reasonable development costs if the amounts taken into account as paid or incurred for the acquisition of buildings and land did not exceed 75 percent of such costs determined without regard

to any amount paid or incurred for the acquisition of buildings and land.

"(3) SUBSTANTIAL REHABILITATION.—The term 'substantial rehabilitation' means amounts paid or incurred for rehabilitation of a qualified residence if such amounts exceed the greater of—

"(A) $20,000, or

"(B) 20 percent of the amounts paid or incurred by the taxpayer for the acquisition of buildings and land with respect to such qualified residence.

"(4) CONSTRUCTION AND REHABILITATION ONLY AFTER ALLOCATION TAKEN INTO ACCOUNT.—

"(A) IN GENERAL.—The terms 'reasonable development costs' and 'eligible development costs' shall not include any amount paid or incurred before the date on which an allocation is made to the taxpayer under subsection (e) with respect to the qualified project of which the qualified residence is part unless such amount is paid or incurred for the acquisition of buildings or land.

"(B) LAND AND BUILDING ACQUISITION COSTS.—Amounts paid or incurred for the acquisition of buildings or land shall be included

under paragraph (A) only if paid or incurred not more than 3 years before the date on which the allocation referred to in subparagraph (A) is made. If the taxpayer acquired any building or land from an entity (or any related party to such entity) that holds an ownership interest in the taxpayer, then such entity must also have acquired such property within such 3-year period, and the acquisition cost included under subparagraph (A) with respect to the taxpayer shall not exceed the amount such entity paid or incurred to acquire such property.

''(c) QUALIFIED RESIDENCE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified residence' means a residence that—

''(A) is real property affixed on a permanent foundation,

''(B) is—

''(i) a house which is comprised of 4 or fewer residential units,

''(ii) a condominium unit, or

''(iii) a house or an apartment owned by a cooperative housing corporation (as defined in section 216(b)),

1 ''(C) is part of a qualified project with re-
2 spect to the neighborhood homes credit agency
3 has made an allocation under subsection (e),
4 and
5 ''(D) is located in a qualified census tract
6 (determined as of the date of such allocation).
7 ''(2) QUALIFIED CENSUS TRACT.—
8 ''(A) IN GENERAL.—The term 'qualified
9 census tract' means a census tract—
10 ''(i) which—
11 ''(I) has a median family income
12 which does not exceed 80 percent of
13 the median family income for the ap-
14 plicable area,
15 ''(II) has a poverty rate that is
16 not less than 130 percent of the pov-
17 erty rate of the applicable area, and
18 ''(III) has a median value for
19 owner-occupied homes that does not
20 exceed the median value for owner-oc-
21 cupied homes in the applicable area,
22 ''(ii) which—
23 ''(I) is located in a city which has
24 a population of not less than 50,000
25 and such city has a poverty rate that

is not less than 150 percent of the poverty rate of the applicable area,

''(II) has a median family income which does not exceed the median family income for the applicable area, and

''(III) has a median value for owner-occupied homes that does not exceed 80 percent of the median value for owner-occupied homes in the applicable area,

''(iii) which—

''(I) is located in a nonmetropolitan county,

''(II) has a median family income which does not exceed the median family income for the applicable area, and

''(III) has been designated by a neighborhood homes credit agency under this clause, or

''(iv) which is not otherwise a qualified census tract and is located in a disaster area (as defined in section 7508A(d)(3)), but only with respect to

1 credits allocated in any period during
2 which the President of the United States
3 has determined that such area warrants in-
4 dividual or individual and public assistance
5 by the Federal Government under the Rob-
6 ert T. Stafford Disaster Relief and Emer-
7 gency Assistance Act.
8 ''(B) APPLICABLE AREA.—The term 'appli-
9 cable area' means—
10 ''(i) in the case of a metropolitan cen-
11 sus tract, the metropolitan area in which
12 such census tract is located, and
13 ''(ii) in the case of a census tract
14 other than a census tract described in
15 clause (i), the State.
16 ''(d) AFFORDABLE SALE.—For purposes of this sec-
17 tion—
18 ''(1) IN GENERAL.—The term 'affordable sale'
19 means a sale to a qualified homeowner of a qualified
20 residence that the neighborhood homes credit agency
21 certifies as meeting the standards promulgated
22 under subsection (f)(1)(D) for a price that does not
23 exceed—
24 ''(A) in the case of any qualified residence
25 not described in subparagraph (B), (C), or (D),

the amount equal to the product of 4 multiplied by the median family income for the applicable area (as determined pursuant to the most recent census data available as of the date of the contract for such sale),

"(B) in the case of a house comprised of 2 residential units, 125 percent of the amount described in subparagraph (A),

"(C) in the case of a house comprised of 3 residential units, 150 percent of the amount described in subparagraph (A), or

"(D) in the case of a house comprised of 4 residential units, 175 percent of the amount described in subparagraph (A).

"(2) QUALIFIED HOMEOWNER.—The term 'qualified homeowner' means, with respect to a qualified residence, an individual—

"(A) who owns and uses such qualified residence as the principal residence of such individual, and

"(B) whose family income (determined as of the date that a binding contract for the affordable sale of such residence is entered into) is 140 percent or less of the median family in-

1 come for the applicable area in which the quali-
2 fied residence is located.
3 ''(e) CREDIT CEILING AND ALLOCATIONS.—
4 ''(1) CREDIT LIMITED BASED ON ALLOCATIONS
5 TO QUALIFIED PROJECTS.—
6 ''(A) IN GENERAL.—The credit allowed
7 under subsection (a) to any taxpayer for any
8 taxable year with respect to one or more quali-
9 fied residences which are part of the same
10 qualified project shall not exceed the excess (if
11 any) of—
12 ''(i) the amount allocated by the
13 neighborhood homes credit agency under
14 this paragraph to such taxpayer with re-
15 spect to such qualified project, over
16 ''(ii) the aggregate amount of credit
17 allowed under subsection (a) to such tax-
18 payer with respect to qualified residences
19 which are a part of such qualified project
20 for all prior taxable years.
21 ''(B) DEADLINE FOR COMPLETION.—No
22 credit shall be allowed under subsection (a)
23 with respect to any qualified residence unless
24 the affordable sale of such residence is during
25 the 5-year period beginning on the date of the

allocation to the qualified project of which such residence is a part (or, in the case of a qualified residence to which subsection (i) applies, the rehabilitation of such residence is completed during such 5-year period).

"(2) LIMITATIONS ON ALLOCATIONS TO QUALIFIED PROJECTS.—

"(A) ALLOCATIONS LIMITED BY STATE NEIGHBORHOOD HOMES CREDIT CEILING.—The aggregate amount allocated to taxpayers with respect to qualified projects by the neighborhood homes credit agency of any State for any calendar year shall not exceed the State neighborhood homes credit amount of such State for such calendar year.

"(B) SET-ASIDE FOR CERTAIN PROJECTS INVOLVING QUALIFIED NONPROFIT ORGANIZATIONS.—Rules similar to the rules of section 42(h)(5) shall apply for purposes of this section.

"(3) DETERMINATION OF STATE NEIGHBORHOOD HOMES CREDIT CEILING.—

"(A) IN GENERAL.—The State neighborhood homes credit amount for a State for a calendar year is an amount equal to the sum of—

1 "(i) the greater of—
2 "(I) the product of $6, multiplied
3 by the State population (determined
4 in accordance with section 146(j)), or
5 "(II) $8,000,000, and
6 "(ii) any amount previously allocated
7 to any taxpayer with respect to any quali-
8 fied project by the neighborhood homes
9 credit agency of such State which can no
10 longer be allocated to any qualified resi-
11 dence because the 5-year period described
12 in paragraph (1)(B) expires during cal-
13 endar year.
14 "(B) 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

amount originally arose, determined on a first-in, first-out basis.

"(f) RESPONSIBILITIES OF NEIGHBORHOOD HOMES CREDIT AGENCIES.—

"(1) IN GENERAL.—Notwithstanding subsection (e), the State neighborhood homes credit dollar amount shall be zero for a calendar year unless the neighborhood homes credit agency of the State—

"(A) allocates such amount pursuant to a qualified allocation plan of the neighborhood homes credit agency,

"(B) allocates not more than 20 percent of amounts allocated in the previous year (or for allocations made in 2022, not more than 20 percent of the neighborhood homes credit ceiling for such year) to projects with respect to qualified residences which—

"(i) are located in census tracts described in subsection (c)(2)(A)(iii), (c)(2)(A)(iv), (i)(5), or

"(ii) are not located in a qualified census tract but meet the requirements of (i)(8),

"(C) promulgates standards with respect to reasonable qualified development costs and fees,

"(D) promulgates standards with respect to construction quality,

"(E) in the case of any neighborhood homes credit agency which makes an allocation to a qualified project which includes any qualified residence to which subsection (i) applies, promulgates standards with respect to protecting the owners of such residences, including the capacity of such owners to pay rehabilitation costs not covered by the credit provided by this section and providing for the disclosure to such owners of their rights and responsibilities with respect to the rehabilitation of such residences, and

"(F) submits to the Secretary (at such time and in such manner as the Secretary may prescribe) an annual report specifying—

"(i) the amount of the neighborhood homes credits allocated to each qualified project for the previous year,

"(ii) with respect to each qualified residence completed in the preceding calendar year—

"(I) the census tract in which such qualified residence is located,

"(II) with respect to the qualified project that includes such qualified residence, the year in which such project received an allocation under this section,

"(III) whether such qualified residence was new, substantially rehabilitated and sold to a qualified homeowner, or substantially rehabilitated pursuant to subsection (i),

"(IV) the eligible development costs of such qualified residence,

"(V) the amount of the neighborhood homes credit with respect to such qualified residence,

"(VI) the sales price of such qualified residence, if applicable, and

"(VII) the family income of the qualified homeowner (expressed as a percentage of the applicable area me-

dian family income for the location of the qualified residence), and

"(iii) such other information as the Secretary may require.

"(2) QUALIFIED ALLOCATION PLAN.—For purposes of this subsection, the term 'qualified allocation plan' means any plan which—

"(A) sets forth the selection criteria to be used to prioritize qualified projects for allocations of State neighborhood homes credit dollar amounts, including—

"(i) the need for new or substantially rehabilitated owner-occupied homes in the area addressed by the project,

"(ii) the expected contribution of the project to neighborhood stability and revitalization, including the impact on neighborhood residents,

"(iii) the capability and prior performance of the project sponsor, and

"(iv) the likelihood the project will result in long-term homeownership,

"(B) has been made available for public comment, and

"(C) provides a procedure that the neighborhood homes credit agency (or any agent or contractor of such agency) shall follow for purposes of—

"(i) identifying noncompliance with any provisions of this section, and

"(ii) notifying the Internal Revenue Service of any such noncompliance of which the agency becomes aware.

"(g) REPAYMENT.—

"(1) IN GENERAL.—

"(A) SOLD DURING 5-YEAR PERIOD.—If a qualified residence is sold during the 5-year period beginning immediately after the affordable sale of such qualified residence referred to in subsection (a), the seller (with respect to the sale during such 5-year period) shall transfer an amount equal to the repayment amount to the relevant neighborhood homes credit agency.

"(B) USE OF REPAYMENTS.—A neighborhood homes credit agency shall use any amount received pursuant to subparagraph (A) only for purposes of qualified projects.

"(2) REPAYMENT AMOUNT.—For purposes of paragraph (1)(A), the repayment amount is an

amount equal to 50 percent of the gain from the sale to which the repayment relates, reduced by 20 percent for each year of the 5-year period referred to in paragraph (1)(A) which ends before the date of such sale.

"(3) LIEN FOR REPAYMENT AMOUNT.—A neighborhood homes credit agency receiving an allocation under this section shall place a lien on each qualified residence that is built or rehabilitated as part of a qualified project for an amount such agency deems necessary to ensure potential repayment pursuant to paragraph (1)(A).

"(4) DENIAL OF DEDUCTIONS IF CONVERTED TO RENTAL HOUSING.—If, during the 5-year period described in paragraph (1), an individual who owns a qualified residence fails to use such qualified residence as such individual's principal residence for any period of time, no deduction shall be allowed for expenses paid or incurred by such individual with respect to renting, during such period of time, such qualified residence.

"(5) WAIVER.—The neighborhood homes credit agency may waive the repayment required under paragraph (1)(A) in the case of homeowner experiencing a hardship.

1 "(h) OTHER DEFINITIONS AND SPECIAL RULES.—
2 For purposes of this section—
3 "(1) NEIGHBORHOOD HOMES CREDIT AGEN-
4 CY.—The term 'neighborhood homes credit agency'
5 means the agency designated by the governor of a
6 State as the neighborhood homes credit agency of
7 the State.
8 "(2) QUALIFIED PROJECT.—The term 'qualified
9 project' means a project that a neighborhood homes
10 credit agency certifies will build or substantially re-
11 habilitate one or more qualified residences.
12 "(3) DETERMINATIONS OF FAMILY INCOME.—
13 Rules similar to the rules of section 143(f)(2) shall
14 apply for purposes of this section.
15 "(4) POSSESSIONS TREATED AS STATES.—The
16 term 'State' includes the District of Columbia and
17 the possessions of the United States.
18 "(5) SPECIAL RULES RELATED TO CONDOMIN-
19 IUMS AND COOPERATIVE HOUSING CORPORATIONS.—
20 "(A) DETERMINATION OF DEVELOPMENT
21 COSTS.—In the case of a qualified residence de-
22 scribed in clause (ii) or (iii) of subsection
23 (c)(1)(A), the reasonable development costs and
24 eligible development costs of such qualified resi-
25 dence shall be an amount equal to such costs,

respectively, of the entire condominium or cooperative housing property in which such qualified residence is located, multiplied by a fraction—

"(i) the numerator of which is the total floor space of such qualified residence, and

"(ii) the denominator of which is the total floor space of all residences within such property.

"(B) TENANT-STOCKHOLDERS OF COOPERATIVE HOUSING CORPORATIONS TREATED AS OWNERS.—In the case of a cooperative housing corporation (as such term is defined in section 216(b)), a tenant-stockholder shall be treated as owning the house or apartment which such person is entitled to occupy.

"(6) RELATED PARTY SALES NOT TREATED AS AFFORDABLE SALES.—

"(A) IN GENERAL.—A sale between related persons shall not be treated as an affordable sale.

"(B) RELATED PERSONS.—For purposes of this paragraph, a person (in this subparagraph referred to as the 'related person') is related to any person if the related person bears

a relationship to such person specified in section 267(b) or 707(b)(1), or the related person and such person are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52). For purposes of the preceding sentence, in applying section 267(b) or 707(b)(1), '10 percent' shall be substituted for '50 percent'.

''(7) INFLATION ADJUSTMENT.—

''(A) IN GENERAL.—In the case of a calendar year after 2022, the dollar amounts in subsections (b)(3)(A), (e)(3)(A)(i)(I), (e)(3)(A)(i)(II), and (i)(2)(C) shall each be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 2021' for 'calendar year 2016' in subparagraph (A)(ii) thereof.

''(B) ROUNDING.—

''(i) In the case of the dollar amounts in subsection (b)(3)(A) and (i)(2)(C), any increase under paragraph (1) which is not

a multiple of $1,000 shall be rounded to the nearest multiple of $1,000.

"(ii) In the case of the dollar amount in subsection (e)(3)(A)(i)(I), any increase under paragraph (1) which is not a multiple of $0.01 shall be rounded to the nearest multiple of $0.01.

"(iii) In the case of the dollar amount in subsection (e)(3)(A)(i)(II), any increase under paragraph (1) which is not a multiple of $100,000 shall be rounded to the nearest multiple of $100,000.

"(8) REPORT.—

"(A) IN GENERAL.—The Secretary shall annually issue a report, to be made available to the public, which contains the information submitted pursuant to subsection (f)(1)(F).

"(B) DE-IDENTIFICATION.—The Secretary shall ensure that any information made public pursuant to paragraph (1) excludes any information that would allow for the identification of qualified homeowners.

"(9) LIST OF QUALIFIED CENSUS TRACTS.—The Secretary of Housing and Urban Development

shall, for each year, make publicly available a list of qualified census tracts under—

"(A) on a combined basis, clauses (i) and (ii) of subsection (c)(2)(A),

"(B) clause (iii) of such subsection, and

"(C) subsection (i)(5)(A).

"(i) APPLICATION OF CREDIT WITH RESPECT TO OWNER-OCCUPIED REHABILITATIONS.—

"(1) IN GENERAL.—In the case of a qualified rehabilitation by the taxpayer of any qualified residence which is owned (as of the date that the written binding contract referred to in paragraph (3) is entered into) by a specified homeowner, the rules of paragraphs (2) through (7) shall apply.

"(2) ALTERNATIVE CREDIT DETERMINATION.—In the case of any qualified residence described in paragraph (1), the neighborhood homes credit determined under subsection (a) with respect to such residence shall (in lieu of any credit otherwise determined under subsection (a) with respect to such residence) be allowed in the taxable year during which the qualified rehabilitation is completed (as determined by the neighborhood homes credit agency) and shall be equal to the least of—

"(A) the excess (if any) of—

1 ''(i) the amounts paid or incurred by
2 the taxpayer for the qualified rehabilitation
3 of the qualified residence to the extent that
4 such amounts are certified by the neigh-
5 borhood homes credit agency (at the time
6 of the completion of such rehabilitation) as
7 meeting the standards specified pursuant
8 to subsection (f)(1)(C), over
9 ''(ii) any amounts paid to such tax-
10 payer for such rehabilitation,
11 ''(B) 50 percent of the amounts described
12 in subparagraph (A)(i), or
13 ''(C) $50,000.
14 ''(3) QUALIFIED REHABILITATION.—
15 ''(A) IN GENERAL.—For purposes of this
16 subsection, the term 'qualified rehabilitation'
17 means a rehabilitation or reconstruction per-
18 formed pursuant to a written binding contract
19 between the taxpayer and the qualified home-
20 owner if the amount paid or incurred by the
21 taxpayer in the performance of such rehabilita-
22 tion or reconstruction exceeds the dollar
23 amount in effect under subsection (b)(3)(A).
24 ''(B) APPLICATION OF LIMITATION TO EX-
25 PENSES PAID OR INCURRED AFTER ALLOCA-

TION.—A rule similar to the rule of section (b)(4) shall apply for purposes of this subsection.

"(4) SPECIFIED HOMEOWNER.—For purposes of this subsection, the term 'qualified homeowner' means, with respect to a qualified residence, an individual—

"(A) who owns and uses such qualified residence as the principal residence of such individual as of the date that the written binding contract referred to in paragraph (3) is entered into, and

"(B) whose family income (determined as of such date) does not exceed the median family income for the applicable area (with respect to the census tract in which the qualified residence is located).

"(5) ADDITIONAL CENSUS TRACTS IN WHICH OWNER-OCCUPIED RESIDENCES MAY BE LOCATED.—In the case of any qualified residence described in paragraph (1), the term 'qualified census tract' includes any census tract which—

"(A) meets the requirements of subsection (c)(2)(A)(i) without regard to subclause (III) thereof, and

"(B) is designated by the neighborhood homes credit agency for purposes of this paragraph.

"(6) MODIFICATION OF REPAYMENT REQUIREMENT.—In the case of any qualified residence described in paragraph (1), subsection (g) shall be applied by beginning the 5-year period otherwise described therein on the date on which the qualified owner acquired the residence.

"(7) RELATED PARTIES.—Paragraph (1) shall not apply if the taxpayer is the owner of the qualified residence described in paragraph (1) or is related (within the meaning of subsection (h)(6)(B)) to such owner.

"(8) PYRRHOTITE REMEDIATION.—The requirement of subsection (c)(1)(C) shall not apply to a qualified rehabilitation under this subsection of a qualified residence that is documented by an engineer's report and core testing to have a foundation that is adversely impacted by pyrrhotite or other iron sulfide minerals.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regula-

tions that prevent avoidance of the rules, and abuse of the purposes, of this section.''.

(b) CREDIT ALLOWED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b), as amended by the preceding provisions of this Act, is amended by striking ''plus'' at the end of paragraph (34), by striking the period at the end of paragraph (35) and inserting '', plus'', and by adding at the end the following new paragraph:

''(36) the neighborhood homes credit determined under section 42A(a),''.

(c) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—Section 38(c)(4)(B), as amended by the preceding provisions of this Act, is amended by redesginating clauses (iv) through (xiii) as clauses (v) through (xiv), respectively, and by inserting after clause (iii) the following new clause:

''(iv) the credit determined under section 42A,''.

(d) CONFORMING AMENDMENTS.—

(1) Subsections (i)(3)(C), (i)(6)(B)(i), and (k)(1) of section 469 are each amended by inserting ''or 42A'' after ''section 42''.

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by in-

serting after the item relating to section 42 the following new item:

"Sec. 42A. Neighborhood homes credit.".

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

PART 6—INVESTMENTS IN TRIBAL INFRASTRUCTURE

SEC. 135601. TREATMENT OF INDIAN TRIBES AS STATES WITH RESPECT TO BOND ISSUANCE.

(a) IN GENERAL.—Section 7871(c) is amended to read as follows:

"(c) SPECIAL RULES FOR TAX-EXEMPT BONDS.—

"(1) IN GENERAL.—In applying section 146 to bonds issued by Indian Tribal Governments the Secretary shall annually—

"(A) establish a national bond volume cap based on the greater of—

"(i) the State population formula approach in section 146(d)(1)(A) (using national Tribal population estimates supplied annually by the Department of the Interior in consultation with the Census Bureau), and

"(ii) the minimum State ceiling amount in section 146(d)(1)(B) (as ad-

1 justed in accordance with the cost of living
2 provision in section 146(d)(2)),
3 ''(B) allocate such national bond volume
4 cap among all Indian Tribal Governments seek-
5 ing such an allocation in a particular year
6 under regulations prescribed by the Secretary.
7 ''(2) APPLICATION OF GEOGRAPHIC RESTRIC-
8 TION.—In the case of national bond volume cap allo-
9 cated under paragraph (1), section 146(k)(1) shall
10 not apply to the extent that such cap is used with
11 respect to financing for a facility located on qualified
12 Indian lands.
13 ''(3) RESTRICTION ON FINANCING OF CERTAIN
14 GAMING FACILITIES.—No portion of the volume cap
15 allocated under this subsection may be used with re-
16 spect to the financing of any portion of a building
17 in which class II or class III gaming (as defined in
18 section 4 of the Indian Gaming Regulatory Act) is
19 conducted or housed or any property actually used
20 in the conduct of such gaming.
21 ''(4) DEFINITIONS AND SPECIAL RULES.—For
22 purposes of this subsection—
23 ''(A) INDIAN TRIBAL GOVERNMENT.—The
24 term 'Indian Tribal Government' means the
25 governing body of an Indian Tribe, band, na-

tion, or other organized group or community, or of Alaska Natives, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, and also includes any agencies, instrumentalities or political subdivisions thereof.

"(B) INTERTRIBAL CONSORTIUMS, ETC.—In any case in which an Indian Tribal Government has authorized an intertribal consortium, a Tribal organization, or an Alaska Native regional or village corporation, as defined in, or established pursuant to, the Alaska Native Claims Settlement Act, to plan for, coordinate or otherwise administer services, finances, functions, or activities on its behalf under this subsection, the authorized entity shall have the rights and responsibilities of the authorizing Indian Tribal Government only to the extent provided in the Authorizing resolution.

"(C) QUALIFIED INDIAN LANDS.—The term 'qualified Indian lands' shall mean an Indian reservation as defined in section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), including lands which are within the

jurisdictional area of an Oklahoma Indian Tribe (as determined by the Secretary of the Interior) and shall include lands outside a reservation where the facility is to be placed in service in connection with—

"(i) the active conduct of a trade or business by an Indian Tribe on, contiguous to, within reasonable proximity of, or with a substantial connection to, an Indian reservation or Alaska Native village, or

"(ii) infrastructure (including roads, power lines, water systems, railroad spurs, and communication facilities) serving an Indian reservation or Alaska Native village.".

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 45(c)(9) is amended to read as follows:

"(B) INDIAN TRIBE.—For purposes of this paragraph, the term 'Indian tribe' has the meaning given the term 'Indian Tribal Government' by section 7871(c)(3)(A).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued in calendar years beginning after the date of the enactment of this Act.

SEC. 135602. NEW MARKETS TAX CREDIT FOR TRIBAL STATISTICAL AREAS.

(a) ADDITIONAL ALLOCATIONS FOR TRIBAL STATISTICAL AREAS.—Section 45D(f), as amended by the preceding provisions of this Act, is amended by adding at the end the following new paragraph:

"(5) ADDITIONAL ALLOCATIONS FOR TRIBAL STATISTICAL AREAS.—

"(A) IN GENERAL.—In the case of each calendar year after 2021, there is (in addition to any limitation under any other paragraph of this subsection) a new markets tax credit limitation of $175,000,000 which shall be allocated by the Secretary as provided in paragraph (2) except that such limitation may only be allocated with respect to Tribal Statistical Areas.

"(B) CARRYOVER OF UNUSED TRIBAL STATISTICAL AREA LIMITATION.—

"(i) IN GENERAL.—If the credit limitation under subparagraph (A) for any calendar year exceeds the amount of such limitation allocated by the Secretary for such calendar year, such limitation for the succeeding calendar year shall be increased by the amount of such excess.

"(ii) LIMITATION ON CARRYOVER.—No amount of credit limitation may be carried under clause (i) past the 5th calendar year following the calendar year in which such amount of credit limitation arose.

"(iii) TRANSFER OF EXPIRED TRIBAL STATISTICAL AREA LIMITATION TO GENERAL LIMITATION.—In the case of any amount of credit limitation which would (but for clause (ii)) be carried under clause (i) to the 6th calendar year following the calendar year in which such amount of credit limitation arose, the new market tax credit limitation under paragraph (1) for such 6th calendar year shall be increased by the amount of such credit limitation.

"(C) TRIBAL STATISTICAL AREA.—For purposes of this paragraph, the term 'Tribal Statistical Area' means—

"(i) any low-income community which is located in any Tribal Census Tract, Oklahoma Tribal Statistical Area, Tribal-Designated Statistical Area, Alaska Native Village Statistical Area, or Hawaiian Home Land, and

"(ii) any low-income community described in subsection (e)(1)(B).".

(b) ELIGIBILITY OF CERTAIN PROJECTS SERVING TRIBAL MEMBERS.—Section 45D(e)(1) is amended to read as follows:

"(1) IN GENERAL.—The term 'low-income community' means any area—

"(A) comprising a population census tract if—

"(i) the poverty rate for such tract is at least 20 percent, or

"(ii)(I) in the case of a tract not located within a metropolitan area, the median family income for such tract does not exceed 80 percent of statewide median family income, or

"(II) in the case of a tract located within a metropolitan area, the median family income for such tract does not exceed 80 percent of the greater of statewide median family income or the metropolitan area median family income,

"(B) which is used for a qualified active low-income community business which—

"(i) services a significant population of Tribal or Alaska Native Village members who are residents of a low-income community described in subsection (f)(5)(C)(i), and

"(ii) obtains a written statement from the relevant Indian Tribal Government (within the meaning of section 7871(c)) that documents the eligibility such project with respect to the requirement of clause (i).

Subparagraph (A)(ii) shall be applied using possession wide median family income in the case of census tracts located within a possession of the United States.".

(c) APPLICATION OF INFLATION ADJUSTMENT.—Section 45D(f)(4), as added by the preceding provisions of this Act, is amended by striking "the dollar amount paragraph (1)(H) shall be increased" and inserting "the dollar amounts in paragraphs (1)(H) and (5)(A) shall each be increased".

(d) COORDINATION WITH EXISTING CARRYOVER.—Section 45D(f)(3), as amended by the preceding provisions of this Act, is amended to read as follows:

1 "(3) CARRYOVER OF UNUSED LIMITATION.—If
2 the new markets tax credit limitation under para-
3 graph (1) for any calendar year exceeds the amount
4 of such limitation allocated by the Secretary under
5 paragraph (2) for such year, such limitation for the
6 succeeding calendar year shall be increased by the
7 amount of such excess.".

8 (e) REGULATORY AUTHORITY.—Section 45D(i) is
9 amended by striking "and" at the end of paragraph (5),
10 by striking the period at the end of paragraph (6) and
11 inserting ", and", and by adding at the end the following
12 new paragraph:

13 "(7) which provide documentation requirements
14 for the written statement required under subsection
15 (e)(1)(B)(ii), and

16 "(8) which provide procedures for determining
17 which projects under subsection (e)(1)(B) are quali-
18 fied active low-income community businesses with re-
19 spect to the populations described in such sub-
20 section. Such procedures shall take into account the
21 location needs of such projects, especially with re-
22 spect to projects that serve multiple tribal or Alaska
23 Native Village communities.".

24 (f) EFFECTIVE DATE.—The amendments made by
25 this section shall apply to new markets tax credit limita-

tion determined for calendar years after December 31, 2021.

SEC. 135603. INCLUSION OF INDIAN AREAS AS DIFFICULT DEVELOPMENT AREAS FOR PURPOSES OF CERTAIN BUILDINGS.

(a) IN GENERAL.—Subclause (I) of section 42(d)(5)(B)(iii), as amended by the preceding provisions of this Act, is amended by inserting ", any Indian area" after "median gross income".

(b) INDIAN AREA.—Clause (iii) of section 42(d)(5)(B), as amended by the preceding provisions of this Act is amended by redesignating subclause (III) as subclause (V) and by inserting after subclause (II) the following new subclauses:

"(III) INDIAN AREA.—For purposes of subclause (I), the term 'Indian area' means any Indian area (as defined in section 4(11) of the Native American Housing Assistance and Self Determination Act of 1996 (25 U.S.C. 4103(11))).

"(IV) SPECIAL RULE FOR BUILDINGS IN INDIAN AREAS.—In the case of an area which is a difficult development area solely because it is an In-

dian area, a building shall not be treated as located in such area unless such building is assisted or financed under the Native American Housing Assistance and Self Determination Act of 1996 (25 U.S.C. 4101 et seq.) or the project sponsor is an Indian tribe (as defined in section 45A(c)(6)), a tribally designated housing entity (as defined in section 4(22) of such Act (25 U.S.C. 4103(22))), or wholly owned or controlled by such an Indian tribe or tribally designated housing entity.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to buildings placed in service after December 31, 2021.

PART 7—INVESTMENTS IN THE TERRITORIES

SEC. 135701. POSSESSIONS ECONOMIC ACTIVITY CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1, as amended by the preceding provisions of this Act, is amended by adding at the end the following new section:

1 **"SEC. 45V. POSSESSIONS ECONOMIC ACTIVITY CREDIT.**

2 "(a) ALLOWANCE OF CREDIT.—For purposes of sec-
3 tion 38, in the case of a qualified domestic corporation
4 the possessions economic activity credit determined under
5 this section for a taxable year is an amount equal to 20
6 percent of the sum of the qualified possession wages and
7 allocable employee fringe benefit expenses paid or incurred
8 by the taxpayer for the taxable year.

9 "(b) QUALIFIED DOMESTIC CORPORATION; QUALI-
10 FIED CORPORATION.—For purposes of this section—

11 "(1) IN GENERAL.—The term 'qualified domes-
12 tic corporation' means any domestic corporation
13 which is—

14 "(A) a qualified corporation, or

15 "(B) a United States shareholder of a for-
16 eign corporation which—

17 "(i) is a qualified corporation, and

18 "(ii) is wholly owned by the United
19 States shareholder together with any cor-
20 porations which are members of the same
21 affiliated group (within the meaning of sec-
22 tion 1504(a)) as such United States share-
23 holder.

24 "(2) QUALIFIED CORPORATION.—The term
25 'qualified corporation' means any corporation if such
26 corporation meets the following requirements:

"(A) SOURCE QUALIFICATION.—80 percent or more of the gross income of the corporation for the 3-year period immediately preceding the close of the taxable year (or for such part of such period immediately preceding the close of such taxable year as may be applicable) was derived from sources within a possession of the United States (determined without regard to section 904(f)).

"(B) TRADE OR BUSINESS QUALIFICATION.—75 percent or more of the gross income of the corporation for such period or such part thereof was derived from the active conduct of a trade or business within a possession of the United States.

"(3) SPECIAL RULE FOR SEPARATE AND CLEARLY IDENTIFIED UNITS OF FOREIGN CORPORATIONS.—

"(A) IN GENERAL.—In the case of a United States shareholder of a foreign corporation which—

"(i) is not a qualified corporation but with respect to which the ownership requirements of paragraph (1)(B)(ii) are met, and

"(ii) has an eligible foreign business unit which, if such unit were a corporation, would be a qualified corporation with respect to which such ownership requirements would be met,

then, for purposes of this section, the United States shareholder may elect to treat such unit as a separate foreign corporation which meets the requirements of paragraph (1)(B) and with respect to which such shareholder is a United States shareholder.

"(B) ELIGIBLE FOREIGN BUSINESS UNIT.—For purposes of this paragraph, the term 'eligible foreign business unit' means a separate and clearly identified foreign unit of a trade or business, including a partnership or an entity treated as disregarded as a separate entity from its owner (under section 7701 or other provision under this title), which maintains separate books and records.

"(C) SPECIAL ELECTION FOR AFFILIATED GROUPS.—In the case of an affiliated group described in paragraph (1)(B)(ii), the election under subparagraph (A) with respect to any eligible foreign business unit shall be made by the

common parent of such group and shall apply uniformly to all members of such group which are United States shareholders with respect to the foreign corporation which has such unit.

"(c) QUALIFIED POSSESSION WAGES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified possession wages' means wages paid or incurred by the qualified corporation during the taxable year in connection with the active conduct of a trade or business within a possession of the United States to any employee for services performed in such possession, but only if such services are performed while the principal place of employment of such employee is within such possession.

"(2) LIMITATION ON AMOUNT OF WAGES TAKEN INTO ACCOUNT.—

"(A) IN GENERAL.—The amount of wages which may be taken into account under paragraph (1) with respect to any employee for any taxable year shall not exceed $50,000.

"(B) TREATMENT OF PART-TIME EMPLOYEES, ETC.—If—

"(i) any employee is not employed by the qualified corporation on a substantially

full-time basis at all times during the taxable year, or

"(ii) the principal place of employment of any employee with the qualified corporation is not within a possession at all times during the taxable year,

the limitation applicable under paragraph (1) with respect to such employee shall be the appropriate portion (as determined by the Secretary) of the limitation which would otherwise be in effect under paragraph (1).

"(C) WAGES.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'wages' has the meaning given to such term by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section). For purposes of the preceding sentence, such subsection (b) shall be applied as if the term 'United States' included all possessions of the United States.

"(ii) SPECIAL RULE FOR AGRICULTURAL LABOR AND RAILWAY LABOR.—In any case to which subparagraph (A) or (B)

of paragraph (1) of section 51(h) applies, the term 'wages' has the meaning given to such term by section 51(h)(2).

"(3) ALLOCABLE EMPLOYEE FRINGE BENEFIT EXPENSES.—

"(A) IN GENERAL.—The allocable employee fringe benefit expenses of any qualified corporation for any taxable year is an amount which bears the same ratio to the amount determined under subparagraph (B) for such taxable year as—

"(i) the aggregate amount of the qualified corporation's qualified possession wages for such taxable year, bears to

"(ii) the aggregate amount of the wages paid or incurred by such qualified corporation during such taxable year.

In no event shall the amount determined under the preceding sentence exceed 15 percent of the amount referred to in clause (i).

"(B) EXPENSES TAKEN INTO ACCOUNT.—For purposes of subparagraph (A), the amount determined under this subparagraph for any taxable year is the aggregate amount allowable (or, in the case of a foreign corporation, which

would be allowable if such foreign corporation were a domestic corporation) as a deduction under this chapter to the qualified corporation for such taxable year with respect to—

"(i) employer contributions under a stock bonus, pension, profit-sharing, or annuity plan,

"(ii) employer-provided coverage under any accident or health plan for employees, and

"(iii) the cost of life or disability insurance provided to employees.

Any amount treated as wages under paragraph (2)(C) shall not be taken into account under this subparagraph.

"(d) SPECIAL RULE FOR QUALIFIED SMALL DOMESTIC CORPORATION.—For purposes of this section—

"(1) INCREASED CREDIT PERCENTAGE.—In the case of a qualified small domestic corporation, subsection (a) shall be applied by substituting '50 percent' for '20 percent'.

"(2) QUALIFIED SMALL DOMESTIC CORPORATION.—

"(A) IN GENERAL.—The term 'qualified small domestic corporation' means a qualified

domestic corporation that meets the requirements of subparagraphs (B) and (C).

"(B) FULL-TIME EMPLOYMENT.—A qualified domestic corporation meets the requirements of this subparagraph if the qualified corporation which is the qualified domestic corporation under subsection (b)(1)(A) or the foreign corporation under subsection (b)(1)(B)(i)—

"(i) has at least 5 full-time employees in a possession of the United States for each year in the 3-year period immediately preceding the close of the taxable year (or for such part of such period immediately preceding the close of such taxable year as may be applicable), and

"(ii) has not more than a total of 30 full-time employees for each year in such 3-year period.

"(C) GROSS RECEIPTS.—A qualified domestic corporation meets the requirements of this subparagraph if the annual gross receipts of the qualified domestic corporation (and all persons related thereto) for each year in such 3-year period is not more than $50,000,000.

"(3) RELATED PERSONS.—In determining whether the limitations under subparagraphs (B)(ii) and (C) of paragraph (2) are met, all persons who are treated as related to the qualified domestic corporation for purposes of subsection (a) or (b) of section 52 shall be taken into account.

"(4) AMOUNT OF WAGES TAKEN INTO ACCOUNT.—Subsection (c)(2)(A) shall be applied by substituting '$139,500' for '$50,000'.

"(e) POSSESSION OF THE UNITED STATES.—

"(1) IN GENERAL.—The term 'possession of the United States' means American Samoa, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

"(2) MIRROR CODE POSSESSIONS.—In the case of any possession of the United States with a mirror code tax system (as defined in section 24(k)), this section shall not be treated as part of the income tax laws of the United States for purposes of determining the income tax law of such possession unless such possession elects to have this section be so treated.

"(f) SEPARATE APPLICATION TO EACH POSSESSION.—For purposes of determining the amount of the

1 credit allowed under this section, this section shall be ap-
2 plied separately with respect to each possession of the
3 United States.

4 ''(g) TERMINATION.—No credit shall be allowed
5 under this section for any taxable year beginning after De-
6 cember 31, 2031.''.

7 (b) CREDIT MADE PART OF GENERAL BUSINESS
8 CREDIT.—Subsection (b) of section 38, as amended by the
9 preceding provisions of this Act, is amended by striking
10 ''plus'' at the end of paragraph (35), by striking the period
11 at the end of paragraph (36) and inserting '', plus'', and
12 by adding at the end the following new paragraph:

13 ''(37) the possessions economic activity credit
14 determined under section 45V.''.

15 (c) CLERICAL AMENDMENT.—The table of sections
16 for subpart B of part IV of subchapter A of chapter 1
17 is amended by adding at the end the following:

''Sec. 45V. Possessions Economic Activity Credit.''.

18 (d) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to taxable years beginning after
20 the date of the enactment of this Act, and in the case
21 of a qualified corporation that is a foreign corporation,
22 to taxable years beginning after the date of enactment and
23 to taxable years of United States shareholders in which
24 or with which such taxable years of foreign corporations
25 end.

SEC. 135702. ADDITIONAL NEW MARKETS TAX CREDIT ALLOCATIONS FOR THE TERRITORIES.

(a) IN GENERAL.—Section 45D(f), as amended by the preceding provisions of this Act, is amended by adding at the end the following new paragraph:

"(6) ADDITIONAL ALLOCATIONS FOR POSSESSIONS OF THE UNITED STATES.—

"(A) IN GENERAL.—In the case of each calendar year after 2021, there is (in addition to the limitation under paragraph (1)—

"(i) a new markets tax credit limitation of $80,000,000 which shall be allocated by the Secretary as provided in paragraph (2) except that such limitation may only be allocated with respect to low-income communities located in Puerto Rico, and

"(ii) a new markets tax credit limitation of $20,000,000 which shall be allocated by the Secretary as provided in paragraph (2) except that such limitation may only be allocated with respect to low-income communities located in possessions of the United States other than Puerto Rico.

"(B) CARRYOVER OF UNUSED LIMITATION.—

"(i) IN GENERAL.—If the credit limitation under clause (i) or clause (ii) of subparagraph (A) for any calendar year exceeds the amount of such limitation allocated by the Secretary for such calendar year, such limitation for the succeeding calendar year shall be increased by the amount of such excess.

"(ii) LIMITATION ON CARRYOVER.—No amount of credit limitation may be carried under clause (i) past the 5th calendar year following the calendar year in which such amount of credit limitation arose.

"(iii) TRANSFER OF EXPIRED POSSESSION LIMITATION TO GENERAL LIMITATION.—In the case of any amount of credit limitation which would (but for clause (ii)) be carried under clause (i) to the 6th calendar year following the calendar year in which such amount of credit limitation arose, the new market tax credit limitation under paragraph (1) for such 6th calendar year shall be increased by the amount of such credit limitation.".

(b) APPLICATION OF INFLATION ADJUSTMENT.—Section 45D(f)(4), as added and amended by the preceding provisions of this Act, is amended by striking ''paragraphs (1)(H) and (5)(A)'' and inserting ''paragraphs (1)(H), (5)(A), (6)(A)(i), and (6)(A)(ii)''.

(c) EFFECTIVE DATES.—The amendments made by this section shall apply to new markets tax credit limitation determined for calendar years after December 31, 2021.

Subtitle G—Green Energy

SEC. 136001. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

PART 1—RENEWABLE ELECTRICITY AND REDUCING CARBON EMISSIONS

SEC. 136101. EXTENSION AND MODIFICATION OF CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

(a) IN GENERAL.—The following provisions of section 45(d) are each amended by striking ''January 1,

2022'' each place it appears and inserting ''January 1, 2034'':

(1) Paragraph (2)(A).

(2) Paragraph (3)(A).

(3) Paragraph (4)(B).

(4) Paragraph (6).

(5) Paragraph (7).

(6) Paragraph (9).

(7) Paragraph (11)(B).

(b) APPLICATION OF EXTENSION TO SOLAR.—Section 45(d)(4)(A) is amended by striking ''is placed in service before January 1, 2006'' and inserting ''the construction of which begins before January 1, 2034.''.

(c) EXTENSION OF ELECTION TO TREAT QUALIFIED FACILITIES AS ENERGY PROPERTY.—Section 48(a)(5)(C)(ii) is amended by striking ''January 1, 2022'' and inserting ''January 1, 2034''.

(d) APPLICATION OF EXTENSION TO WIND FACILITIES.—

(1) IN GENERAL.—Section 45(d)(1) is amended by striking ''January 1, 2022'' and inserting ''January 1, 2034''.

(2) APPLICATION OF PHASEOUT PERCENTAGE.—

(A) RENEWABLE ELECTRICITY PRODUCTION CREDIT.—Section 45(b)(5)(D) is amended by inserting ''placed in service before January 1, 2022'' after ''In the case of any facility''.

(B) ENERGY CREDIT.—Section 48(a)(5)(E)(iv) is amended by inserting ''placed in service before January 1, 2022'' after ''In the case of any facility''.

(3) QUALIFIED OFFSHORE WIND FACILITIES UNDER ENERGY CREDIT.—Section 48(a)(5)(F)(i) is amended by striking ''offshore wind facility—'' and all that follows and inserting the following: ''offshore wind facility, subparagraph (E) shall not apply.''.

(e) PERCENTAGE PHASEOUT OF CREDIT.—Section 45(b) is amended by adding at the end the following new paragraph:

''(6) PERCENTAGE PHASEOUT OF CREDIT.—In the case of any facility, the amount of the credit determined under subsection (a) shall be reduced by—

''(A) in the case of any facility the construction of which begins after December 31, 2031 and before January 1, 2033, 20 percent,

''(B) in the case of any facility the construction of which begins after December 31,

2032 and before January 1, 2034, 40 percent, and

"(C) in the case of any facility the construction of which begins after December 31, 2033, 100 percent.".

(f) WAGE AND APPRENTICESHIP REQUIREMENTS.—Section 45(b) is amended by adding at the end the following new paragraphs:

"(7) BASE CREDIT AMOUNT AND INCREASED CREDIT AMOUNT FOR QUALIFIED FACILITIES.—

"(A) IN GENERAL.—In the case of any qualified facility which does not satisfy the requirements of subparagraph (B), the amount of the credit determined under subsection (a) (determined after the application of paragraphs (1) through (6)) shall be 20 percent of such amount (determined without regard to this sentence).

"(B) INCREASED CREDIT FOR CERTAIN FACILITIES MEETING PROJECT REQUIREMENTS.—

"(i) IN GENERAL.—In the case of any qualified facility which meets the project requirements of this subparagraph, subparagraph (A) shall not apply.

"(ii) PROJECT REQUIREMENTS.—A project meets the requirements of this subparagraph if it is one of the following:

"(I) A project with a maximum net output of less than 1 megawatt.

"(II) A project which commences construction prior to the date of the enactment of this paragraph.

"(III) A project which satisfies the requirements of paragraphs (8) and (9).

"(8) PREVAILING WAGE REQUIREMENTS.—

"(A) IN GENERAL.—The requirements described in this subparagraph with respect to any qualified facility are that the taxpayer shall ensure that any laborers and mechanics employed by contractors and subcontractors in—

"(i) the construction of such facility, and

"(ii) for the 10-year period beginning on the date the facility was originally placed in service, the alteration or repair of such facility,

shall be paid wages at rates not less than the prevailing rates for construction, alteration, or

1 repair of a similar character in the locality as
2 most recently determined by the Secretary of
3 Labor, in accordance with subchapter IV of
4 chapter 31 of title 40, United States Code.
5 ''(B) CORRECTION AND PENALTY RELATED
6 TO FAILURE TO SATISFY WAGE REQUIRE-
7 MENTS.—
8 ''(i) IN GENERAL.—In the case of any
9 taxpayer which fails to satisfy the require-
10 ment under subparagraph (A) with respect
11 to the construction of any qualified facility
12 or with respect to the alteration or repair
13 of a facility in any year during the period
14 described in subparagraph (A)(ii), such
15 taxpayer shall be deemed to have satisfied
16 such requirement under such subparagraph
17 with respect to such facility for any year if,
18 with respect to any laborer or mechanic
19 who was paid wages at a rate below the
20 rate described in such subparagraph for
21 any period during such year, such tax-
22 payer—
23 ''(I) makes payment to such la-
24 borer or mechanic in an amount equal
25 to the sum of—

"(aa) an amount equal to the difference between the amount of wages paid to such laborer or mechanic during such period, and—

"(AA) the amount of wages required to be paid to such laborer or mechanic pursuant to such subparagraph during such period, plus

"(BB) interest on the amount determined under item (aa) at the underpayment rate established under section 6621 for the period described in such item, and

"(II) makes payment to the Secretary of a penalty in an amount equal to the product of—

"(aa) $5,000, multiplied by

"(bb) the total number of laborers and mechanics who were paid wages at a rate below the

rate described in subparagraph (A) for any period during such year.

"(ii) PENALTY ASSESSED AS TAX.—The penalty described in clause (i)(II) shall be treated in the same manner as a penalty imposed under subchapter B of chapter 68.

"(9) APPRENTICESHIP REQUIREMENTS.—The requirements described in this subparagraph with respect to the construction of any qualified facility are as follows:

"(A) LABOR HOURS.—

"(i) PERCENTAGE OF TOTAL LABOR HOURS.—All contractors and subcontractors engaged in the performance of construction, alteration, or repair work on any project shall, subject to subparagraph (B), ensure that not less than the applicable percentage of the total labor hours of such work be performed by qualified apprentices.

"(ii) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage shall be—

"(I) in the case of any applicable project the construction of which begins before January 1, 2023, 5 percent,

"(II) in the case of any applicable project the construction of which begins after December 31, 2022, and before January 1, 2024, 10 percent, and

"(III) in the case of any applicable project the construction of which begins after December 31, 2023, 15 percent.

"(B) APPRENTICE TO JOURNEYWORKER RATIO.—The requirement under subparagraph (A)(i) shall be subject to any applicable requirements for apprentice-to-journeyworker ratios of the Department of Labor or the applicable State apprenticeship agency.

"(C) PARTICIPATION.—Each contractor and subcontractor who employs 4 or more individuals to perform construction, alteration, or repair work on an applicable project shall employ 1 or more qualified apprentices to perform such work.

"(D) EXCEPTION.—

"(i) IN GENERAL.—Notwithstanding any other provision of this paragraph, this paragraph shall not apply in the case of a taxpayer who—

"(I) demonstrates a lack of availability of qualified apprentices in the geographic area of the construction, alteration, or repair work, and

"(II) makes a good faith effort to comply with the requirements of this paragraph, or

"(ii) GOOD FAITH EFFORT.—For purposes of clause (i), a taxpayer shall be deemed to have satisfied the requirements under such paragraph with respect to an applicable project if such taxpayer has requested qualified apprentices from a registered apprenticeship program, as defined in section 3131(e)(3)(B), and such request has been denied, provided that such denial is not the result of a refusal by the contractors or subcontractors engaged in the performance of construction, alteration, or repair work on such applicable project to

1 comply with the established standards and
2 requirements of such apprenticeship pro-
3 gram.
4 ''(E) DEFINITIONS.—For purposes of this
5 paragraph—
6 ''(i) LABOR HOURS.—The term 'labor
7 hours'—
8 ''(I) means the total number of
9 hours devoted to the performance of
10 construction, alteration, or repair
11 work by employees of the contractor
12 or subcontractor, and
13 ''(II) excludes any hours worked
14 by—
15 ''(aa) foremen,
16 ''(bb) superintendents,
17 ''(cc) owners, or
18 ''(dd) persons employed in a
19 bona fide executive, administra-
20 tive, or professional capacity
21 (within the meaning of those
22 terms in part 541 of title 29,
23 Code of Federal Regulations).
24 ''(ii) QUALIFIED APPRENTICE.—The
25 term 'qualified apprentice' means an indi-

vidual who is an employee of the contractor or subcontractor and who is participating in a registered apprenticeship program, as defined in section 3131(e)(3)(B).

"(10) DOMESTIC CONTENT BONUS CREDIT AMOUNT.—

"(A) IN GENERAL.—In the case of any qualified facility which satisfies the requirement under subparagraph (B), the amount of the credit determined under subsection (a) (determined after the application of paragraphs (1) through (9)) shall be increased by an amount equal to 10 percent of the amount otherwise in effect under such subsection.

"(B) REQUIREMENT.—

"(i) IN GENERAL.—Subject to clause (iii), the requirement described in this subclause with respect to any qualified facility is that, prior to the end of the taxable year in which such facility is placed in service, the taxpayer shall certify to the Secretary that, any steel, iron, or manufactured product used in the construction of such facility was produced in the United States.

"(ii) STEEL AND IRON.—In the case of steel or iron, clause (i) shall be applied in a manner consistent with section 661.5(b) of title 49, Code of Federal Regulations.

"(iii) MANUFACTURED PRODUCT.—For purposes of clause (i), a manufactured product shall be deemed to have been manufactured in the United States if not less than 55 percent of the total cost of the components of such product is attributable to components which are mined, produced, or manufactured in the United States.

"(C) INTERNATIONAL AGREEMENTS.—This paragraph shall be applied in a manner which is consistent with the obligations of the United States under international agreements.

"(11) PENALTY FOR DIRECT PAY.—

"(A) IN GENERAL.—In the case of a taxpayer making an election under section 6417 with respect to a credit under this section, the amount of such credit shall be replaced with—

"(i) the value of such credit (determined without regard to this paragraph), multiplied by

"(ii) the applicable percentage.

"(B) 100 PERCENT APPLICABLE PERCENTAGE FOR CERTAIN QUALIFIED FACILITIES.—In the case of any qualified facility—

"(i) which satisfies the requirements under paragraph (10) with respect to the construction of such facility, or

"(ii) with a maximum net output of less than 1 megawatt,

the applicable percentage shall be 100 percent.

"(C) PHASED DOMESTIC CONTENT REQUIREMENT.—Subject to subparagraph (D), in the case of any qualified facility which is not described in subparagraph (B), the applicable percentage shall be—

"(i) if construction of such facility began before January 1, 2024, 100 percent,

"(ii) if construction of such facility began in calendar year 2024, 90 percent,

"(iii) if construction of such facility began in calendar year 2025, 85 percent, and

"(iv) if construction of such facility began after December 31, 2025, 0 percent.

1 "(D) EXCEPTIONS.—In order to facilitate
2 the use of amounts made available in this sec-
3 tion, increase the tax incentives for investment
4 in clean energy, and grow the domestic supply
5 chains, the Secretary shall provide appropriate
6 exceptions to the domestic content requirements
7 for products under subparagraph (C) for the
8 construction of qualified facilities if either the
9 inclusion of domestic products increases the
10 overall costs of projects by more than 25 per-
11 cent or relevant manufactured products are not
12 produced in the United States in sufficient and
13 reasonably available quantities or of a satisfac-
14 tory quality.
15 "(12) REGULATIONS AND GUIDANCE.—The
16 Secretary shall issue such regulations or other guid-
17 ance as the Secretary determines necessary or ap-
18 propriate to carry out the purposes of this sub-
19 section.".
20 (g) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to facilities placed in service after
22 December 31, 2021.

SEC. 136102. EXTENSION AND MODIFICATION OF ENERGY CREDIT.

(a) EXTENSION OF CREDIT.—The following provisions of section 48 are each amended by striking ''January 1, 2024'' each place it appears and inserting ''January 1, 2034'':

(1) Subsection (a)(3)(A)(ii).

(2) Subsection (a)(3)(A)(vii).

(3) Subsection (c)(1)(D).

(4) Subsection (c)(2)(D).

(5) Subsection (c)(3)(A)(iv).

(6) Subsection (c)(4)(C).

(b) PHASEOUT OF CREDIT.—Section 48(a) is amended by striking paragraphs (6) and (7) and inserting the following new paragraphs:

''(6) PHASEOUT FOR SOLAR ENERGY PROPERTY.—

''(A) IN GENERAL.—Subject to subparagraph (B), in the case of any energy property described in paragraph (3)(A)(i) the construction of which begins before January 1, 2034, the energy percentage determined under paragraph (2) shall be equal to—

''(i) in the case of any property the construction of which begins after Decem-

ber 31, 2019, and which is placed in service before January 1, 2022, 26 percent,

"(ii) in the case of any property the construction of which begins before January 1, 2032, and which is placed in service after December 31, 2021, 30 percent,

"(iii) in the case of any property the construction of which begins after December 31, 2031 and before January 1, 2033, 26 percent, and

"(iv) in the case of any property the construction of which begins after December 31, 2032 and before January 1, 2034, 22 percent.

"(B) PLACED IN SERVICE DEADLINE.—In the case of any energy property described in paragraph (3)(A)(i) the construction of which begins before January 1, 2034, and which is not placed in service before January 1, 2036, the energy percentage determined under paragraph (2) shall be equal to 10 percent.

"(7) PHASEOUT FOR CERTAIN OTHER ENERGY PROPERTY.—

"(A) IN GENERAL.—Subject to subparagraph (B), in the case of any qualified fuel cell

property, qualified small wind property, waste energy recovery property, or energy property described in paragraph (3)(A)(ii), the energy percentage determined under paragraph (2) shall be equal to—

"(i) in the case of any property the construction of which begins after December 31, 2019, and which is placed in service before January 1, 2022, 26 percent,

"(ii) in the case of any property the construction of which begins before January 1, 2032, and which is placed in service after December 31, 2021, 30 percent,

"(iii) in the case of any property the construction of which begins after December 31, 2031 and before January 1, 2033, 26 percent, and

"(iv) in the case of any property the construction of which begins after December 31, 2032 and before January 1, 2034, 22 percent.

"(B) PLACED IN SERVICE DEADLINE.—In the case of any energy property described in subparagraph (A) which is not placed in service before January 1, 2036, the energy percentage

determined under paragraph (2) shall be equal to 0 percent.''.

(c) 30 PERCENT CREDIT FOR SOLAR AND GEOTHERMAL.—

(1) EXTENSION FOR SOLAR.—Section 48(a)(2)(A)(i)(II) is amended by striking ''January 1, 2024'' and inserting ''January 1, 2034''.

(2) APPLICATION TO GEOTHERMAL.—

(A) IN GENERAL.—Paragraphs (2)(A)(i)(II), (6)(A), and (6)(B) of section 48(a) are each amended by striking ''paragraph (3)(A)(i)'' and inserting ''clause (i), (iii), or (vii) of paragraph (3)(A)''.

(B) CONFORMING AMENDMENT.—The heading of section 48(a)(6) is amended by inserting ''AND GEOTHERMAL'' after ''SOLAR ENERGY''.

(d) ENERGY STORAGE TECHNOLOGIES; QUALIFIED BIOGAS PROPERTY; MICROGRID CONTROLLERS; EXTENSION OF WASTE ENERGY RECOVERY PROPERTY.—

(1) IN GENERAL.—Section 48(a)(3)(A) is amended by striking ''or'' at the end of clause (vii), and by adding at the end the following new clauses:

''(viii) energy storage technology,

''(ix) qualified biogas property, or

1 ''(x) microgrid controllers,''.
2 (2) APPLICATION OF 30 PERCENT CREDIT.—
3 Section 48(a)(2)(A)(i) is amended by striking ''and''
4 at the end of subclauses (IV) and (V) and adding at
5 the end the following new subclauses:
6 ''(VI) energy storage technology,
7 ''(VII) qualified biogas property,
8 and
9 ''(VIII) microgrid controllers,
10 and''.
11 (3) APPLICATION OF PHASEOUT.—Section
12 48(a)(7) is amended by inserting ''energy storage
13 technology, qualified biogas property, microgrid
14 contollers,'' after ''waste energy recovery property,''.
15 (4) DEFINITIONS.—Section 48(c) is amended
16 by adding at the end the following new paragraphs:
17 ''(6) ENERGY STORAGE TECHNOLOGY.—
18 ''(A) IN GENERAL.—The term 'energy
19 storage technology' means equipment (other
20 than equipment primarily used in the transpor-
21 tation of goods or individuals and not for the
22 production of electricity) which uses batteries,
23 compressed air, pumped hydropower, hydrogen
24 storage, thermal energy storage, regenerative
25 fuel cells, flywheels, capacitors, superconducting

magnets, or other technologies identified by the Secretary, after consultation with the Secretary of Energy, to store energy for conversion to electricity (or, in the case of hydrogen storage, to store energy), and has a capacity of not less than 5 kilowatt hours.

"(B) MODIFICATIONS OF CERTAIN PROPERTY.—In the case of any equipment which either—

"(i) would be described in subparagraph (A) except that such equipment has a capacity of less than 5 kilowatt hours is modified such that such equipment (after such modification) has a capacity of not less than 5 kilowatt hours, or

"(ii) is described in subparagraph (A) and which has a capacity of not less than 5 kilowatt hours and is modified such that such equipment (after such modification) has an increased capacity,

such equipment shall be treated as described in subparagraph (A) except that the basis of any property which was part of such equipment before such modification shall not be taken into account for purposes of this section. In the case

of any property to which this subparagraph applies, subparagraph (C) shall be applied by substituting 'modification' for 'construction'.

"(C) TERMINATION.—The term 'energy storage technology' shall not include any property the construction of which does not begin before January 1, 2034.

"(7) QUALIFIED BIOGAS PROPERTY.—

"(A) IN GENERAL.—The term 'qualified biogas property' means property comprising a system which—

"(i) converts biomass (as defined in section 45K(c)(3), as in effect on the date of enactment of this paragraph) into a gas which—

"(I) consists of not less than 52 percent methane, or

"(II) is concentrated by such system into a gas which consists of not less than 52 percent methane, and

"(ii) captures such gas for productive use.

"(B) INCLUSION OF CLEANING AND CONDITIONING PROPERTY.—The term 'qualified biogas property' includes any property which is

1 part of such system which cleans or conditions
2 such gas.
3 ''(C) TERMINATION.—The term 'qualified
4 biogas property' shall not include any property
5 the construction of which does not begin before
6 January 1, 2034.
7 ''(8) MICROGRID CONTROLLER.—
8 ''(A) IN GENERAL.—The term 'microgrid
9 controller' means equipment which is—
10 ''(i) part of a qualified microgrid, and
11 ''(ii) designed and used to monitor
12 and control the energy resources and loads
13 on such microgrid to maintain acceptable
14 frequency, voltage, or economic dispatch.
15 ''(B) QUALIFIED MICROGRID.—The term
16 'qualified microgrid' means an electrical system
17 which—
18 ''(i) includes equipment which is capa-
19 ble of generating not less than 4 kilowatts
20 and not greater than 20 megawatts of elec-
21 tricity,
22 ''(ii) is capable of operating—
23 ''(I) in connection with the elec-
24 trical grid and as a single controllable
25 entity with respect to such grid, and

"(II) independently (and disconnected) from such grid, and

"(iii) is not part of a bulk-power system (as defined in section 215 of the Federal Power Act (16 U.S.C. 24o)).

"(C) TERMINATION.—The term 'microgrid controller' shall not include any property the construction of which does not begin before January 1, 2034.".

(5) DENIAL OF DOUBLE BENEFIT FOR QUALIFIED BIOGAS PROPERTY.—Section 45(e) is amended by adding at the end the following new paragraph:

"(12) COORDINATION WITH ENERGY CREDIT FOR QUALIFIED BIOGAS PROPERTY.—The term 'qualified facility' shall not include any facility which produces electricity from gas produced by qualified biogas property (as defined in section 48(c)(7)) if a credit is determined under section 48 with respect to such property for the taxable year or any prior taxable year.".

(6) EXTENSION OF WASTE ENERGY RECOVERY PROPERTY.—Section 48(c)(5)(D) is amended by striking "January 1, 2024" and inserting "January 1, 2034".

(e) FUEL CELLS USING ELECTROMECHANICAL PROCESSES.—

(1) IN GENERAL.—Section 48(c)(1) is amended—

(A) in subparagraph (A)(i)—

(i) by inserting ''or electromechanical'' after ''electrochemical'', and

(ii) by inserting ''(1 kilowatts in the case of a fuel cell power plant with a linear generator assembly)'' after ''0.5 kilowatt'', and

(B) in subparagraph (C)—

(i) by inserting '', or linear generator assembly,'' after ''a fuel cell stack assembly'', and

(ii) by inserting ''or electromechanical'' after ''electrochemical''.

(2) LINEAR GENERATOR ASSEMBLY LIMITATION.—Section 48(c)(1) is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

''(D) LINEAR GENERATOR ASSEMBLY.—The term 'linear generator assembly' does not

include any assembly which contains rotating parts.''.

(f) DYNAMIC GLASS.—Section 48(a)(3)(A)(ii) is amended by inserting '', or electrochromic glass which uses electricity to change its light transmittance properties in order to heat or cool a structure,'' after ''sunlight''.

(g) COORDINATION WITH LOW INCOME HOUSING TAX CREDIT.—Paragraph (3) of section 50(c) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''and'' at the end of subparagraph (A),

(2) by striking the period at the end of subparagraph (B) and inserting '', and'', and

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

''(C) paragraph (1) shall not apply for purposes of determining eligible basis under section 42.''.

(h) WAGE AND APPRENTICESHIP REQUIREMENTS.—Section 48(a) is amended by adding at the end the following new paragraphs:

''(8) BASE CREDIT AMOUNT AND INCREASED CREDIT AMOUNT FOR ENERGY PROJECTS.—

''(A) IN GENERAL.—

"(i) RULE.—In the case of any energy project which does not satisfy the requirements of subparagraph (B), the amount of the credit determined under this subsection (determined after the application of paragraphs (1) through (7)) shall be 20 percent of such amount (determined without regard to this sentence).

"(ii) ENERGY PROJECT DEFINED.—For purposes of this subsection the term 'energy project' means a project consisting of multiple energy properties that are part of a single project. The requirements of this paragraph shall be applied to such project.

"(B) INCREASED CREDIT FOR ENERGY PROJECTS MEETING PROJECT REQUIREMENTS.—

"(i) IN GENERAL.—In the case of any energy project which meets the project requirements of this subparagraph, subparagraph (A) shall not apply.

"(ii) PROJECT REQUIREMENTS.—A project meets the requirements of this subparagraph if it is one of the following:

"(I) A project with a maximum net output of less than 1 megawatt.

"(II) A project which commences construction prior to the date of the enactment of this paragraph.

"(III) A project which satisfies the requirements of paragraphs (9) and (10).

"(9) PREVAILING WAGE REQUIREMENTS.—

"(A) IN GENERAL.—The requirements described in this subparagraph with respect to any energy project are that the taxpayer shall ensure that any laborers and mechanics employed by contractors and subcontractors in—

"(i) the construction of such energy project , and

"(ii) for any year during the period beginning on the date any energy property of such project is originally placed in service, the alteration or repair of such property,

shall be paid wages at rates not less than the prevailing rates for construction, alteration, or repair of a similar character in the locality as most recently determined by the Secretary of

Labor, in accordance with subchapter IV of chapter 31 of title 40, United States Code.

"(B) CORRECTION AND PENALTY RELATED TO FAILURE TO SATISFY WAGE REQUIREMENTS.—A taxpayer shall not be treated as failing to satisfy the requirements of this paragraph if such taxpayer meets requirements similar to the requirements of section 45(b)(8)(B).

"(10) APPRENTICESHIP REQUIREMENTS.—The requirements described in this subparagraph with respect to the construction of any applicable facility are as follows:

"(A) LABOR HOURS.—

"(i) PERCENTAGE OF TOTAL LABOR HOURS.—All contractors and subcontractors engaged in the performance of construction, alteration, or repair work on any applicable facility prior to such facility being placed into service shall, subject to subparagraph (B), ensure that not less than the applicable percentage of the total labor hours of such work be performed by qualified apprentices.

"(ii) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage shall be—

"(I) in the case of any applicable project the construction of which begins before January 1, 2023, 5 percent,

"(II) in the case of any applicable project the construction of which begins after December 31, 2022, and before January 1, 2024, 10 percent, and

"(III) in the case of any applicable project the construction of which begins after December 31, 2023, 15 percent.

"(B) APPRENTICE TO JOURNEYWORKER RATIO.—The requirement under subparagraph (A)(i) shall be subject to any applicable requirements for apprentice-to-journeyworker ratios of the Department of Labor or the applicable State apprenticeship agency.

"(C) PARTICIPATION.—Each contractor and subcontractor who employs 4 or more individuals to perform construction, alteration, or

1 repair work on an applicable project shall em-
2 ploy 1 or more qualified apprentices to perform
3 such work.
4 ''(D) EXCEPTION.—
5 ''(i) IN GENERAL.—Notwithstanding
6 any other provision of this paragraph, this
7 paragraph shall not apply in the case of a
8 taxpayer who—
9 ''(I) demonstrates a lack of avail-
10 ability of qualified apprentices in the
11 geographic area of the construction,
12 alteration, or repair work, and
13 ''(II) makes a good faith effort to
14 comply with the requirements of this
15 paragraph.
16 ''(ii) GOOD FAITH EFFORT.—For pur-
17 poses of clause (i), a taxpayer shall be
18 deemed to have satisfied the requirements
19 under such paragraph with respect to an
20 applicable project if such taxpayer has re-
21 quested qualified apprentices from a reg-
22 istered apprenticeship program, as defined
23 in section 3131(e)(3)(B), and such request
24 has been denied, provided that such denial
25 is not the result of a refusal by the con-

tractors or subcontractors engaged in the performance of construction, alteration, or repair work on such applicable project to comply with the established standards and requirements of such apprenticeship program.

"(E) DEFINITIONS.—For purposes of this paragraph—

"(i) LABOR HOURS.—The term 'labor hours' has the meaning given such term in section 45(b)(9)(E)(i).

"(ii) QUALIFIED APPRENTICE.—The term 'qualified apprentice' has the meaning given such term in section 45(b)(9)(E)(ii).

"(11) DOMESTIC CONTENT BONUS CREDIT AMOUNT.—

"(A) IN GENERAL.—In the case of any energy project which satisfies the requirements under subparagraph (B), the energy percentage in subsection (a)(2) shall be increased by the applicable rate in subparagraph (C).

"(B) REQUIREMENTS.—

"(i) IN GENERAL.—The requirement described in this subclause with respect to

any energy project is satisfied if the taxpayer certifies to the Secretary (at such time, and in such form and manner, as the Secretary may prescribe) that the facility is composed of steel, iron, or manufactured products which were produced in the United States.

''(ii) STEEL AND IRON.—In the case of steel or iron, clause (i) shall be applied in a manner consistent with section 661.5(b) of title 49, Code of Federal Regulations.

''(iii) MANUFACTURED PRODUCT.—For purposes of clause (i), a manufactured product shall be deemed to have been manufactured in the United States if not less than 55 percent of the total cost of the components of such product is attributable to components which are mined, produced, or manufactured in the United States.

''(C) APPLICABLE RATE INCREASE.—For purposes of subparagraph (A), the applicable credit rate increase shall be an amount equal to—

"(i) in the case of energy project that does not meet the requirements of subclause (I) or (III) of paragraph (8)(B)(ii), 2 percentage points, and

"(ii) in the case of energy property that meets the requirements of subclause (I) or (III) of paragraph (8)(B)(ii), 10 percentage points.

"(D) INTERNATIONAL AGREEMENTS.—This paragraph shall be applied in a manner which is consistent with the obligations of the United States under international agreements.

"(12) PENALTY FOR DIRECT PAY.—

"(A) IN GENERAL.—In the case of a taxpayer making an election under section 6417 with respect to a credit under this section, the amount of such credit shall be replaced with—

"(i) the value of such credit (determined without regard to this paragraph), multiplied by

"(ii) the applicable percentage.

"(B) 100 PERCENT APPLICABLE PERCENTAGE FOR CERTAIN ENERGY PROJECTS.—In the case of any energy project—

"(i) which satisfies the requirements under paragraph (11) with respect to the construction of such project, or

"(ii) with a maximum net output of less than 1 megawatt

the applicable percentage shall be 100 percent.

"(C) PHASED DOMESTIC CONTENT REQUIREMENT.—Subject to subparagraph (D), in the case of any energy project which is not described in subparagraph (B), the applicable percentage shall be—

"(i) if construction of such project began before January 1, 2024, 100 percent,

"(ii) if construction of such project began in calendar year 2024, 90 percent,

"(iii) if construction of such project began in calendar year 2025, 85 percent, and

"(iv) if construction of such project began after December 31, 2025, 0 percent.

"(D) EXCEPTIONS.—In order to facilitate the use of amounts made available in this section, increase the tax incentives for investment in clean energy, and grow the domestic supply

chains, the Secretary shall provide appropriate exceptions to the domestic content requirements for products under subparagraph (C) for the construction of qualified facilities if either the inclusion of domestic products increases the overall costs of projects by more than 25 percent or relevant manufactured products are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality.

''(13) REGULATIONS AND GUIDANCE.—The Secretary shall issue such regulations or other guidance as the Secretary determines necessary or appropriate to carry out the purposes of this subsection.''.

(i) EFFECTIVE DATES.—

(1) The amendments made by subsections (a), (b), (c), (e), (f), (g), and (h) of this section shall apply to property placed in service after December 31, 2021.

(2) The amendment made by subsection (d) shall apply to periods after December 31, 2021, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on

the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 136103. INCREASE IN ENERGY CREDIT FOR SOLAR FACILITIES PLACED IN SERVICE IN CONNECTION WITH LOW-INCOME COMMUNITIES.

(a) IN GENERAL.—Section 48 is amended by adding at the end the following new subsection:

''(e) SPECIAL RULES FOR CERTAIN SOLAR FACILITIES PLACED IN SERVICE IN CONNECTION WITH LOW-INCOME COMMUNITIES.—

''(1) IN GENERAL.—In the case of any qualified solar facility with respect to which the Secretary, after consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, makes an allocation of environmental justice solar capacity limitation under paragraph (4)—

''(A) equipment described in paragraph (3)(B) shall be treated for purposes of this section as energy property described in subsection (a)(2)(A)(i),

''(B) the energy percentage otherwise determined under subsection (a)(2) with respect to any eligible property which is part of such 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 "(C) 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 capacity limitation allocated to such facil-
17 ity, 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 FACILITY.—For pur-
22 poses of this subsection—
23 "(A) IN GENERAL.—The term 'qualified
24 solar facility' means any facility—

"(i) which generates electricity solely from property described in subsection (a)(3)(A)(i),

"(ii) which has a nameplate capacity of 5 megawatts or less, and

"(iii) which—

"(I) is located in a low-income community (as defined in section 45D(e)), or

"(II) is part of a qualified low-income residential building project or a qualified low-income economic benefit project.

"(B) QUALIFIED LOW-INCOME RESIDENTIAL BUILDING PROJECT.—A facility shall be treated as part of a qualified low-income residential building project if—

"(i) such facility is installed on a residential rental building which participates in a covered housing program (as defined in section 41411(a) of the Violence Against Women Act of 1994 (34 U.S.C. 12491(a)(3)), a Housing Development Fund Corporation cooperative under Article XI of the New York State Private

Housing Finance Law, a housing assistance program administered by the Department of Agriculture under title V of the Housing Act of 1949, or such other affordable housing programs as the Secretary may provide, and

"(ii) the financial benefits of the electricity produced by such facility are allocated equitably among the occupants of the dwelling units of such building.

"(C) QUALIFIED LOW-INCOME ECONOMIC BENEFIT PROJECT.—A facility shall be treated as part of a qualified low-income economic benefit project if at least 50 percent of the financial benefits of the electricity produced by such facility are provided to households with income of—

"(i) less than 200 percent of the poverty line applicable to a family of the size involved, or

"(ii) less than 80 percent of area median gross income (as determined under section 142(d)(2)(B)).

"(D) FINANCIAL BENEFIT.—For purposes of subparagraphs (B) and (C), electricity ac-

quired at a below-market rate shall not fail to be taken into account as a financial benefit.

"(3) ELIGIBLE PROPERTY.—

"(A) IN GENERAL.—For purposes of this section, the term 'eligible property' means—

"(i) energy property which is described in subsection (a)(3)(A)(i), including energy storage property (described in subsection (a)(3)(A)(viii)) installed in connection with such energy property, and

"(ii) the amount of any expenditures which are paid or incurred by the taxpayer for qualified interconnection property installed in connection with the installation of property described in subparagraph (A) to provide for the transmission or distribution of the electricity produced or stored by such property, and which are properly chargeable to the capital account of the taxpayer.

"(B) DEFINITIONS.—For purposes of subparagraph (A)—

"(i) QUALIFIED INTERCONNECTION PROPERTY.—The term 'qualified interconnection property' means, with respect

to a qualified facility which is not a microgrid, any tangible property—

"(I) which is part of an addition, modification, or upgrade to a transmission or distribution system which is required at or beyond the point at which the qualified facility interconnects to such transmission or distribution system in order to accommodate such interconnection,

"(II) either—

"(aa) which is constructed, reconstructed, or erected by the taxpayer, or

"(bb) for which the cost with respect to the construction, reconstruction, or erection of such property is paid or incurred by such taxpayer, and

"(III) the original use of which, pursuant to an interconnection agreement, commences with the utility.

"(ii) INTERCONNECTION AGREEMENT.—The term 'interconnection agreement' means an agreement with a utility

for the purposes of interconnecting the qualified facility owned by such taxpayer to the transmission or distribution system of such utility.

"(iii) UTILITY.—The term 'utility' means the owner or operator of an electrical transmission or distribution system which is subject to the regulatory authority of—

"(I) the Federal Energy Regulatory Commission, or

"(II) a State or political subdivision thereof, any agency or instrumentality of the United States, a public service or public utility commission or other similar body of any State or political subdivision thereof, or the governing or ratemaking body of an electric cooperative.

"(C) SPECIAL RULE FOR INTERCONNECTION PROPERTY.—In the case of expenses paid or incurred for interconnection property, amounts otherwise chargeable to capital account with respect to such expenses shall be re-

duced under rules similar to the rules of section 50(c).

"(4) ALLOCATIONS.—

"(A) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall establish a program to allocate amounts of environmental justice solar capacity limitation to qualified solar facilities.

"(B) LIMITATION.—The amount of environmental justice solar capacity limitation allocated by the Secretary under subparagraph (A) during any calendar year shall not exceed the annual capacity limitation with respect to such year.

"(C) ANNUAL CAPACITY LIMITATION.—For purposes of this paragraph, the term 'annual capacity limitation' means 1.8 gigawatts of direct current capacity for each of calendar years 2022 through 2031, and zero thereafter.

"(D) CARRYOVER OF UNUSED LIMITATION.—If the annual capacity limitation for any calendar year exceeds the aggregate amount allocated for such year under this paragraph, such limitation for the succeeding calendar year

shall be increased by the amount of such excess. No amount may be carried under the preceding sentence to any calendar year after 2033.

"(E) PLACED IN SERVICE DEADLINE.—

"(i) IN GENERAL.—Paragraph (1) shall not apply with respect to any property which is placed in service after the date that is 4 years after the date of the allocation with respect to the facility of which such property is a part.

"(ii) APPLICATION OF CARRYOVER.—Any amount of environmental justice solar capacity limitation which expires under clause (i) during any calendar year shall be taken into account as an excess described in subparagraph (D) (or as an increase in such excess) for such calendar year, subject to the limitation imposed by the last sentence of such subparagraph.

"(F) SELECTION CRITERIA.—In determining to which qualified solar facilities to allocate environmental justice solar capacity limitation under this paragraph, the Secretary shall take into consideration which facilities will result in—

"(i) the greatest health and economic benefits, including the ability to withstand extreme weather events, for individuals described in section 45D(e)(2),

"(ii) the greatest employment and wages for such individuals, and

"(iii) the greatest engagement with, outreach to, or ownership by, such individuals, including through partnerships with local governments and community-based organizations.

"(G) DISCLOSURE OF ALLOCATIONS.—The Secretary shall, upon making an allocation of environmental justice solar capacity limitation under this paragraph, publicly disclose the identity of the applicant, the amount of the environmental justice solar capacity limitation allocated to such applicant, and the location of the facility for which such allocation is made.

"(5) RECAPTURE.—The Secretary shall, by regulations or other guidance, provide for recapturing the benefit of any increase in the credit allowed under subsection (a) by reason of this subsection with respect to any property which ceases to be property eligible for such increase (but which does

not cease to be investment credit property within the meaning of section 50(a)). The period and percentage of such recapture shall be determined under rules similar to the rules of section 50(a). To the extent provided by the Secretary, such recapture may not apply with respect to any property if, within 12 months after the date the taxpayer becomes aware (or reasonably should have become aware) of such property ceasing to be property eligible for such increase, the eligibility of such property for such increase is restored. The preceding sentence shall not apply more than once with respect to any facility.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 2021, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 136104. ELECTIVE PAYMENT FOR ENERGY PROPERTY AND ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES, ETC.

(a) IN GENERAL.—Subchapter B of chapter 65 is amended by inserting after section 6416 the following new section:

"SEC. 6417. ELECTIVE PAYMENT OF APPLICABLE CREDITS.

"(a) IN GENERAL.—In the case of a taxpayer making an election (at such time and in such manner as the Secretary may provide) under this section with respect to any applicable credit determined with respect to such taxpayer, such taxpayer shall be treated as making a payment against the tax imposed by subtitle A (for the taxable year with respect to which such credit was determined) equal to the amount of such credit.

"(b) APPLICABLE CREDIT.—The term 'applicable credit' means each of the following:

"(1) The renewable electricity production credit determined under section 45.

"(2) The energy credit determined under section 48.

"(3) The credit for carbon oxide sequestration determined under section 45Q.

"(4) The credit for alternative fuel vehicle refueling property allowed under section 30C.

"(5) The qualifying advanced energy project credit determined under section 48C.

"(c) SPECIAL RULES.—For purposes of this section—

"(1) APPLICATION TO TAX-EXEMPT AND GOVERNMENTAL ENTITIES.—In the case of any organization exempt from the tax imposed by subtitle A,

any State or local government (or political subdivision thereof), or any Indian tribal government (within the meaning of section 139E), which makes the election described in subsection (a), any applicable credit shall be determined—

"(A) without regard to paragraphs (3) and (4)(A)(i) of section 50(b), and

"(B) by treating any property with respect to which such credit is determined as used in a trade or business of the taxpayer.

"(2) APPLICATION TO PARTNERSHIPS AND S CORPORATIONS.—

"(A) IN GENERAL.—In the case of any applicable credit determined with respect to any qualified resources, qualified facility, or energy property held directly by a partnership or S corporation, if such partnership or S corporation makes an election under this subsection (in such manner as the Secretary may provide) with respect to such credit—

"(i) the Secretary shall make a payment to such partnership or S corporation equal to the amount of such credit,

"(ii) subsection (d) shall be applied with respect to such credit before deter-

mining any partner's distributive share, or shareholder's pro rata share, of such credit,

"(iii) any amount with respect to which the election in subsection (a) is made shall be treated as tax exempt income for purposes of sections 705 and 1366, and

"(iv) a partner's distributive share of such tax exempt income shall be based on such partner's distributive share of the otherwise applicable credit for each taxable year.

"(B) COORDINATION WITH APPLICATION AT PARTNER OR SHAREHOLDER LEVEL.—In the case of any partnership or S corporation, subsection (a) shall be applied at the partner or shareholder level after application of paragraph (2)(A)(ii).

"(3) IRREVOCABLE ELECTION.—Any election under this subsection shall be made not later than the due date (including extensions of time) for the return of tax for the taxable year for which the applicable credit is determined, but in no event earlier than 180 days after the date of the enactment of

this section. Any such election, once made, shall be irrevocable.

"(4) TIMING.—The payment described in subsection (a) shall be treated as made on—

"(A) in the case of any government, or political subdivision, described in paragraph (1) and for which no return is required under section 6011 or 6033(a), the later of the date that a return would be due under section 6033(a) if such government or subdivision were described in that section or the date on which such government or subdivision submits a claim for credit or refund (at such time and in such manner as the Secretary shall provide), and

"(B) in any other case, the later of the due date of the return of tax for the taxable year or the date on which such return is filed.

"(5) TREATMENT OF PAYMENTS TO PARTNERSHIPS AND S CORPORATIONS.—For purposes of section 1324 of title 31, United States Code, the payments under subparagraph (A)(ii) of paragraph (2) shall be treated in the same manner as a refund due from a credit provision referred to in subparagraph (B) of such paragraph.

1 "(6) ADDITIONAL INFORMATION.—As a condi-
2 tion of, and prior to, a payment under this section,
3 the Secretary may require such information or reg-
4 istration as the Secretary deems necessary or appro-
5 priate for purposes of preventing duplication, fraud,
6 improper payments, or excessive payments under
7 this section.
8 "(7) EXCESSIVE PAYMENT.—
9 "(A) IN GENERAL.—In the case of a pay-
10 ment made to a taxpayer under this subsection
11 or any amount treated as a payment which is
12 made by the taxpayer under subsection (a)
13 which the Secretary determines constitutes an
14 excessive payment, the tax imposed on such tax-
15 payer by chapter 1 for the taxable year in
16 which such determination is made shall be in-
17 creased by an amount equal to the sum of—
18 "(i) the amount of such excessive pay-
19 ment, plus
20 "(ii) an amount equal to 20 percent of
21 such excessive payment.
22 "(B) REASONABLE CAUSE.—Subparagraph
23 (A)(ii) shall not apply if the taxpayer dem-
24 onstrates to the satisfaction of the Secretary

that the excessive payment resulted from reasonable cause.

"(C) EXCESSIVE PAYMENT DEFINED.—For purposes of this paragraph, the term 'excessive payment' means, with respect to a facility for which an election is made under this section for any taxable year, an amount equal to the excess of—

"(i) the amount of the payment made to the taxpayer under this subsection with respect to such facility for such taxable year, over

"(ii) the amount of the credit which, without application of this subsection, would be otherwise allowable under this section with respect to such facility for such taxable year.

"(d) DENIAL OF DOUBLE BENEFIT.—In the case of a taxpayer making an election under this section with respect to an applicable credit, such credit shall be reduced to zero and such taxpayer shall be deemed to have taken such credit.

"(e) MIRROR CODE POSSESSIONS.—In the case of any possession of the United States with a mirror code tax system (as defined in section 24(k)), this section shall

not be treated as part of the income tax laws of the United States for purposes of determining the income tax law of such possession unless such possession elects to have this section be so treated.

''(f) BASIS REDUCTION AND RECAPTURE.—Rules similar to the rules of subsections (a) and (c) of section 50 shall apply for purposes of this section.

''(g) REGULATIONS.—The Secretary shall issue such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this section, including—

''(1) regulations or other guidance providing rules for determining a partner's distributive share of the tax exempt income described in subsection (c)(2)(A)(iii), and

''(2) guidance to ensure that the amount of the payment or deemed payment made under this section is commensurate with the amount of the credit that would be otherwise allowable.''.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 65 is amended by inserting after the item relating to section 6416 the following new item:

''Sec. 6417. Elective payment of applicable credits.''.

(c) IN GENERAL.—The amendments made by this section shall apply to property placed in service after the December 31, 2021.

SEC. 136105. INVESTMENT CREDIT FOR ELECTRIC TRANSMISSION PROPERTY.

(a) IN GENERAL.—Subpart E of part IV of subchapter A of chapter 1 is amended by inserting after section 48C the following new section:

"SEC. 48D. QUALIFYING ELECTRIC TRANSMISSION PROPERTY.

"(a) ALLOWANCE OF CREDIT.—For purposes of section 46, the qualifying electric transmission property credit for any taxable year is an amount equal to 30 percent of the basis of qualifying electric transmission property placed in service by the taxpayer during such taxable year.

"(b) QUALIFYING ELECTRIC TRANSMISSION PROPERTY.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualifying electric transmission property' means tangible property—

"(A) which is a qualifying electric transmission line or related transmission property,

"(B)(i) the construction, reconstruction, or erection of which is completed by the taxpayer, or

"(ii) which is acquired by the taxpayer if the original use of such property commences with the taxpayer, and

"(C) with respect to which depreciation (or amortization in lieu of depreciation) is allowable.

"(2) QUALIFYING ELECTRIC TRANSMISSION LINE.—The term 'qualifying electric transmission line' means an electric transmission line which—

"(A) is capable of transmitting electricity at a voltage of not less than 275 kilovolts, and

"(B) has a transmission capacity of not less than 500 megawatts.

"(3) RELATED TRANSMISSION PROPERTY.—

"(A) IN GENERAL.—The term 'related transmission property' means, with respect to any electric transmission line, any property which—

"(i) is listed as 'transmission plant' in the Uniform System of Accounts for the Federal Energy Regulatory Commission under part 101 of subchapter C of chapter I of title 18, Code of Federal Regulations, and

1 ''(ii) is necessary for the operation of
2 such electric transmission line.
3 ''(B) CREDIT NOT ALLOWED SEPARATELY
4 WITH RESPECT TO RELATED PROPERTY.—No
5 credit shall be allowed to any taxpayer under
6 this section with respect to any related trans-
7 mission property unless such taxpayer is al-
8 lowed a credit under this section with respect to
9 the qualifying electric transmission line to
10 which such related transmission property re-
11 lates.
12 ''(c) APPLICATION TO REPLACEMENT AND UP-
13 GRADED SYSTEMS.—
14 ''(1) IN GENERAL.—In the case of any quali-
15 fying electric transmission line (determined without
16 regard to this subsection) which replaces any exist-
17 ing electric transmission line—
18 ''(A) the 500 megawatts referred to in sub-
19 section (b)(2)(B) shall be increased by the
20 transmission capacity of such existing electric
21 transmission line, and
22 ''(B) in no event shall the basis of such ex-
23 isting electric transmission line (or related
24 transmission property with respect to such ex-
25 isting electric transmission line) be taken into

account in determining the credit allowed under this section.

"(2) UPGRADES TREATED AS REPLACEMENTS.—For purposes of this subsection, any upgrade of an existing electric transmission line shall be treated as a replacement of such line.

"(d) EXCEPTION FOR CERTAIN PROPERTY AND PROJECTS ALREADY IN PROCESS.—No credit shall be allowed under this section with respect to—

"(1) any property if a State or political subdivision thereof, any agency or instrumentality of the United States, a public service or public utility commission or other similar body of any State or political subdivision thereof, or the governing or rate-making body of an electric cooperative has, before the date of the enactment of this section, selected for cost allocation such property for cost recovery, or

"(2) any property if—

"(A) construction of such property begins before January 1, 2022, or

"(B) construction of any portion of the qualifying electric transmission line to which such property relates begins before such date.

"(e) CERTAIN QUALIFIED PROGRESS EXPENDITURES RULES MADE APPLICABLE.—Rules similar to the rules of

subsections (c)(4) and (d) of section 46 (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this section.

"(f) CREDIT ADJUSTMENTS; WAGE AND APPRENTICESHIP REQUIREMENTS.—

"(1) BASE CREDIT AMOUNT AND INCREASED CREDIT AMOUNT FOR APPLICABLE FACILITIES.—

"(A) IN GENERAL.—

"(i) RULE.—In the case of any applicable facility which does not satisfy the requirements of subparagraph (B), the amount of the credit determined under this subsection shall be 20 percent of such amount (determined without regard to this sentence).

"(ii) APPLICABLE FACILITY DEFINED.—For purposes of this subsection, the term 'applicable facility' means a qualifying electric transmission line and related transmission property to which such qualifying electric transmission line relates.

"(B) INCREASED CREDIT FOR APPLICABLE FACILITY MEETING PROJECT REQUIREMENTS.—

"(i) IN GENERAL.—In the case of any applicable facility which meets the project

requirements of this subparagraph, subparagraph (A) shall not apply.

"(ii) PROJECT REQUIREMENTS.—A project meets the requirements of this subparagraph if it is one of the following:

"(I) A project with a maximum net output of less than 1 megawatt.

"(II) A project which commences construction prior to the date of the enactment of this paragraph.

"(III) A project which satisfies the requirements of paragraphs (2) and (3).

"(2) PREVAILING WAGE REQUIREMENTS.—

"(A) IN GENERAL.—The requirements described in this subparagraph with respect to any applicable facility are that the taxpayer shall ensure that any laborers and mechanics employed by contractors and subcontractors in—

"(i) the construction of such facility, and

"(ii) for any year during the 5-year period beginning on the date the facility or property is originally placed in service, the

alteration or repair of such facility or property,

shall be paid wages at rates not less than the prevailing rates for construction, alteration, or repair of a similar character in the locality as most recently determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31 of title 40, United States Code.

"(B) CORRECTION AND PENALTY RELATED TO FAILURE TO SATISFY WAGE REQUIREMENTS.—A taxpayer shall not be treated as failing to satisfy the requirements of this paragraph if such taxpayer meets requirements similar to the requirements of section 45(b)(8)(B).

"(3) APPRENTICESHIP REQUIREMENTS.—The requirements described in this subparagraph with respect to the construction of any applicable facility are as follows:

"(A) LABOR HOURS.—

"(i) PERCENTAGE OF TOTAL LABOR HOURS.—All contractors and subcontractors engaged in the performance of construction, alteration, or repair work on any applicable facility prior to such facility

being placed into service shall, subject to subparagraph (B), ensure that not less than the applicable percentage of the total labor hours of such work be performed by qualified apprentices.

"(ii) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage shall be—

"(I) in the case of any applicable project the construction of which begins before January 1, 2023, 5 percent,

"(II) in the case of any applicable project the construction of which begins after December 31, 2022, and before January 1, 2024, 10 percent, and

"(III) in the case of any applicable project the construction of which begins after December 31, 2023, 15 percent.

"(B) APPRENTICE TO JOURNEYWORKER RATIO.—The requirement under subparagraph (A)(i) shall be subject to any applicable requirements for apprentice-to-journeyworker ratios of

the Department of Labor or the applicable State apprenticeship agency.

"(C) PARTICIPATION.—Each contractor and subcontractor who employs 4 or more individuals to perform construction, alteration, or repair work on an applicable project shall employ 1 or more qualified apprentices to perform such work.

"(D) EXCEPTION.—

"(i) IN GENERAL.—Notwithstanding any other provision of this paragraph, this paragraph shall not apply in the case of a taxpayer who—

"(I) demonstrates a lack of availability of qualified apprentices in the geographic area of the construction, alteration, or repair work, and

"(II) makes a good faith effort to comply with the requirements of this paragraph.

"(ii) GOOD FAITH EFFORT.—For purposes of clause (i), a taxpayer shall be deemed to have satisfied the requirements under such paragraph with respect to an applicable project if such taxpayer has re-

quested qualified apprentices from a registered apprenticeship program, as defined in section 3131(e)(3)(B), and such request has been denied, provided that such denial is not the result of a refusal by the contractors or subcontractors engaged in the performance of construction, alteration, or repair work on such applicable project to comply with the established standards and requirements of such apprenticeship program.

''(E) DEFINITIONS.—For purposes of this paragraph—

''(i) LABOR HOURS.—The term 'labor hours' has the meaning given such term in section 45(b)(9)(E)(i).

''(ii) QUALIFIED APPRENTICE.—The term 'qualified apprentice' has the meaning given such term in section 45(b)(9)(E)(ii).

''(4) DOMESTIC CONTENT BONUS CREDIT AMOUNT.—

''(A) IN GENERAL.—In the case of any applicable facility which satisfies the requirements under subparagraph (B), the credit determined

under subsection (a) shall be increased by the applicable rate in subparagraph (C).

"(B) REQUIREMENTS.—

"(i) IN GENERAL.—The requirement described in this subclause with respect to any applicable facility is satisfied if the taxpayer certifies to the Secretary (at such time, and in such form and manner, as the Secretary may prescribe) that the facility is composed of steel, iron, or manufactured products which were produced in the United States.

"(ii) STEEL AND IRON.—In the case of steel or iron, clause (i) shall be applied in a manner consistent with section 661.5(b) of title 49, Code of Federal Regulations.

"(iii) MANUFACTURED PRODUCT.—For purposes of clause (i), a manufactured product shall be deemed to have been manufactured in the United States if not less than 55 percent of the total cost of the components of such product is attributable to components which are mined, produced, or manufactured in the United States.

"(C) APPLICABLE RATE INCREASE.—For purposes of subparagraph (A), the applicable credit rate increase shall be an amount equal to—

"(i) in the case of applicable facility that does not meet the requirements of subclause (I) or (III) of paragraph (1)(B)(ii), 2 percentage points, and

"(ii) in the case of applicable facility that meets the requirements of subclause (I) or (III) of paragraph (1)(B)(ii), 10 percentage points.

"(D) INTERNATIONAL AGREEMENTS.—This paragraph shall be applied in a manner which is consistent with the obligations of the United States under international agreements.

"(5) PENALTY FOR DIRECT PAY.—

"(A) IN GENERAL.—In the case of a taxpayer making an election under section 6417 with respect to a credit under this section, the amount of such credit shall be replaced with—

"(i) the value of such credit (determined without regard to this paragraph), multiplied by

"(ii) the applicable percentage.

"(B) 100 PERCENT APPLICABLE PERCENTAGE FOR CERTAIN APPLICABLE FACILITY.—In the case of any applicable facility—

"(i) which satisfies the requirements under paragraph (11) with respect to the construction of such property, or

"(ii) with a maximum net output of less than 1 megawatt,

the applicable percentage shall be 100 percent.

"(C) PHASED DOMESTIC CONTENT REQUIREMENT.—Subject to subparagraph (D), in the case of any qualified facility which is not described in subparagraph (B), the applicable percentage shall be—

"(i) if construction of such facility began before January 1, 2024, 100 percent,

"(ii) if construction of such facility began in calendar year 2024, 90 percent,

"(iii) if construction of such facility began in calendar year 2025, 85 percent, and

"(iv) if construction of such facility began after December 31, 2025, 0 percent.

"(D) EXCEPTIONS.—In order to facilitate the use of amounts made available in this section, increase the tax incentives for investment in clean energy, and grow the domestic supply chains, the Secretary shall provide appropriate exceptions to the domestic content requirements for products under subparagraph (C) for the construction of qualified facilities if either the inclusion of domestic products increases the overall costs of projects by more than 25 percent or relevant manufactured products are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality.

"(g) TERMINATION.—This section shall not apply to any property unless—

"(1) such property is placed in service before January 1, 2032, and

"(2) the qualifying electric transmission line with respect to which such property relates is placed in service before such date.

"(h) REGULATIONS AND GUIDANCE.—The Secretary, after consultation with the Chairman of the Federal Energy Regulatory Commission, shall issue such regulations

or other guidance as the Secretary determines necessary or appropriate to carry out the purposes of this section.''.

(b) ELECTIVE PAYMENT OF CREDIT.—Section 6417(b), as added by the preceding provisions of this Act, is amended by adding at the end the following new paragraph:

''(6) The qualifying electric transmission property credit determined under section 48D.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 46 is amended—

(A) by striking ''and'' at the end of paragraph (5),

(B) by striking the period at the end of paragraph (6) and inserting '', and'', and

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

''(7) the qualifying electric transmission property credit.''.

(2) Section 49(a)(1)(C) is amended—

(A) by striking ''and'' at the end of clause (iv),

(B) by striking the period at the end of clause (v) and inserting '', and'', and

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

"(vi) the basis of any qualifying electric transmission property under section 48D.".

(3) Section 50(a)(2)(E) is amended by striking "or 48C(b)(2)" and inserting "48C(b)(2), or 48D".

(4) The table of sections for subpart E of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 48C the following new item:

"Sec. 48D. Qualifying electric transmission property.".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to property placed in service after December 31, 2021.

(2) EXCEPTION FOR CERTAIN PROPERTY AND PROJECTS ALREADY IN PROCESS.—For exclusion of certain property and projects already in process, see section 48D(d) of the Internal Revenue Code of 1986 (as added by this section).

SEC. 136106. ZERO EMISSIONS FACILITY CREDIT.

(a) IN GENERAL.—Subpart E of part IV of subchapter A of chapter 1 is amended by inserting after section 48C the following new section:

"SEC. 48E. ZERO EMISSIONS FACILITY CREDIT.

"(a) IN GENERAL.—For purposes of section 46, the zero emissions facility credit for any taxable year is an

amount equal to 30 percent of the qualified investment for such taxable year with respect to any zero emissions facility of the taxpayer.

"(b) QUALIFIED INVESTMENT.—

"(1) IN GENERAL.—For purposes of subsection (a), the qualified investment for any taxable year is the basis of eligible property placed in service by the taxpayer during such taxable year which is part of a zero emissions facility.

"(2) CERTAIN QUALIFIED PROGRESS EXPENDITURES RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this section.

"(3) LIMITATION.—The amount which is treated as the qualified investment for all taxable years with respect to any zero emissions facility shall not exceed the amount designated by the Secretary as eligible for the credit under this section.

"(c) ZERO EMISSIONS FACILITY.—

"(1) IN GENERAL.—For purposes of this section, the term 'zero emissions facility' means any facility—

"(A) which generates electricity,

"(B) which does not generate any greenhouse gases (within the meaning of section 211(o)(1)(G) of the Clean Air Act (42 U.S.C. 7545(o)(1)(G)), as in effect on the date of the enactment of this section),

"(C) which uses a technology or process which, in the calendar year in which an amount of credit is designated with respect to such facility, achieved a market penetration level of less than 3 percent,

"(D) no portion of which is—

"(i) a qualified facility (as defined in section 45(d)),

"(ii) an advanced nuclear power facility (as defined in section 45J(d)),

"(iii) a qualified facility (as defined in section 45Q), or

"(iv) energy property (as defined in section 48(a)(3)).

"(2) MARKET PENETRATION LEVEL.—For purposes of this subsection, the term 'market penetration level' means, with respect to any calendar year, the amount equal to the greater of—

"(A) the amount (expressed as a percentage) equal to the quotient of—

"(i) the sum of all electricity produced (expressed in terawatt hours) from the technology or method used for the production of electricity by all electricity generating facilities in the United States during such calendar year (as determined by the Secretary on the basis of data reported by the Energy Information Administration), divided by the total domestic power sector electricity production (expressed in terawatt hours) for such calendar year, or

"(ii) the amount determined under this subparagraph for the preceding calendar year with respect to such technology or method.

"(d) ELIGIBLE PROPERTY.—For purposes of this section, the term 'eligible property' means any property—

"(1) which is necessary for the generation of electricity,

"(2) which is—

"(A) tangible personal property, or

"(B) other tangible property (not including a building or its structural components), but only if such property is used as an integral part of the zero emissions facility, and

"(3) with respect to which depreciation (or amortization in lieu of depreciation) is allowable.

"(e) ALLOCATIONS.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary, after consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall establish a program to consider and award certification amounts of zero emissions facility credit limitation to zero emissions facilities.

"(2) ANNUAL LIMITATION.—

"(A) IN GENERAL.—The amount of zero emissions facility credit limitation that may be designated under this subsection during any calendar year shall not exceed the annual credit limitation with respect to such year.

"(B) ANNUAL CREDIT LIMITATION.—For purposes of this subsection, the term 'annual credit limitation' means $250,000,000 for each of calendar years 2022 through 2031, and zero thereafter.

"(C) CARRYOVER OF UNUSED LIMITATION.—If the annual credit limitation for any calendar year exceeds the aggregate amount

designated for such year under this subsection, such limitation for the succeeding calendar year shall be increased by the amount of such excess. No amount may be carried under the preceding sentence to any calendar year after 2031.

''(3) PLACED IN SERVICE DEADLINE.—

''(A) IN GENERAL.—No credit shall be determined under subsection (a) with respect to any zero emissions facility which is placed in service after the date that is 4 years after the date of the designation under this subsection relating to such zero emissions facility.

''(B) APPLICATION OF CARRYOVER.—Any amount of credit which expires under subparagraph (A) during any calendar year shall be taken into account as an excess described in paragraph (2)(C) (or as an increase in such excess) for such calendar, subject to the limitation imposed by the last sentence of such paragraph.

''(4) SELECTION CRITERIA.—In determining which zero emissions facilities to certify under this section, the Secretary, after consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall—

1 ''(A) take into consideration which facili-
2 ties—
3 ''(i) will result in the greatest reduc-
4 tion of greenhouse gas emissions,
5 ''(ii) have the greatest potential for
6 technological innovation and commercial
7 deployment, and
8 ''(iii) will result in the greatest reduc-
9 tion of local environmental effects that are
10 harmful to human health, and
11 ''(B) require that applicants provide writ-
12 ten assurances to the Secretary that all laborers
13 and mechanics employed by contractors and
14 subcontractors in the performance of construc-
15 tion, alteration or repair work on a zero emis-
16 sions facility shall be paid wages at rates not
17 less than those prevailing on projects of a simi-
18 lar character in the locality as determined by
19 the Secretary of Labor in accordance with sub-
20 chapter IV of chapter 31 of title 40, United
21 States Code.
22 ''(5) DISCLOSURE OF CERTIFICATIONS.—The
23 Secretary shall, upon making a certification under
24 this subsection, publicly disclose the identity of the
25 applicant, the amount of the credit awarded with re-

spect to such applicant, and the location of the zero-emissions facility for which such credit is awarded.

"(f) CREDIT CONDITIONED UPON WAGE AND APPRENTICESHIP REQUIREMENTS.—

"(1) IN GENERAL.—No credit shall be allocated for a zero emissions facility under this section unless the zero emissions facility meets the prevailing wage requirements of paragraph (2) and the apprenticeship requirements of paragraph (3).

"(2) PREVAILING WAGE REQUIREMENTS.—

"(A) IN GENERAL.—The requirements described in this paragraph with respect to a zero emissions facility are that the taxpayer shall ensure that any laborers and mechanics employed by contractors and subcontractors in—

"(i) the construction of such zero emissions facility, and

"(ii) for any year during the 5-year period beginning on the date the facility is originally placed in service, the alteration or repair of such zero emissions facility,

shall be paid wages at rates not less than the prevailing rates for construction, alteration, or repair of a similar character in the locality as most recently determined by the Secretary of

Labor, in accordance with subchapter IV of chapter 31 of title 40, United States Code.

"(B) CORRECTION AND PENALTY RELATED TO FAILURE TO SATISFY WAGE REQUIREMENTS.—

"(i) IN GENERAL.—In the case of any taxpayer which fails to satisfy the requirement under subparagraph (A) with respect to the construction of any qualified facility or with respect to the alteration or repair of a facility in any year during the period described in subparagraph (A)(ii), such taxpayer shall be deemed to have satisfied such requirement under such subparagraph with respect to such zero emissions facility for any year if, with respect to any laborer or mechanic who was paid wages at a rate below the rate described in such subparagraph for any period during such year, such taxpayer—

"(I) makes payment to such laborer or mechanic in an amount equal to the sum of—

"(aa) an amount equal to the difference between the

amount of wages paid to such laborer or mechanic during such period, and—

"(bb) the amount of wages required to be paid to such laborer or mechanic pursuant to such subparagraph during such period, plus

"(AA) interest on the amount determined under item (aa) at the underpayment rate established under section 6621 for the period described in such item, and

"(II) makes payment to the Secretary of a penalty in an amount equal to the product of—

"(aa) $5,000, multiplied by

"(bb) the total number of laborers and mechanics who were paid wages at a rate below the rate described in subparagraph (A) for any period during such year.

"(ii) PENALTY ASSESSED AS TAX.—The penalty described in clause (i)(II) shall be treated in the same manner as a penalty imposed under subchapter B of chapter 68.

"(3) APPRENTICESHIP REQUIREMENTS.—The requirements described in this subparagraph with respect to a zero emissions facility are as follows:

"(A) LABOR HOURS.—

"(i) PERCENTAGE OF TOTAL LABOR HOURS.—All contractors and subcontractors engaged in the performance of construction, alteration, or repair work on any facility prior to such facility being placed into service shall, subject to subparagraph (B), ensure that not less than the applicable percentage of the total labor hours of such work be performed by qualified apprentices.

"(ii) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage shall be—

"(I) in the case of any applicable zero emissions facility the construc-

tion of which begins before January 1, 2023, 5 percent,

"(II) in the case of any applicable zero emissions facility the construction of which begins after December 31, 2022, and before January 1, 2024, 10 percent, and

"(III) in the case of any applicable zero emissions facility the construction of which begins after December 31, 2023, 15 percent.

"(B) APPRENTICE TO JOURNEYWORKER RATIO.—The requirement under subparagraph (A)(i) shall be subject to any applicable requirements for apprentice-to-journeyworker ratios of the Department of Labor or the applicable State apprenticeship agency.

"(C) PARTICIPATION.—Each contractor and subcontractor who employs 4 or more individuals to perform construction, alteration, or repair work on an applicable zero emissions facility shall employ 1 or more qualified apprentices to perform such work.

"(D) EXCEPTION.—

"(i) IN GENERAL.—Notwithstanding any other provision of this paragraph, this paragraph shall not apply in the case of a taxpayer who—

"(I) demonstrates a lack of availability of qualified apprentices in the geographic area of the construction, alteration, or repair work, and

"(II) makes a good faith effort to comply with the requirements of this paragraph.

"(ii) GOOD FAITH EFFORT.—For purposes of clause (i), a taxpayer shall be deemed to have satisfied the requirements under such paragraph with respect to an applicable project if such taxpayer has requested qualified apprentices from a registered apprenticeship program, as defined in section 3131(e)(3)(B), and such request has been denied, provided that such denial is not the result of a refusal by the contractors or subcontractors engaged in the performance of construction, alteration, or repair work on such applicable project to comply with the established standards and

requirements of such apprenticeship program.

"(E) DEFINITIONS.—For purposes of this paragraph—

"(i) LABOR HOURS.—The term 'labor hours'—

"(I) means the total number of hours devoted to the performance of construction, alteration, or repair work by employees of the contractor or subcontractor prior to a facility being placed into service, and

"(II) excludes any hours worked by—

"(aa) foremen,

"(bb) superintendents,

"(cc) owners, or

"(dd) persons employed in a bona fide executive, administrative, or professional capacity (within the meaning of those terms in part 541 of title 29, Code of Federal Regulations).

"(ii QUALIFIED APPRENTICE.—The term 'qualified apprentice' has the mean-

ing given such term in section 45(b)(9)(E)(ii).

"(4) REGULATIONS AND GUIDANCE.—The Secretary shall issue such regulations or other guidance as the Secretary determines necessary or appropriate to carry out the purposes of this subsection.

"(5) PENALTY FOR DIRECT PAY.—

"(A) IN GENERAL.—In the case of a taxpayer making an election under section 6417 with respect to a credit under this section, the amount of such credit shall be replaced with—

"(i) the value of such credit (determined without regard to this paragraph), multiplied by

"(ii) the applicable percentage.

"(B) 100 PERCENT APPLICABLE PERCENTAGE FOR CERTAIN QUALIFIED FACILITIES.—In the case of any qualified facility—

"(i) which satisfies the requirements under paragraph (5) with respect to the construction of such facility, or

"(ii) with a maximum net output of less than 1 megawatt,

the applicable percentage shall be 100 percent.

"(C) PHASED DOMESTIC CONTENT REQUIREMENT.—Subject to subparagraph (D), in the case of any qualified facility which is not described in subparagraph (B), the applicable percentage shall be—

"(i) if construction of such facility began before January 1, 2024, 100 percent,

"(ii) if construction of such facility began in calendar year 2024, 90 percent,

"(iii) if construction of such facility began in calendar year 2025, 85 percent, and

"(iv) if construction of such facility began after December 31, 2025, 0 percent.

"(D) EXCEPTION.—If the Secretary, after consultation with the Secretary of Commerce and the United States Trade Representative, determines that, for purposes of application of the requirements under paragraph (5) with respect to the construction of the qualified facility—

"(i) their application would be inconsistent with the public interest,

"(ii) such materials and products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality, or

"(iii) inclusion of domestic material will increase the cost of the construction of the qualified facility by more than 25 percent,

the applicable percentage shall be 100 percent.".

(b) ELECTIVE PAYMENT OF CREDIT.—Section 6417(b), as added and amended by the preceding provisions of this Act, is amended by adding at the end the following new paragraph:

"(7) The zero emissions facility credit determined under section 48E.".

(c) CONFORMING AMENDMENTS.—

(1) Section 46 is amended by striking "and" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ", and", and by adding at the end the following new paragraph:

"(8) the zero emissions facility credit.".

(2) Section 49(a)(1)(C) is amended by striking "and" at the end of clause (v), by striking the pe-

riod at the end of clause (vi) and inserting a comma, and by adding at the end the following new clause:

"(vii) the basis of any eligible property which is part of a zero emissions facility under section 48D.".

(3) Section 50(a)(2)(E) is amended by striking " or 48D" and inserting "48D, or 48E(b)(2)".

(4) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 48D the following new item:

Sec. 48E. Zero emissions facility credit.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 2021, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)

SEC. 136107. EXTENSION AND MODIFICATION OF CREDIT FOR CARBON OXIDE SEQUESTRATION.

(a) EXTENSION.—Section 45Q(d)(1) is amended by striking "January 1, 2026" and inserting "January 1, 2032".

(b) MODIFICATION OF CARBON OXIDE CAPTURE REQUIREMENTS.—Section 45Q(d)(2) is amended to read as follows:

"(2) which captures—

"(A) in the case of a direct air capture facility, not less than 1,000 metric tons of qualified carbon oxide during the taxable year,

"(B) in the case of an electricity generating facility, not less than 18,750 metric tons of qualified carbon oxide during the taxable year and not less than 75 percent of the carbon oxide that would otherwise be released into the atmosphere by such facility during such taxable year, and

"(C) in the case of any other facility, not less than 12,500 metric tons of qualified carbon oxide during the taxable year and not less than 50 percent of the carbon oxide that would otherwise be released into the atmosphere by such facility during such taxable year.".

(c) DETERMINATION OF APPLICABLE DOLLAR AMOUNT.—

(1) IN GENERAL.—Section 45Q(b)(1) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) SPECIAL RULE FOR DIRECT AIR CAPTURE FACILITIES.—For any taxable year begin-

ning after December 31, 2021, in the case of any qualified facility described in subsection (d)(2)(C), the applicable dollar amount shall be an amount equal to—

"(i) for purposes of paragraph (3) of subsection (a), an amount equal to the product of $180 and the inflation adjustment factor for such calendar year determined under section 43(b)(3)(B) for such calendar year, determined by substituting '2020' for '1990', and

"(ii) for purposes of paragraph (4) of such subsection, an amount equal to the product of $130 and the inflation adjustment factor for such calendar year determined under section 43(b)(3)(B) for such calendar year, determined by substituting '2020' for '1990'.".

(2) CONFORMING AMENDMENTS.—

(A) Section 45Q(b)(1)(A) is amended by striking "The applicable dollar amount" and inserting "Except as provided in subparagraph (B), the applicable dollar amount".

(B) Section 45Q(b)(1)(C), as redesignated by subparagraph (A), is amended by striking

"subparagraph (A)" and inserting "subparagraph (A) or (B)".

(d) WAGE AND APPRENTICESHIP REQUIREMENTS.—Section 45Q is amended by redesignating subsection (h) as subsection (i) and inserting after subsection (g) following new subsection:

"(h) BASE CREDIT AMOUNT AND INCREASED CREDIT AMOUNT FOR QUALIFIED FACILITIES AND CARBON CAPTURE EQUIPMENT.—

"(1) IN GENERAL.—In the case of any qualified facility and any carbon capture equipment which does not satisfy the requirements of paragraph (2), the amount of the credit determined under subsection (a) shall be 20 percent of such amount (determined without regard to this sentence).

"(2) INCREASED CREDIT FOR CERTAIN FACILITIES AND CARBON CAPTURE EQUIPMENT MEETING PROJECT REQUIREMENTS.—

"(A) IN GENERAL.—In the case of any qualified facility and any carbon capture equipment placed in service at such facility which meets the project requirements of this subparagraph, subparagraph (A) shall not apply.

"(B) PROJECT REQUIREMENTS.—A project meets the requirements of this subparagraph if it is one of the following:

"(i) A qualified facility with a maximum net output of less than 1 megawatt.

"(ii) A qualified facility or any carbon capture equipment placed in service at such facility which commences construction prior to the date of the enactment of this paragraph.

"(iii) A project which satisfies the requirements of paragraphs (3) and (4).

"(3) PREVAILING WAGE REQUIREMENTS.—

"(A) IN GENERAL.—The requirements described in this subparagraph with respect to any qualified facility and any carbon capture equipment placed in service at such facility are that the taxpayer shall ensure that any laborers and mechanics employed by contractors and subcontractors in—

"(i) the construction of such facility and carbon capture equipment,

"(ii) the alteration or repair of such facility and carbon capture equipment during the 12 year-period after being placed

into service, or for carbon capture equipment placed in service prior to 2018, until the date determined by the Secretary under subsection (g),

shall be paid wages at rates not less than the prevailing rates for construction, alteration, or repair of a similar character in the locality as most recently determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31 of title 40, United States Code.

''(B) CORRECTION AND PENALTY RELATED TO FAILURE TO SATISFY WAGE REQUIREMENTS.—

''(i) IN GENERAL.—In the case of any taxpayer which fails to satisfy the requirement under subparagraph (A) with respect to the construction of any qualified facility or with respect to the alteration or repair of a facility in any year during the period described in subparagraph (A)(ii), such taxpayer shall be deemed to have satisfied such requirement under such subparagraph with respect to such facility and carbon capture equipment for any year if, with respect to any laborer or mechanic who was

paid wages at a rate below the rate described in such subparagraph for any period during such year, such taxpayer—

"(I) makes payment to such laborer or mechanic in an amount equal to the sum of an amount equal to the difference between the amount of wages paid to such laborer or mechanic during such period, and—

"(aa) the amount of wages required to be paid to such laborer or mechanic pursuant to such subparagraph during such period, plus

"(bb) interest on the amount determined under item (aa) at the underpayment rate established under section 6621 for the period described in such item, and

"(II) makes payment to the Secretary of a penalty in an amount equal to the product of—

"(aa) $5,000, multiplied by

"(bb) the total number of laborers and mechanics who were paid wages at a rate below the rate described in subparagraph (A) for any period during such year.

"(ii) PENALTY ASSESSED AS TAX.—The penalty described in clause (i)(II) shall be treated in the same manner as a penalty imposed under subchapter B of chapter 68.

"(4) APPRENTICESHIP REQUIREMENTS.—The requirements described in this paragraph with respect to any qualified facility and carbon capture equipment are as follows:

"(A) LABOR HOURS.—

"(i) PERCENTAGE OF TOTAL LABOR HOURS.—All contractors and subcontractors engaged in the performance of construction, alteration, or repair work on any facility and carbon capture equipment prior to such facility being placed into service shall, subject to subparagraph (B), ensure that not less than the applicable percentage of the total labor hours of such

work be performed by qualified apprentices.

"(ii) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage shall be—

"(I) in the case of any applicable project the construction of which begins before January 1, 2023, 5 percent,

"(II) in the case of any applicable project the construction of which begins after December 31, 2022, and before January 1, 2024, 10 percent, and

"(III) in the case of any applicable project the construction of which begins after December 31, 2023, 15 percent.

"(B) APPRENTICE TO JOURNEYWORKER RATIO.—The requirement under subparagraph (A)(i) shall be subject to any applicable requirements for apprentice-to-journeyworker ratios of the Department of Labor or the applicable State apprenticeship agency.

"(C) PARTICIPATION.—Each contractor and subcontractor who employs 4 or more individuals to perform construction, alteration, or repair work on an applicable project shall employ 1 or more qualified apprentices to perform such work.

"(D) EXCEPTION.—

"(i) IN GENERAL.—Notwithstanding any other provision of this paragraph, this paragraph shall not apply in the case of a taxpayer who—

"(I) demonstrates a lack of availability of qualified apprentices in the geographic area of the construction, alteration, or repair work, and

"(II) makes a good faith effort to comply with the requirements of this paragraph.

"(ii) GOOD FAITH EFFORT.—For purposes of clause (i), a taxpayer shall be deemed to have satisfied the requirements under such paragraph with respect to an applicable project if such taxpayer has requested qualified apprentices from a registered apprenticeship program, as defined

in section 3131(e)(3)(B), and such request has been denied, provided that such denial is not the result of a refusal by the contractors or subcontractors engaged in the performance of construction, alteration, or repair work on such applicable project to comply with the established standards and requirements of such apprenticeship program.

''(E) DEFINITIONS.—For purposes of this paragraph—

''(i) LABOR HOURS.—The term 'labor hours' has the meaning given such term in section 45(b)(9)(E)(i).

''(ii) QUALIFIED APPRENTICE.—The term 'qualified apprentice' has the meaning given such term in section 45(b)(9)(E)(ii).

''(5) REGULATIONS AND GUIDANCE.—The Secretary shall issue such regulations or other guidance as the Secretary determines necessary or appropriate to carry out the purposes of this subsection.''.

(e) INCREASED APPLICABLE DOLLAR AMOUNT.—

(1) IN GENERAL.—Section 45Q(b)(1) is amended—

(A) by amending clause (i) of subparagraph (A) to read as follows:

"(i) for any taxable year beginning in a calendar year after 2016 and before 2027—

"(I) for purposes of paragraph (3) of subsection (a), $50 for each calendar year during such period, and

"(II) for purposes of paragraph (4) of such subsection, $35 for each calendar year during such period, and",

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), and

(C) by inserting after subparagraph (A) the following new subparagraph:

"(B) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2025, each of the dollar amounts in subparagraph (A)(i) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year be-

gins, determined by substituting 'calendar year 2024' for 'calendar year 2016' in subparagraph (A)(ii) thereof.

Any increase determined under the preceding sentence shall be rounded to the nearest cent.''.

(f) EFFECTIVE DATES.—

(1) EXTENSION.—The amendment made by subsection (a) shall apply to facilities the construction of which begins after December 31, 2025.

(2) OTHER AMENDMENTS.—The amendments made by subsections (b), (c), (d), and (e) shall apply to taxable years beginning after December 31, 2021.

SEC. 136108. GREEN ENERGY PUBLICLY TRADED PARTNERSHIPS.

(a) IN GENERAL.—Section 7704(d)(1)(E) is amended—

(1) by striking ''income and gains derived from the exploration'' and inserting ''income and gains derived from—

''(i) the exploration'',

(2) by inserting ''or'' before ''industrial source'', and

(3) by striking '', or the transportation or storage'' and all that follows and inserting the following:

"(ii) the generation of electric power or thermal energy exclusively using any qualified energy resource (as defined in section 45(c)(1)),

"(iii) the operation of energy property (as defined in section 48(a)(3), determined without regard to any date by which the construction of the facility is required to begin),

"(iv) in the case of a facility described in paragraph (3) or (7) of section 45(d) (determined without regard to any placed in service date or date by which construction of the facility is required to begin), the accepting or processing of open-loop biomass or municipal solid waste,

"(v) the transportation or storage of any fuel described in subsection (b), (c), (d), or (e) of section 6426,

"(vi) the conversion of renewable biomass (as defined in subparagraph (I) of section 211(o)(1) of the Clean Air Act (as in effect on the date of the enactment of this clause)) into renewable fuel (as defined in subparagraph (J) of such section

as so in effect), or the storage or transportation of such fuel,

"(vii) the production, storage, or transportation of any fuel which—

"(I) uses as its primary feedstock carbon oxides captured from an anthropogenic source or the atmosphere,

"(II) does not use as its primary feedstock carbon oxide which is deliberately released from naturally occurring subsurface springs, and

"(III) is determined by the Secretary, after consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, to achieve a reduction of not less than a 60 percent in lifecycle greenhouse gas emissions (as defined in section 211(o)(1)(H) of the Clean Air Act, as in effect on the date of the enactment of this clause) compared to baseline lifecycle greenhouse gas emissions (as defined in section 211(o)(1)(C) of such Act, as so in effect), or

"(viii) a qualified facility (as defined in section 45Q(d), without regard to any date by which construction of the facility is required to begin).".

(b) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 2021.

SEC. 136109. ZERO-EMISSION NUCLEAR POWER PRODUCTION CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 45W. ZERO-EMISSION NUCLEAR POWER PRODUCTION CREDIT.

"(a) AMOUNT OF CREDIT.—For purposes of section 38, the zero-emission nuclear power production credit for any taxable year is an amount equal to the amount by which—

"(1) the product of—

"(A) 1.5 cents, multiplied by

"(B) the kilowatt hours of electricity—

"(i) produced by the taxpayer at a qualified nuclear power facility, and

"(ii) sold by the taxpayer to an unrelated person during the taxable year, exceeds

"(2) the reduction amount for such taxable year.

"(b) DEFINITIONS.—

"(1) QUALIFIED NUCLEAR POWER FACILITY.—For purposes of this section, the term 'qualified nuclear power facility' means any nuclear facility—

"(A) which is owned by the taxpayer and which uses nuclear energy to produce electricity,

"(B) which has not received an allocation under section 45J(b), and

"(C) which is placed in service before the date of the enactment of this section.

"(2) REDUCTION AMOUNT.—

"(A) IN GENERAL.—For purposes of this section, the term 'reduction amount' means, with respect to any qualified nuclear power facility for any taxable year, the amount equal to the lesser of—

"(i) the amount determined under subsection (a)(1), or

1 ''(ii) the amount equal to 80 percent
2 of the excess of—
3 ''(I) subject to subparagraph (B),
4 the gross receipts from any electricity
5 produced by such facility (including
6 any electricity services or products
7 provided in conjunction with the elec-
8 tricity produced by such facility) and
9 sold to an unrelated person during
10 such taxable year, over
11 ''(II) the amount equal to the
12 product of—
13 ''(aa) 2.5 cents, multiplied
14 by
15 ''(bb) the amount deter-
16 mined under subsection
17 (a)(1)(B).
18 ''(B) TREATMENT OF CERTAIN RE-
19 CEIPTS.—
20 ''(i) IN GENERAL.—The amount de-
21 termined under subparagraph (A)(ii)(I)
22 shall include any amount received by the
23 taxpayer during the taxable year with re-
24 spect to the qualified nuclear power facility
25 from a zero-emission credit program unless

the amount received by the taxpayer is subject to reduction—

"(I) by the full amount of the credit determined under this section, or

"(II) by any lesser amount if such amount entirely offsets the amount received from a zero-emission credit program.

"(ii) ZERO-EMISSION CREDIT PROGRAM.—For purposes of this subparagraph, the term 'zero-emission credit program' means any payments to a qualified nuclear power facility as a result of any Federal, State or local government program for, in whole or in part, the zero-emission, zero-carbon, or air quality attributes of any portion of the electricity produced by such facility.

"(3) ELECTRICITY.—For purposes of this section, the term 'electricity' means the energy produced by a qualified nuclear power facility from the conversion of nuclear fuel into electric power.

"(c) OTHER RULES.—

"(1) INFLATION ADJUSTMENT.—The 1.5 cent amount in subsection (a)(1)(A) and the 2.5 cent amount in subsection (b)(2)(A)(ii)(II)(aa) shall each be adjusted by multiplying such amount by the inflation adjustment factor (as determined under section 45(e)(2), as applied by substituting 'calendar year 2022' for 'calendar year 1992' in subparagraph (B) thereof) for the calendar year in which the sale occurs. If any amount as increased under the preceding sentence is not a multiple of 0.1 cent, such amount shall be rounded to the nearest multiple of 0.1 cent.

"(2) SPECIAL RULES.—Rules similar to the rules of paragraphs (1), (3), (4), and (5) of section 45(e) shall apply for purposes of this section.

"(3) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under section 48E for any power production for which a credit is taken under this section.

"(d) WAGE AND APPRENTICESHIP REQUIREMENTS.—

"(1) BASE CREDIT AMOUNT AND INCREASED CREDIT AMOUNT FOR QUALIFIED NUCLEAR POWER FACILITIES.—

"(A) IN GENERAL.—In the case of any qualified nuclear power facility which does not satisfy the requirements of subparagraph (B), the amount of the credit determined under subsection (a) and the 2.5 cent amount in subsection (b)(2)(A)(ii)(II)(aa) shall be 20 percent of such amount (determined without regard to this sentence).

"(B) INCREASED CREDIT FOR CERTAIN FACILITIES MEETING PROJECT REQUIREMENTS.—

"(i) IN GENERAL.—In the case of any qualified nuclear power facility which meets the project requirements of this subparagraph, subparagraph (A) shall not apply.

"(ii) PROJECT REQUIREMENTS.—A project meets the requirements of this subparagraph if it is one of the following:

"(I) A project with a maximum net output of less than 1 megawatt.

"(II) A project which satisfies the requirements of paragraphs (2) and (3).

"(2) PREVAILING WAGE REQUIREMENTS.—

"(A) IN GENERAL.—The taxpayer shall ensure that any laborers and mechanics employed by contractors and subcontractors in the alteration or repair of a facility shall be paid wages at rates not less than the prevailing rates for construction, alteration, or repair of a similar character in the locality as most recently determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31 of title 40, United States Code.

"(B) CORRECTION AND PENALTY RELATED TO FAILURE TO SATISFY WAGE REQUIREMENTS.—

"(i) IN GENERAL.—In the case of any taxpayer which fails to satisfy the requirement under subparagraph (A), such taxpayer shall be deemed to have satisfied such requirement under such subparagraph with respect to such facility for any year if, with respect to any laborer or mechanic who was paid wages at a rate below the rate described in such subparagraph for any period during such year, such taxpayer—

"(I) makes payment to such laborer or mechanic in an amount equal to the sum of—

"(aa) an amount equal to the difference between the amount of wages paid to such laborer or mechanic during such period, and—

"(AA) the amount of wages required to be paid to such laborer or mechanic pursuant to such subparagraph during such period, plus

"(BB) interest on the amount determined under item (aa) at the underpayment rate established under section 6621 for the period described in such item, and

"(II) makes payment to the Secretary of a penalty in an amount equal to the product of—

"(aa) $5,000, multiplied by

"(bb) the total number of laborers and mechanics who were paid wages at a rate below the rate described in subparagraph (A) for any period during such year.

"(ii) PENALTY ASSESSED AS TAX.—The penalty described in clause (i)(II) shall be treated in the same manner as a penalty imposed under subchapter B of chapter 68.

"(3) APPRENTICESHIP REQUIREMENTS.—The requirements described in this subparagraph with respect to any qualified nuclear power facility are as follows:

"(A) LABOR HOURS.—

"(i) PERCENTAGE OF TOTAL LABOR HOURS.—All contractors and subcontractors engaged in the performance of alteration or repair work on any qualified nuclear power facility shall, subject to subparagraph (B), ensure that not less than the applicable percentage of the total labor hours of such work be performed by qualified apprentices.

"(ii) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage shall be—

"(I) in the case of any applicable project the construction of which begins before January 1, 2023, 5 percent,

"(II) in the case of any applicable project the construction of which begins after December 31, 2022, and before January 1, 2024, 10 percent, and

"(III) in the case of any applicable project the construction of which begins after December 31, 2023, 15 percent.

"(B) APPRENTICE TO JOURNEYWORKER RATIO.—The requirement under subparagraph (A)(i) shall be subject to any applicable requirements for apprentice-to-journeyworker ratios of the Department of Labor or the applicable State apprenticeship agency.

"(C) PARTICIPATION.—Each contractor and subcontractor who employs 4 or more individuals to perform construction, alteration, or

repair work on an applicable project shall employ 1 or more qualified apprentices to perform such work.

"(D) EXCEPTION.—

"(i) IN GENERAL.—Notwithstanding any other provision of this paragraph, this paragraph shall not apply in the case of a taxpayer who—

"(I) demonstrates a lack of availability of qualified apprentices in the geographic area of the construction, alteration, or repair work, and

"(II) makes a good faith effort to comply with the requirements of this paragraph.

"(ii) GOOD FAITH EFFORT.—For purposes of clause (i), a taxpayer shall be deemed to have satisfied the requirements under such paragraph with respect to an applicable project if such taxpayer has requested qualified apprentices from a registered apprenticeship program, as defined in section 3131(e)(3)(B), and such request has been denied, provided that such denial is not the result of a refusal by the con-

tractors or subcontractors engaged in the performance of construction, alteration, or repair work on such applicable project to comply with the established standards and requirements of such apprenticeship program.

"(E) DEFINITIONS.—For purposes of this paragraph—

"(i) LABOR HOURS.—The term 'labor hours' has the meaning given such term in section 45(b)(9)(E)(i).

"(ii) QUALIFIED APPRENTICE.—The term 'qualified apprentice' has the meaning given such term in section 45(b)(9)(E)(ii).

"(4) REGULATIONS AND GUIDANCE.—The Secretary shall issue such regulations or other guidance as the Secretary determines necessary or appropriate to carry out the purposes of this subsection.

"(e) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 2026.".

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b) of the Internal Revenue Code of 1986 is amended—

(A) in paragraph (36), by striking ''plus'' at the end,

(B) in paragraph (37), by striking the period at the end and inserting '', plus'', and

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

''(38) the zero-emission nuclear power production credit determined under section 45W(a).''.

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

''Sec. 45W. Zero-emission nuclear power production credit.''.

(c) ELECTIVE PAYMENT OF CREDIT.—Section 6417(b), as added by the preceding provisions of this Act, is amended by adding at the end the following new paragraph:

''(8) The zero-emission nuclear power production credit determined under section 45W.''.

(d) EFFECTIVE DATE.—This section shall apply to electricity produced and sold after December 31, 2021, in taxable years beginning after such date.

PART 2—RENEWABLE FUELS

SEC. 136201. EXTENSION OF INCENTIVES FOR BIODIESEL, RENEWABLE DIESEL AND ALTERNATIVE FUELS.

(a) BIODIESEL AND RENEWABLE DIESEL CREDIT.—Section 40A(g) is amended by striking ''December 31, 2022'' and inserting ''December 31, 2031''.

(b) BIODIESEL MIXTURE CREDIT.—

(1) IN GENERAL.—Section 6426(c)(6) is amended by striking ''December 31, 2022'' and inserting ''December 31, 2031''.

(2) FUELS NOT USED FOR TAXABLE PURPOSES.—Section 6427(e)(6)(B) is amended by striking ''December 31, 2022'' and inserting ''December 31, 2031''.

(c) ALTERNATIVE FUEL CREDIT.—Section 6426(d)(5) is amended by striking ''December 31, 2021'' and inserting ''December 31, 2031''.

(d) ALTERNATIVE FUEL MIXTURE CREDIT.—Section 6426(e)(3) is amended by striking ''December 31, 2021'' and inserting ''December 31, 2031''.

(e) PAYMENTS FOR ALTERNATIVE FUELS.—Section 6427(e)(6)(C) is amended by striking ''December 31, 2021'' and inserting ''December 31, 2031''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after December 31, 2021.

SEC. 136202. EXTENSION OF SECOND GENERATION BIOFUEL INCENTIVES.

(a) IN GENERAL.—Section 40(b)(6)(J)(i) is amended by striking ''2022'' and inserting ''2032''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to qualified second generation biofuel production after December 31, 2021.

SEC. 136203. SUSTAINABLE AVIATION FUEL CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 is amended by inserting after section 40A the following new section:

''SEC. 40B. SUSTAINABLE AVIATION FUEL CREDIT.

''(a) IN GENERAL.—For purposes of section 38, the sustainable aviation fuel credit for the taxable year is, with respect to any sale or use of a qualified mixture which occurs during such taxable year, an amount equal to the product of—

''(1) the number of gallons of sustainable aviation fuel in such mixture, multiplied by

''(2) the sum of—

''(A) $1.25, plus

"(B) the applicable supplementary amount with respect to such sustainable aviation fuel.

"(b) APPLICABLE SUPPLEMENTARY AMOUNT.—For purposes of this section, the term 'applicable supplementary amount' means, with respect to any sustainable aviation fuel, an amount equal to $0.01 for each percentage point by which the lifecycle greehouse gas emissions reduction percentage with respect to such fuel exceeds 50 percent. In no event shall the applicable supplementary amount determined under this subsection exceed $0.50.

"(c) QUALIFIED MIXTURE.—For purposes of this section, the term 'qualified mixture' means a mixture of sustainable aviation fuel and kerosene if—

"(1) such mixture is produced by the taxpayer in the United States,

"(2) such mixture is used by the taxpayer (or sold by the taxpayer for use) in an aircraft,

"(3) such sale or use is in the ordinary course of a trade or business of the taxpayer, and

"(4) the transfer of such mixture to the fuel tank of such aircraft occurs in the United States.

"(d) SUSTAINABLE AVIATION FUEL.—For purposes of this section, the term 'sustainable aviation fuel' means liquid fuel which—

"(1) meets the requirements of—

"(A) ASTM International Standard D7566, or

"(B) the Fischer Tropsch provisions of ASTM International Standard D1655, Annex A1,

"(2) is not derived from palm fatty distillates or petroleum, and

"(3) has been certified in accordance with subsection (e) as having a lifecycle greenhouse gas emissions reduction percentage of at least 50 percent.

"(e) LIFECYCLE GREENHOUSE GAS EMISSIONS REDUCTION PERCENTAGE.—For purposes of this section—

"(1) IN GENERAL.—The term 'lifecycle greenhouse gas emissions reduction percentage' means, with respect to any sustainable aviation fuel, the percentage reduction in lifecycle greenhouse gas emissions achieved by such fuel in comparison with petroleum-based jet fuel as stated in a certification which meets the requirements of paragraphs (2).

"(2) CERTIFICATION METHODOLOGY.—A certification meets the requirements of this paragraph if such certification (including the methodology and process of such certification) conforms with all requirements (including requirements related to traceability and information transmission) of the

most recent Carbon Offsetting and Reduction Scheme for International Aviation which has been adopted by the International Civil Aviation Organization with the agreement of the United States.

"(3) OPTION TO OBTAIN CERTIFICATION FROM SECRETARY.—Not later than 24 months after the date of the enactment of this section, the Secretary, after consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall establish procedures pursuant to which taxpayers may obtain a certification which meets the requirements of paragraph (2) from the Secretary.

"(f) REGISTRATION OF SUSTAINABLE AVIATION FUEL PRODUCERS.—No credit shall be allowed under this section with respect to any sustainable aviation fuel unless the producer of such fuel has entered into an agreement with the Secretary to provide the Secretary such information with respect to such fuel as the Secretary may require for purposes of carrying out this section.

"(g) COORDINATION WITH CREDIT AGAINST EXCISE TAX.—The amount of the credit determined under this section with respect to any sustainable aviation fuel shall, under rules prescribed by the Secretary, be properly reduced to take into account any benefit provided with re-

spect to such sustainable aviation fuel solely by reason of the application of section 6426 or 6427(e).

"(h) TERMINATION.—This section shall not apply to any sale or use after December 31, 2031.".

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.— Section 38(b) is amended by striking "plus" at the end of paragraph (37), by striking the period at the end of paragraph (38) and inserting ", plus", and by inserting after paragraph (38) the following new paragraph:

"(39) the sustainable aviation fuel credit determined under section 40B.".

(c) COORDINATION WITH BIODIESEL INCENTIVES.—

(1) IN GENERAL.—Section 40A(d)(1) is amended by inserting "or 40B" after "determined under section 40".

(2) CONFORMING AMENDMENT.—Section 40A(f) is amended by striking paragraph (4).

(d) SUSTAINABLE AVIATION FUEL ADDED TO CREDIT FOR ALCOHOL FUEL, BIODIESEL, AND ALTERNATIVE FUEL MIXTURES.—

(1) IN GENERAL.—Section 6426 is amended by adding at the end the following new subsection:

"(k) SUSTAINABLE AVIATION FUEL CREDIT.—

"(1) IN GENERAL.—For purposes of this section, the sustainable aviation fuel credit for the taxable year is, with respect to any sale or use of a qualified mixture, an amount equal to the product of—

"(A) the number of gallons of sustainable aviation fuel in such mixture, multiplied by

"(B) the sum of—

"(i) $1.25, plus

"(ii) the applicable supplementary amount with respect to such sustainable aviation fuel.

"(2) APPLICABLE SUPPLEMENTARY AMOUNT.—For purposes of this subsection, the term 'applicable supplementary amount' has the meaning given such term in section 40B(b).

"(3) OTHER DEFINITIONS.—Any term used in this subsection which is also used in section 40B shall have the meaning given such term by section 40B.

"(4) REGISTRATION REQUIREMENT.—For purposes of this subsection, rules similar to the rules of section 40B(f) shall apply.".

(2) CONFORMING AMENDMENTS.—

(A) Section 6426 is amended—

(i) in subsection (a)(1), by striking ''and (e)'' and inserting ''(e), and (k)'', and

(ii) in subsection (h), by striking ''under section 40 or 40A'' and inserting ''under section 40, 40A, or 40B''.

(B) Section 6427(e)(6) is amended by striking the ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', and'', and by adding at the end the following new subparagraph:

''(E) any qualified mixture of sustainable aviation fuel (as defined in section 6426(k)(3)) sold or used after December 31, 2031.''.

(e) GUIDANCE.—Under rules prescribed by the Secretary of the Treasury (or the Secretary's delegate), the amount of the credit allowed under section 40B of the Internal Revenue Code of 1986 (as added by this subsection) shall be properly reduced to take into account any benefit provided with respect to sustainable aviation fuel (as defined in such section 40B) by reason of the application of section 6426 or section 6427(e).

(f) AMOUNT OF CREDIT INCLUDED IN GROSS INCOME.—Section 87 is amended by striking ''and'' in para-

graph (1), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end the following new paragraph:

"(3) the sustainable aviation fuel credit determined with respect to the taxpayer for the taxable year under section 40B(a).".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after December 31, 2022.

SEC. 136204. CLEAN HYDROGEN.

(a) CREDIT FOR PRODUCTION OF CLEAN HYDROGEN.—

(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

"SEC. 45X. CREDIT FOR PRODUCTION OF CLEAN HYDROGEN.

"(a) AMOUNT OF CREDIT.—For purposes of section 38, the clean hydrogen production credit for any taxable year is an amount equal to the product of—

"(1) the applicable amount, multiplied by

"(2) the kilograms of qualified clean hydrogen produced by the taxpayer during such taxable year at a qualified clean hydrogen production facility dur-

ing the 10-year period beginning on the date such facility was originally placed in service.

''(b) APPLICABLE AMOUNT.—

''(1) IN GENERAL.—For purposes of subsection (a)(1), the applicable amount shall be an amount equal to the applicable percentage of $3.00. If any amount as determined under the preceding sentence is not a multiple of 0.1 cent, such amount shall be rounded to the nearest multiple of 0.1 cent.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means—

''(A) in the case of any qualified clean hydrogen which is produced through a process that, as compared to hydrogen produced by steam-methane reforming, achieves a percentage reduction in lifecycle greenhouse gas emissions which is less than 75 percent, 20 percent,

''(B) in the case of any qualified clean hydrogen which is produced through a process that, as compared to hydrogen produced by steam-methane reforming, achieves a percentage reduction in lifecycle greenhouse gas emissions which is not less than 75 percent and less than 85 percent, 25 percent,

"(C) in the case of any qualified clean hydrogen which is produced through a process that, as compared to hydrogen produced by steam-methane reforming, achieves a percentage reduction in lifecycle greenhouse gas emissions which is not less than 85 percent and less than 95 percent, 34 percent, and

"(D) in the case of any qualified clean hydrogen which is produced through a process that, as compared to hydrogen produced by steam-methane reforming, achieves a percentage reduction in lifecycle greenhouse gas emissions which is not less than 95 percent, 100 percent.

"(3) INFLATION ADJUSTMENT.—The $3.00 amount in paragraph (1) shall be adjusted by multiplying such amount by the inflation adjustment factor (as determined under section 45(e)(2), determined by substituting '2020' for '1992' in subparagraph (B) thereof) for the calendar year in which the qualified clean hydrogen is produced. If any amount as increased under the preceding sentence is not a multiple of 0.1 cent, such amount shall be rounded to the nearest multiple of 0.1 cent.

"(c) DEFINITIONS.—For purposes of this section—

"(1) LIFECYCLE GREENHOUSE GAS EMISSIONS.—For purposes of this section, the term 'lifecycle greenhouse gas emissions' has the same meaning given such term under subparagraph (H) of section 211(o)(1) of the Clean Air Act (42 U.S.C. 7545(o)(1)), as in effect on the date of enactment of this section, as related to the full fuel lifecycle through the point of hydrogen production.

"(2) QUALIFIED CLEAN HYDROGEN.—

"(A) IN GENERAL.—The term 'qualified clean hydrogen' means hydrogen which is produced through a process that, as compared to hydrogen produced by steam-methane reforming, achieves a percentage reduction in lifecycle greenhouse gas emissions which is not less than 40 percent.

"(B) ADDITIONAL REQUIREMENTS.—Such term shall not include any hydrogen unless such hydrogen is produced—

"(i) in the United States (as defined in section 638(1) or a possession of the United States (as defined in section 638(2)),

"(ii) in the ordinary course of a trade or business of the taxpayer, and

1 ''(iii) for sale or use.

2 ''(3) QUALIFIED CLEAN HYDROGEN PRODUC-
3 TION FACILITY.—

4 ''(A) IN GENERAL.—The term 'qualified
5 clean hydrogen production facility' means a fa-
6 cility owned by the taxpayer which produces
7 qualified clean hydrogen and which meets the
8 requirements of subparagraph (B).

9 ''(B) TERMINATION.—The term 'qualified
10 clean hydrogen production facility' shall not in-
11 clude any facility the construction of which be-
12 gins after December 31, 2028.

13 ''(4) STEAM-METHANE REFORMING.—The term
14 'steam-methane reforming' means a hydrogen pro-
15 duction process in which high-temperature steam is
16 used to produce hydrogen from natural gas (other
17 than natural gas derived from biomass (as defined
18 in section 45K(c)(3) as in effect on the date of the
19 enactment of this section), without carbon capture
20 and sequestration.

21 ''(d) SPECIAL RULES.—

22 ''(1) TREATMENT OF FACILITIES OWNED BY
23 MORE THAN 1 TAXPAYER.—Rules similar to the
24 rules section 45(e)(3) shall apply for purposes of
25 this section.

"(2) COORDINATION WITH CREDIT FOR CARBON OXIDE SEQUESTRATION.—No credit shall be allowed under this section with respect to any qualified clean hydrogen produced at a facility which includes property for which a credit is allowed under section 45Q.

"(e) BASE CREDIT AMOUNT AND INCREASED CREDIT AMOUNT FOR QUALIFIED CLEAN HYDROGEN PRODUCTION FACILITIES.—

"(1) IN GENERAL.—In the case of any qualified clean hydrogen production facility which does not satisfy the requirements of paragraph (2)(B), the amount of the credit determined under subsection (a) shall be 20 percent of such amount (determined without regard to this sentence).

"(2) INCREASED CREDIT FOR CERTAIN FACILITIES MEETING PROJECT REQUIREMENTS.—

"(A) IN GENERAL.—In the case of any qualified facility which meets the project requirements of this paragraph, paragraph (1) shall not apply.

"(B) PROJECT REQUIREMENTS.—A project meets the requirements of this subparagraph if it is one of the following:

"(i) A project with a maximum net output of less than 1 megawatt.

"(ii) A project which commences construction prior to the date of the enactment of this paragraph.

"(iii) A project which satisfies the requirements of paragraphs (3) and (4).

"(3) PREVAILING WAGE REQUIREMENTS.—

"(A) IN GENERAL.—The requirements described in this subparagraph with respect to any qualified clean hydrogen production facility are that the taxpayer shall ensure that any laborers and mechanics employed by contractors and subcontractors in—

"(i) the construction of such facility, and

"(ii) for the 10-year period beginning on the date the facility was originally placed in service, the alteration or repair of such facility,

shall be paid wages at rates not less than the prevailing rates for construction, alteration, or repair of a similar character in the locality as most recently determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31 of title 40, United States Code.

"(B) CORRECTION AND PENALTY RELATED TO FAILURE TO SATISFY WAGE REQUIREMENTS.—Rules similar to the rules of section 45(b)(8)(B) shall apply for purposes of this subparagraph.

"(4) APPRENTICESHIP REQUIREMENTS.—Rules similar to the rules of section 45(b)(9) shall apply for purposes of this paragraph.

"(5) REGULATIONS AND GUIDANCE.—The Secretary shall issue such regulations or other guidance as the Secretary determines necessary or appropriate to carry out the purposes of this subsection.

"(f) REGULATIONS.—Not later than 1 year after the date of enactment of this section, the Secretary, after consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall issue regulations or other guidance to carry out the purposes of this section, including regulations or other guidance—

"(1) for determining lifecycle greenhouse gas emissions, and

"(2) which require verification by unrelated third parties of the production and sale or use of qualified clean hydrogen with respect to which credit is otherwise allowed under this section.".

(2) ELECTIVE PAYMENT OF CREDIT.—Section 6417(b), as added by the preceding provisions of this Act, is amended by adding at the end the following new paragraph:

''(9) The credit for production of clean hydrogen determined under section 45X.''.

(3) CONFORMING AMENDMENTS.—

(A) Section 38(b) is amended—

(i) in paragraph (38), by striking ''plus'' at the end,

(ii) in paragraph (39), by striking the period at the end and inserting '', plus'', and

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

''(40) the clean hydrogen production credit determined under section 45X(a).''.

(B) The table of sections for subpart D of part IV of subchapter A of chapter 1 amended by adding at the end the following new item:

''Sec. 45X. Credit for production of clean hydrogen.''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to hydrogen placed in service after December 31, 2021.

(b) CREDIT FOR ELECTRICITY PRODUCED FROM RENEWABLE RESOURCES ALLOWED IF ELECTRICITY IS USED TO PRODUCE CLEAN HYDROGEN.—

(1) IN GENERAL.—Section 45(e) is amended by adding at the end the following new paragraph:

"(13) SPECIAL RULE FOR ELECTRICITY USED AT A QUALIFIED CLEAN HYDROGEN PRODUCTION FACILITY.—Electricity produced by the taxpayer shall be treated as sold by such taxpayer to an unrelated person during the taxable year if such electricity is used during such taxable year by the taxpayer or a person related to the taxpayer at a qualified clean hydrogen production facility (as defined in section 45X(d)(3)) to produce qualified clean hydrogen (as defined in section 45X(d)(2)) during the 10 year period after such facility is placed in service. The Secretary shall issue such regulations or other guidance as the Secretary determines appropriate to carry out the purposes of this paragraph, including regulations or other guidance to require verification by unrelated third parties of the production and use of electricity to which this paragraph applies.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to electricity produced after December 31, 2021.

(c) ELECTION TO TREAT CLEAN HYDROGEN PRODUCTION FACILITIES AS ENERGY PROPERTY.—

(1) IN GENERAL.—Section 48(a) is amended by adding at the end the following new paragraph:

"(8) ELECTION TO TREAT CLEAN HYDROGEN PRODUCTION FACILITIES AS ENERGY PROPERTY.—

"(A) IN GENERAL.—In the case of any qualified property (as defined in paragraph (5)(D)) which is part of a specified clean hydrogen production facility—

"(i) such property shall be treated as energy property for purposes of this section, and

"(ii) the energy percentage with respect to such property is—

"(I) in the case of a facility which is designed and reasonably expected to produce qualified clean hydrogen which is described in a subparagraph (A) of section 45X(b)(2), 6 percent,

"(II) in the case of a facility which is designed and reasonably expected to produce qualified clean hydrogen which is described in a sub-

paragraph (B) of such section, 7.5 percent,

"(III) in the case of a facility which is designed and reasonably expected to produce qualified clean hydrogen which is described in a subparagraph (C) of such section, 10.2 percent, and

"(IV) in the case of a facility which is designed and reasonably expected to produce qualified clean hydrogen which is described in a subparagraph (D) of such section, 30 percent.

"(B) DENIAL OF PRODUCTION CREDIT.—No credit shall be allowed under section 45X for any taxable year with respect to any specified clean hydrogen production facility.

"(C) SPECIFIED CLEAN HYDROGEN PRODUCTION FACILITY.—For purposes of this paragraph, the term 'specified clean hydrogen production facility' means any qualified clean hydrogen production facility (as defined in section 45X(d)(3)) or any portion of such facility—

1 ''(i) which is placed in service after
2 December 31, 2021, and
3 ''(ii) with respect to which—
4 ''(I) no credit has been allowed
5 under section 45X or 45Q, and
6 ''(II) the taxpayer makes an ir-
7 revocable election to have this para-
8 graph apply.
9 ''(D) QUALIFIED CLEAN HYDROGEN.—For
10 purposes of this paragraph, the term 'qualified
11 clean hydrogen' has the meaning given such
12 term by section 45X(d)(2).
13 ''(E) REGULATIONS.—The Secretary, after
14 consultation with the Secretary of Energy and
15 the Administrator of the Environmental Protec-
16 tion Agency, shall issue such regulations or
17 other guidance as the Secretary determines nec-
18 essary or appropriate to carry out the purposes
19 of this section, including regulations or other
20 guidance which—
21 ''(i) requires verification by one or
22 more unrelated third parties that the facil-
23 ity produces hydrogen which is consistent
24 with the hydrogen that such facility was

designed and expected to produce under subparagraph (A)(ii), and

"(ii) recaptures so much of any credit allowed under this section as exceeds the amount of the credit which would have been allowed if the expected production were consistent with the actual verified production (or all of the credit so allowed in the absence of such verification).".

(2) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 2021, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

(d) TERMINATION OF EXCISE TAX CREDIT FOR HYDROGEN.—

(1) IN GENERAL.—Section 6426(d)(2) is amended by striking subparagraph (D) and by redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), respectively.

(2) CONFORMING AMENDMENT.—Section 6426(e)(2) is amended by striking "(F)" and inserting "(E)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to fuel sold or used after December 31, 2021.

PART 3—GREEN ENERGY AND EFFICIENCY INCENTIVES FOR INDIVIDUALS

SEC. 136301. EXTENSION, INCREASE, AND MODIFICATIONS OF NONBUSINESS ENERGY PROPERTY CREDIT.

(a) EXTENSION OF CREDIT.—Section 25C(g)(2) is amended by striking ''December 31, 2021'' and inserting ''December 31, 2031''.

(b) INCREASE IN CREDIT PERCENTAGE FOR QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—Section 25C(a)(1) is amended by striking ''10 percent'' and inserting ''30 percent''.

(c) APPLICATION OF ANNUAL LIMITATION IN LIEU OF LIFETIME LIMITATION.—Section 25C(b) is amended to read as follows:

''(b) LIMITATIONS.—

''(1) IN GENERAL.—The credit allowed under this section with respect to any taxpayer for any taxable year shall not exceed $1,200.

''(2) WINDOWS.—The credit allowed under this section by reason of subsection (a)(1) with respect to any taxpayer for any taxable year shall not exceed—

"(A) in the aggregate with respect to all exterior windows and skylights which are not described in subparagraph (B), $200,

"(B) in the aggregate with respect to all exterior windows and skylights which meet the standard for the most efficient certification under applicable Energy Star program requirements, the excess (if any) of $600 over the credit so allowed with respect to all windows and skylights taken into account under subparagraph (A).

"(3) DOORS.—The credit allowed under this section by reason of subsection (a)(1) with respect to any taxpayer for any taxable year shall not exceed—

"(A) $250 in the case of any exterior door, and

"(B) $500 in the aggregate with respect to all exterior doors.".

(d) MODIFICATIONS RELATED TO QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—

(1) STANDARDS FOR ENERGY EFFICIENT BUILDING ENVELOPE COMPONENTS.—Section 25C(c)(2) is amended by striking "meets—" and all that follows through the period at the end and inserting the following: "meets—

"(A) in the case of an exterior window, a skylight, or an exterior door, applicable Energy Star program requirements, and

"(B) in the case of any other component, the prescriptive criteria for such component established by the most recent International Energy Conservation Code standard in effect as of the beginning of the calendar year which is 2 years prior to the calendar year in which such component is placed in service.".

(2) ROOFS NOT TREATED AS BUILDING ENVELOPE COMPONENTS.—Section 25C(c)(3) is amended by adding "and" at the end of subparagraph (B), by striking ", and" at the end of subparagraph (C) and inserting a period, and by striking subparagraph (D).

(3) AIR BARRIER INSULATION ADDED TO DEFINITION OF BUILDING ENVELOPE COMPONENT.—Section 25C(c)(3)(A) is amended by striking "material or system" and inserting "material or system, including air sealing material or system,".

(e) MODIFICATION OF RESIDENTIAL ENERGY PROPERTY EXPENDITURES.—Section 25C(d) is amended to read as follows:

1 "(d) RESIDENTIAL ENERGY PROPERTY EXPENDI-
2 TURES.—For purposes of this section—
3 "(1) IN GENERAL.—The term 'residential en-
4 ergy property expenditures' means expenditures
5 made by the taxpayer for qualified energy property
6 which is—
7 "(A) installed on or in connection with a
8 dwelling unit located in the United States and
9 used as a residence by the taxpayer, and
10 "(B) originally placed in service by the tax-
11 payer.
12 Such term includes expenditures for labor costs
13 properly allocable to the onsite preparation, assem-
14 bly, or original installation of the property.
15 "(2) QUALIFIED ENERGY PROPERTY.—The
16 term 'qualified energy property' means any of the
17 following which meet or exceed the highest efficiency
18 tier (not including any advanced tier) established by
19 the Consortium for Energy Efficiency which is in ef-
20 fect as of the beginning of the calendar year in
21 which the property is placed in service:
22 "(A) An electric heat pump water heater.
23 "(B) An electric heat pump.
24 "(C) A central air conditioner.

"(D) A natural gas, propane, or oil water heater.

"(E) A natural gas, propane, or oil furnace or hot water boiler.".

(f) HOME ENERGY AUDITS.—

(1) IN GENERAL.—Section 25C(a) is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end the following new paragraph:

"(3) 30 percent of the amount paid or incurred by the taxpayer during the taxable year for home energy audits.".

(2) LIMITATION.—Section 25C(b), as amended by subsection (c), is amended adding at the end the following new paragraph:

"(5) HOME ENERGY AUDITS.—

"(A) DOLLAR LIMITATION.—The amount of the credit allowed under this section by reason of subsection (a)(3) shall not exceed $150.

"(B) SUBSTANTIATION REQUIREMENT.—No credit shall be allowed under this section by reason of subsection (a)(3) unless the taxpayer includes with the taxpayer's return of tax such

information or documentation as the Secretary may require.''.

(3) HOME ENERGY AUDITS.—

(A) IN GENERAL.—Section 25C, as amended by subsections (a), is amended by redesignating subsections (e), (f), and (g), as subsections (f), (g), and (h), respectively, and by inserting after subsection (d) the following new subsection:

''(e) HOME ENERGY AUDITS.—For purposes of this section, the term 'home energy audit' means an inspection and written report with respect to a dwelling unit located in the United States and owned or used by the taxpayer as the taxpayer's principal residence (within the meaning of section 121) which—

''(1) identifies the most significant and cost-effective energy efficiency improvements with respect to such dwelling unit, including an estimate of the energy and cost savings with respect to each such improvement, and

''(2) is conducted and prepared by a home energy auditor that meets the certification or other requirements specified by the Secretary (after consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency

and not later than 180 days after the date of the enactment of this subsection) in regulations or other guidance.''.

(B) CONFORMING AMENDMENT.—Section 1016(a)(33) is amended by striking ''section 25C(f)'' and inserting ''section 25C(g)''.

(4) LACK OF SUBSTANTIATION TREATED AS MATHEMATICAL OR CLERICAL ERROR.—Section 6213(g)(2) is amended—

(A) in subparagraph (P), by striking ''and'' at the end,

(B) in subparagraph (Q), by striking the period at the end and inserting '', and'', and

(C) by adding at the end the following:

''(R) an omission of correct information or documentation required under section 25C(b)(5)(B) (relating to home energy audits) to be included on a return.''.

(g) IDENTIFICATION NUMBER REQUIREMENT.—

(1) IN GENERAL.—Section 25C, as amended by subsections (a) and (f), is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

''(h) PRODUCT IDENTIFICATION NUMBER REQUIREMENT.—

"(1) IN GENERAL.—No credit shall be allowed under subsection (a) with respect to any item of specified property placed in service after December 31, 2023, unless—

"(A) such item is produced by a qualified manufacturer, and

"(B) the taxpayer includes the qualified product identification number of such item on the return of tax for the taxable year.

"(2) QUALIFIED PRODUCT IDENTIFICATION NUMBER.—For purposes of this section, the term 'qualified product identification number' means, with respect to any item of specified property, the product identification number assigned to such item by the qualified manufacturer pursuant to the methodology referred to in paragraph (3).

"(3) QUALIFIED MANUFACTURER.—

"(A) IN GENERAL.—For purposes of this section, the term 'qualified manufacturer' means any manufacturer of specified property which enters into an agreement with the Secretary which provides that such manufacturer will—

"(i) assign a product identification number to each item of specified property

1 produced by such manufacturer utilizing a
2 methodology that will ensure that such
3 number (including any alphanumeric) is
4 unique to each such item (by utilizing
5 numbers or letters which are unique to
6 such manufacturer or by such other meth-
7 od as the Secretary may provide),
8 ''(ii) label such item with such num-
9 ber in such manner as the Secretary may
10 provide, and
11 ''(iii) make periodic written reports to
12 the Secretary (at such times and in such
13 manner as the Secretary may provide) of
14 the product identification numbers so as-
15 signed and including such information as
16 the Secretary may require with respect to
17 the item of specified property to which
18 such number was so assigned.
19 ''(B) CONSULTATION WITH DOE AND
20 EPA.—The Secretary, after consultation with
21 the Secretary of Energy and the Administrator
22 of the Environmental Protection Agency, shall
23 establish procedures for manufacturers and
24 consumers to meet the requirements for product
25 identification numbers under subparagraph (A).

"(4) SPECIFIED PROPERTY.—For purposes of this subsection, the term 'specified property' means any qualified energy property and any property described in subparagraph (B) or (C) of subsection (c)(3).".

(2) OMISSION OF CORRECT PRODUCT IDENTIFICATION NUMBER TREATED AS MATHEMATICAL OR CLERICAL ERROR.—Section 6213(g)(2), as amended by the preceding provisions of this Act, is amended—

(A) in subparagraph (Q), by striking "and" at the end,

(B) in subparagraph (R), by striking the period at the end and inserting ", and", and

(C) by adding at the end the following:

"(S) an omission of a correct product identification number required under section 25C(h) (relating to credit for nonbusiness energy property) to be included on a return.".

(h) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided by this subsection, the amendments made by this section shall apply to property placed in service after December 31, 2021.

(2) HOME ENERGY AUDITS.—The amendments made by subsection (f) shall apply to amounts paid or incurred after December 31, 2021.

(3) IDENTIFICATION NUMBER REQUIREMENT.—The amendments made subsection (g) shall apply to property placed in service after December 31, 2023.

SEC. 136302. RESIDENTIAL ENERGY EFFICIENT PROPERTY.

(a) EXTENSION OF CREDIT.—

(1) IN GENERAL.—Section 25D(h) is amended by striking ''December 31, 2023'' and inserting ''December 31, 2033''.

(2) APPLICATION OF PHASEOUT.—Section 25D(g) is amended—

(A) by striking ''before January 1, 2023'' in paragraph (2) and inserting ''before January 1, 2022'',

(B) by striking ''and'' at the end of paragraph (2),

(C) by redesignating paragraph (3) as paragraph (5) and by inserting after paragraph (2) the following new paragraphs:

''(3) in the case of property placed in service after December 31, 2021, and before January 1, 2032, 30 percent,

"(4) in the case of property placed in service after December 31, 2031, and before January 1, 2033, 26 percent, and", and

(D) by striking "December 31, 2022, and before January 1, 2024" in paragraph (5) (as so redesignated) and inserting "December 31, 2032, and before January 1, 2034".

(b) RESIDENTIAL ENERGY EFFICIENT PROPERTY CREDIT FOR BATTERY STORAGE TECHNOLOGY.—

(1) IN GENERAL.—Section 25D(a) is amended by striking "and" at the end of paragraph (5) and by inserting after paragraph (6) the following new paragraph:

"(7) the qualified battery storage technology expenditures,".

(2) QUALIFIED BATTERY STORAGE TECHNOLOGY EXPENDITURE.—Section 25D(d) is amended by adding at the end the following new paragraph:

"(7) QUALIFIED BATTERY STORAGE TECHNOLOGY EXPENDITURE.—The term 'qualified battery storage technology expenditure' means an expenditure for battery storage technology which—

"(A) is installed in connection with a dwelling unit located in the United States and used as a residence by the taxpayer, and

"(B) has a capacity of not less than 3 kilowatt hours.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures made after December 31, 2021.

SEC. 136303. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

(a) PLACED IN SERVICE REQUIREMENT.—Section 179D(c)(2) is amended by striking "the date that is 2 years before the date that construction of such property begins" and inserting "the date that is 2 years before the date such property is placed into service".

(b) TEMPORARY INCREASE IN DEDUCTION, ETC..—Section 179D is amended by adding at the end the following:

"(i) TEMPORARY RULES.—

"(1) PERIOD OF APPLICATION.—The provisions of this subsection shall apply only to taxable years beginning after December 31, 2021, and before January 1, 2032.

"(2) MODIFICATION OF EFFICIENCY STANDARD.—Subsection (c)(1)(D) shall be applied by substituting '25' for '50'.

"(3) MAXIMUM AMOUNT OF DEDUCTION.—

"(A) IN GENERAL.—The deduction under subsection (a) with respect to any building for any taxable year shall not exceed the excess (if any) of—

"(i) the product of—

"(I) the applicable dollar value, and

"(II) the square footage of the building, over

"(ii) the aggregate amount of the deductions under subsection (a) and paragraph (6) with respect to the building for the 3 taxable years immediately preceding such taxable year (or, in the case of any such deduction allowable to a person other than the taxpayer, for any taxable year ending during the 4-taxable-year period ending with such taxable year).

"(B) APPLICABLE DOLLAR VALUE.—For purposes of paragraph (3)(A)(i), the applicable dollar value shall be an amount equal to $2.50

increased (but not above $5.00) by $0.10 for each percentage point by which the total annual energy and power costs for the building are certified to be reduced by a percentage greater than 25 percent.

"(C) APPLICATION OF INFLATION ADJUSTMENT.—Subsection (g) shall be applied—

"(i) by substituting '2022' for '2020',

"(ii) by substituting 'subsection (i)(3)(B)' for 'subsection (b) or subsection (d)(1)(A)', and

"(iii) by substituting '2021' for '2019'.

"(D) LIMITATION TO APPLY IN LIEU OF CURRENT LIMITATION AND PARTIAL ALLOWANCE.—Subsections (b) and (d)(1) shall not apply.

"(4) BASE CREDIT AMOUNT AND INCREASED CREDIT AMOUNT FOR CERTAIN PROPERTY.—

"(A) IN GENERAL.—In the case of any property which does not satisfy the requirements of subparagraph (B), paragraph (3)(B) shall be applied by substituting '$0.50' for '$2.50', '$.02' for '$.10', and '$1.00' for '$5.00'.

"(B) INCREASED CREDIT FOR CERTAIN PROPERTY MEETING PROJECT REQUIREMENTS.—

"(i) PROJECT REQUIREMENTS.—A project meets the requirements of this subparagraph if it is one of the following:

"(I) A project which commences construction prior to the date of the enactment of this paragraph.

"(II) A project which commences construction after the date of enactment of this paragraph and satisfies the requirements of paragraphs (5) and (6).

"(III) A project with respect to which initial construction is completed and building modifications are made as part of a qualified retrofit plan, and which satisfies paragraphs (5) and (6).

"(5) PREVAILING WAGE REQUIREMENTS.—

"(A) IN GENERAL.—The requirements described in this subparagraph with respect to any project are that the taxpayer shall ensure that any laborers and mechanics employed by

contractors and subcontractors in the construction of any property or with respect to building modifications made as part of a qualified retrofit plan shall be paid wages at rates not less than the prevailing rates for construction, alteration, or repair of a similar character in the locality as most recently determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31 of title 40, United States Code.

"(B) CORRECTION AND PENALTY RELATED TO FAILURE TO SATISFY WAGE REQUIREMENTS.—In the case of any taxpayer which fails to satisfy the requirement under subparagraph (A) with respect to any project or any building modifications made as part of a qualified retrofit plan, rules similar to the rules of section 45(b)(8)(B) shall apply for purposes of this paragraph.

"(6) APPRENTICESHIP REQUIREMENTS.—The requirements described in this subparagraph with respect to any property are as follows:

"(A) LABOR HOURS.—

"(i) PERCENTAGE OF TOTAL LABOR HOURS.—All contractors and subcontrac-

tors engaged in the performance of construction of a project or building modifications made as part of a qualified retrofit plan shall, subject to subparagraph (B), ensure that not less than the applicable percentage of the total labor hours of such work be performed by qualified apprentices.

''(ii) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage shall be—

''(I) in the case of any applicable project the construction of which begins before January 1, 2023, 5 percent,

''(II) in the case of any applicable project the construction of which begins after December 31, 2022, and before January 1, 2024, 10 percent, and

''(III) in the case of any applicable project the construction of which begins after December 31, 2023, 15 percent.

"(B) APPRENTICE TO JOURNEYWORKER RATIO.—The requirement under subparagraph (A)(i) shall be subject to any applicable requirements for apprentice-to-journeyworker ratios of the Department of Labor or the applicable State apprenticeship agency.

"(C) PARTICIPATION.—Each contractor and subcontractor who employs 4 or more individuals to perform construction, alteration, or repair work on an applicable project shall employ 1 or more qualified apprentices to perform such work.

"(D) EXCEPTION.—

"(i) IN GENERAL.—Notwithstanding any other provision of this paragraph, this paragraph shall not apply in the case of a taxpayer who—

"(I) demonstrates a lack of availability of qualified apprentices in the geographic area of the construction, alteration, or repair work, and

"(II) makes a good faith effort to comply with the requirements of this paragraph.

"(ii) GOOD FAITH EFFORT.—For purposes of clause (i), a taxpayer shall be deemed to have satisfied the requirements under such paragraph with respect to an applicable project if such taxpayer has requested qualified apprentices from a registered apprenticeship program, as defined in section 3131(e)(3)(B), and such request has been denied, provided that such denial is not the result of a refusal by the contractors or subcontractors engaged in the performance of construction, alteration, or repair work on such applicable project to comply with the established standards and requirements of such apprenticeship program.

"(E) DEFINITIONS.—For purposes of this paragraph—

"(i) LABOR HOURS.—The term 'labor hours' has the meaning given such term in section 45(b)(9)(E)(i).

"(ii) QUALIFIED APPRENTICE.—The term 'qualified apprentice' has the meaning given such term in section 45(b)(9)(E)(ii).

"(7) ALLOCATION OF DEDUCTION BY CERTAIN TAX-EXEMPT ENTITIES.—

"(A) IN GENERAL.—A specified tax-exempt entity shall be treated in the same manner as a Federal, State, or local government for purposes of applying subsection (d)(4).

"(B) SPECIFIED TAX-EXEMPT ENTITY.—For purposes of this paragraph, the term 'specified tax-exempt entity' means—

"(i) the United States, any State or political subdivision thereof, any possession of the United States, or any agency or instrumentality of any of the foregoing,

"(ii) any Indian tribal government (within the meaning of section 139E), and

"(iii) any organization exempt from tax imposed by this chapter.

"(8) ALTERNATIVE DEDUCTION FOR ENERGY EFFICIENT RETROFIT BUILDING PROPERTY.—

"(A) IN GENERAL.—In the case of a taxpayer which elects (at such time and in such manner as the Secretary, after consultation with the administrator of the Environmental Protection Agency, may provide) the application of this paragraph with respect to any qualified

building, there shall be allowed as a deduction for the taxable year which includes the date of the qualifying final certification with respect to the qualified retrofit plan of such building, an amount equal to the lesser of—

"(i) the excess described in paragraph (3) (determined by substituting 'energy usage intensity' for 'total annual energy and power costs' in subparagraph (B) thereof), or

"(ii) the aggregate adjusted basis (determined after taking into account all adjustments with respect to such taxable year other than the reduction under subsection (e)) of energy efficient retrofit building property placed in service by the taxpayer pursuant to such qualified retrofit plan.

"(B) QUALIFIED RETROFIT PLAN.—For purposes of this paragraph, the term 'qualified retrofit plan' means a written plan prepared by a qualified professional which specifies modifications to a building which, in the aggregate, are expected to reduce such building's energy usage intensity by 25 percent or more in comparison to the baseline energy usage intensity of

such building. Such plan shall provide for a qualified professional to—

"(i) as of any date during the 1-year period ending on the date of the first certification described in clause (ii), certify the energy usage intensity of such building as of such date,

"(ii) certify the status of property installed pursuant to such plan as meeting the requirements of clauses (ii) and (iii) subparagraph (C), and

"(iii) as of any date that is more than 1 year after completion of the plan, certify the energy usage intensity of such building as of such date.

"(C) ENERGY EFFICIENT RETROFIT BUILDING PROPERTY.—For purposes of this paragraph, the term 'energy efficient retrofit building property' means property—

"(i) with respect to which depreciation (or amortization in lieu of depreciation) is allowable,

"(ii) which is installed on or in any qualified building,

"(iii) which is installed as part of—

1 ''(I) the interior lighting systems,
2 ''(II) the heating, cooling, ven-
3 tilation, and hot water systems, or
4 ''(III) the building envelope, and
5 ''(iv) which is certified in accordance
6 with subparagraph (B)(ii) as meeting the
7 requirements of clauses (ii) and (iii).
8 ''(D) QUALIFIED BUILDING.—For pur-
9 poses of this paragraph, the term 'qualified
10 building' means any building which—
11 ''(i) is located in the United States,
12 and
13 ''(ii) was originally placed in service
14 not less than 5 years before the establish-
15 ment of the qualified retrofit plan with re-
16 spect to such building.
17 ''(E) QUALIFYING FINAL CERTIFI-
18 CATION.—For purposes of this paragraph, the
19 term 'qualifying final certification' means, with
20 respect to any qualified retrofit plan, the certifi-
21 cation described in subparagraph (B)(iii) if the
22 energy usage intensity certified in such certifi-
23 cation is not more than 75 percent of the base-
24 line energy usage intensity of the building.

"(F) BASELINE ENERGY USAGE INTENSITY.—

"(i) IN GENERAL.—The term 'baseline energy usage intensity' means the energy usage intensity certified under subparagraph (B)(i), as adjusted to take into account weather as compared to the energy usage intensity determined under subparagraph (B)(iii)(I).

"(ii) DETERMINATION OF ADJUSTMENT.—For purposes of clause (i), the adjustments described in such clause shall be determined in such manner as the Secretary, after consultation with the Administrator of the Environmental Protection Agency, may provide.

"(G) OTHER DEFINITIONS.—For purposes of this paragraph—

"(i) ENERGY USAGE INTENSITY.—The term 'energy usage intensity' means the site energy usage intensity determined in accordance with such regulations or other guidance as the Secretary, after consultation with the Administrator of the Envi-

ronmental Protection Agency, may provide and measured in British thermal units.

"(ii) QUALIFIED PROFESSIONAL.—The term 'qualified professional' means an individual who is a licensed architect or a licenced engineer and meets such other requirements as the Secretary may provide.

"(H) COORDINATION WITH DEDUCTION OTHERWISE ALLOWED UNDER SUBSECTION (a).—

"(i) IN GENERAL.—In the case of any building with respect to which an election is made under subparagraph (A), the term 'energy efficient commercial building property' shall not include any energy efficient retrofit building property with respect to which a deduction is allowable under this paragraph.

"(ii) CERTAIN RULES NOT APPLICABLE.—

"(I) IN GENERAL.—Except as provided in subclause (II), subsection (d) shall not apply for purposes of this paragraph.

"(II) ALLOCATION OF DEDUCTION BY CERTAIN TAX-EXEMPT ENTITIES.—Rules similar to subsection (d)(4) (determined after application of paragraph (5)) shall apply for purposes of this paragraph.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendment made by this section shall apply to taxable years beginning after December 31, 2021.

(2) ALTERNATIVE DEDUCTION FOR ENERGY EFFICIENT RETROFIT BUILDING PROPERTY.—Paragraph (6) of section 179D(i) of the Internal Revenue Code of 1986 (as added by this section), and any other provision of such section solely for purposes of applying such paragraph, shall apply to property placed in service after December 31, 2021 (in taxable years ending after such date) if such property is placed in service pursuant to qualified retrofit plan (within the meaning of such section) established after such date.

SEC. 136304. EXTENSION, INCREASE, AND MODIFICATIONS OF NEW ENERGY EFFICIENT HOME CREDIT.

(a) EXTENSION OF CREDIT.—Section 45L(g) is amended by striking ''December 31, 2021'' and inserting ''December 31, 2031''.

(b) INCREASE IN CREDIT AMOUNTS.—Section 45L(a)(2) is amended to read as follows:

''(2) APPLICABLE AMOUNT.—For purposes of paragraph (1), the applicable amount is an amount equal to—

''(A) in the case of a dwelling unit which is eligible to participate in the Energy Star Residential New Construction Program or the Energy Star Manufactured New Homes program—

''(i) that is described in subsection (c)(1)(A) (and not described in subsection (c)(1)(B)), $2,500, and

''(ii) that is described in subsection (c)(1)(B), $5000, and

''(B) in the case of a dwelling which are part of a building eligible to participate in the Energy Star Multifamily New Construction Program—

"(i) that is described in subsection (c)(1)(A) (and not described in subsection (c)(1)(B)), $500, and

"(ii) that is described in subsection (c)(1)(B), $1000.".

(c) MODIFICATION OF ENERGY SAVING REQUIREMENTS.—Section 45L(c) is amended to read as follows:

"(c) ENERGY SAVING REQUIREMENTS.—

"(1) IN GENERAL.—A dwelling unit meets the energy saving requirements of this subsection if—

"(A) such dwelling unit meets the requirements of paragraph (2) or (3) (whichever is applicable), or

"(B) such dwelling unit is certified as a zero energy ready home under the zero energy ready home program of the Department of Energy (or any successor program determined by the Secretary, after consultation with the Secretary of Energy) as in effect on January 1, 2022.

"(2) SINGLE-FAMILY HOME REQUIREMENTS.—A dwelling unit meets the requirements of this paragraph if—

"(A) such dwelling unit meets—

"(i) in the case of a dwelling unit acquired before January 1, 2025, the Energy Star Single-Family New Homes National Program Requirements 3.1, and

"(ii) in the case of a dwelling unit acquired after December 31, 2024, the Energy Star Single-Family New Homes National Program Requirements 3.2,

"(B) such dwelling unit meets the most recent Energy Star Single-Family New Homes Program Requirements applicable to the location of such dwelling unit (as in effect on the latter of January 1, 2022 or January 1 of two calendar years prior to the date the dwelling was acquired), or

"(C) such dwelling unit meets the most recent Energy Star Manufactured Home National program requirements as in effect on the latter of January 1, 2022 or January 1 of two calendar years prior to the date such dwelling unit is acquired.

"(3) MULTI-FAMILY HOME REQUIREMENTS.—A dwelling unit meets the requirements of this paragraph if—

"(A) such dwelling unit meets the most recent Energy Star Multifamily New Construction National Program Requirements (as in effect on either January 1, 2022 or January 1 of three calendar years prior to the date the dwelling was acquired, whichever is later), and

"(B) such dwelling unit meets the most recent Energy Star Multifamily New Construction Regional Program Requirements applicable to the location of such dwelling unit (as in effect on either January 1, 2022 or January 1 of three calendar years prior to the date the dwelling was acquired, whichever is later).".

(d) PREVAILING WAGE REQUIREMENT.—Section 45L is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) PREVAILING WAGE REQUIREMENT.—

"(1) IN GENERAL.—In the case of a qualifying residence described in subsection (b)(2)(B) meeting the prevailing wage requirements of paragraph (2), the credit amount allowed with respect to such residence shall be—

"(A) $2,500 in the case of a residence described in subparagraph (A) of subsection

(c)(1) (and not described in subparagraph (B) of such subsection), and

"(B) $5,000 in the case of a residence described in (c)(1)(B).

"(2) PREVAILING WAGE REQUIREMENTS.—

"(A) IN GENERAL.—The requirements described in this paragraph with respect to any qualified residence are that the taxpayer shall ensure that any laborers and mechanics employed by contractors and subcontractors in the construction of such residence shall be paid wages at rates not less than the prevailing rates for construction, alteration, or repair of a similar character in the locality as most recently determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31 of title 40, United States Code.

"(B) CORRECTION AND PENALTY RELATED TO FAILURE TO SATISFY WAGE REQUIREMENTS.—In the case of any taxpayer which fails to satisfy the requirement under subparagraph (A) with respect to any qualified residence, rules similar to the rules of section 45(b)(8)(B) shall apply for purposes of this paragraph.

1 ''(3) 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.''.
5 (e) EFFECTIVE DATES.—The amendments made by
6 this section shall apply to dwelling units acquired after
7 December 31, 2021.

8 **SEC. 136305. MODIFICATIONS TO INCOME EXCLUSION FOR**
9 **CONSERVATION SUBSIDIES.**

10 (a) IN GENERAL.—Section 136(a) is amended—
11 (1) by striking ''any subsidy provided'' and in-
12 serting ''any subsidy—
13 ''(1) provided'',
14 (2) by striking the period at the end and insert-
15 ing a comma, and
16 (3) by adding at the end the following new
17 paragraphs:
18 ''(2) provided (directly or indirectly) by a public
19 utility to a customer, or by a State or local govern-
20 ment to a resident of such State or locality, for the
21 purchase or installation of any water conservation or
22 efficiency measure,
23 ''(3) provided (directly or indirectly) by a storm
24 water management provider to a customer, or by a
25 State or local government to a resident of such State

or locality, for the purchase or installation of any storm water management measure, or

''(4) provided (directly or indirectly) by a State or local government to a resident of such State or locality for the purchase or installation of any wastewater management measure, but only if such measure is with respect to the taxpayer's principal residence.''.

(b) CONFORMING AMENDMENTS.—

(1) DEFINITION OF WATER CONSERVATION OR EFFICIENCY MEASURE AND STORM WATER MANAGEMENT MEASURE.—Section 136(c) is amended—

(A) by striking ''ENERGY CONSERVATION MEASURE'' in the heading thereof and inserting ''DEFINITIONS'',

(B) by striking ''IN GENERAL'' in the heading of paragraph (1) and inserting ''ENERGY CONSERVATION MEASURE'', and

(C) by redesignating paragraph (2) as paragraph (5) and by inserting after paragraph (1) the following:

''(2) WATER CONSERVATION OR EFFICIENCY MEASURE.—For purposes of this section, the term 'water conservation or efficiency measure' means any evaluation of water use, or any installation or modi-

fication of property, the primary purpose of which is to reduce consumption of water or to improve the management of water demand with respect to one or more dwelling units.

''(3) STORM WATER MANAGEMENT MEASURE.—For purposes of this section, the term 'storm water management measure' means any installation or modification of property primarily designed to reduce or manage amounts of storm water with respect to one or more dwelling units.

''(4) WASTEWATER MANAGEMENT MEASURE.—For purposes of this section, the term 'wastewater management measure' means any installation or modification of property primarily designed to manage wastewater (including septic tanks and cesspools) with respect to one or more dwelling units.''.

(2) DEFINITION OF PUBLIC UTILITY.—Section 136(c)(5) (as redesignated by paragraph (1)(C)) is amended by striking subparagraph (B) and inserting the following:

''(B) PUBLIC UTILITY.—The term 'public utility' means a person engaged in the sale of electricity, natural gas, or water to residential, commercial, or industrial customers for use by such customers.

"(C) STORM WATER MANAGEMENT PROVIDER.—The term 'storm water management provider' means a person engaged in the provision of storm water management measures to the public.

"(D) PERSON.—For purposes of subparagraphs (B) and (C), the term 'person' includes the Federal Government, a State or local government or any political subdivision thereof, or any instrumentality of any of the foregoing.".

(3) CLERICAL AMENDMENTS.—

(A) The heading for section 136 is amended—

(i) by inserting "**AND WATER**" after "**ENERGY**", and

(ii) by striking "**PROVIDED BY PUBLIC UTILITIES**".

(B) The item relating to section 136 in the table of sections of part III of subchapter B of chapter 1 is amended—

(i) by inserting "and water" after "energy", and

(ii) by striking "provided by public utilities".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after December 31, 2018.

(d) NO INFERENCE.—Nothing in this Act or the amendments made by this Act shall be construed to create any inference with respect to the proper tax treatment of any subsidy received directly or indirectly from a public utility, a storm water management provider, or a State or local government for any water conservation measure or storm water management measure before January 1, 2019.

PART 4—GREENING THE FLEET AND ALTERNATIVE VEHICLES

SEC. 136401. REFUNDABLE NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE CREDIT FOR INDIVIDUALS.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 is amended by inserting after section 36B the following new section:

"SEC. 36C. NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the sum of the credit amounts determined under

subsection (b) with respect to each new qualified plug-in electric drive motor vehicle placed in service by the taxpayer during the taxable year.

"(b) PER VEHICLE DOLLAR LIMITATION.—

"(1) IN GENERAL.—The amount determined under this subsection with respect to any new qualified plug-in electric drive motor vehicle is the sum of the amounts determined under paragraphs (2) through (5) with respect to such vehicle (not to exceed 50 percent of the purchase price of such vehicle).

"(2) BASE AMOUNT.—The amount determined under this paragraph is $4,000.

"(3) BATTERY CAPACITY.—In the case of a new qualified plug-in electric drive motor vehicle, the amount determined under this paragraph is $3,500 if—

"(A) in the case of a vehicle placed in service before January 1, 2027, such vehicle draws propulsion energy from a battery with not less than 40 kilowatt hours of capacity, and

"(B) in the case of a vehicle placed in service after December 31, 2026, such vehicle draws propulsion energy from a battery with not less than 50 kilowatt hours of capacity.

"(4) DOMESTIC ASSEMBLY.—In the case of a new qualified plug-in vehicle which satisfies the domestic assembly qualifications, the amount determined under this paragraph is $4,500.

"(5) DOMESTIC CONTENT.—In the case of a new qualified plug-in vehicle which satisfies domestic content qualifications, the amount determined under this paragraph is $500.

"(c) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

"(1) IN GENERAL.—The amount of the credit allowable under subsection (a) shall be reduced (but not below zero) by $200 for each $1,000 (or fraction thereof) by which the taxpayer's modified adjusted gross income exceeds the threshold amount. For purposes of the preceding sentence, the term 'modified adjusted gross income' means adjusted gross income increased by any amount excluded from gross income under section 911, 931, or 933.

"(2) SPECIAL RULE FOR DETERMINATION OF MODIFIED ADJUSTED GROSS INCOME.—The modified adjusted gross income of the taxpayer that is taken into account for purposes of paragraph (1) shall be the lesser of—

"(A) the modified adjusted gross income for the taxable year in which the credit is claimed, or

"(B) the modified adjusted gross income for the immediately preceding taxable year.

"(3) THRESHOLD AMOUNT.—For purposes of paragraph (1), the term 'threshold amount' means—

"(A) $800,000 in the case of a joint return or surviving spouse (half such amount for married filing separately),

"(B) $600,000 in the case of a head of household, and

"(C) $400,000 in any other case.

"(d) MANUFACTURER'S SUGGESTED RETAIL PRICE LIMITATION.—

"(1) IN GENERAL.—No credit shall be allowed under subsection (a) for a vehicle with a manufacturer's suggested retail price in excess of the applicable limitation.

"(2) APPLICABLE LIMITATION.—For purposes of paragraph (1), the applicable limitation for each vehicle classification is as follows:

"(A) SEDANS.—In the case of a sedan, $55,000.

"(B) VANS.—In the case of a van, $64,000.

"(C) SPORT UTILITY VEHICLES.—In the case of a sport utility vehicle, $69,000.

"(D) PICKUP TRUCKS.—In the case of a pickup truck, $74,000.

"(3) REGULATIONS.—For purposes of this subsection, the Secretary shall prescribe regulations for determining vehicle classifications using criteria similar to that employed by the Environmental Protection Agency and the Department of Energy to determine size and class of vehicles.

"(e) NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE.—For purposes of this section—

"(1) IN GENERAL.—The term 'new qualified plug-in electric drive motor vehicle' means a motor vehicle—

"(A) the original use of which commences with the taxpayer,

"(B) which is acquired for use by the taxpayer and not for resale,

"(C) which is made by a qualified manufacturer,

"(D) which is treated as a motor vehicle for purposes of title II of the Clean Air Act,

"(E) which has a gross vehicle weight rating of less than 14,000 pounds,

"(F) which is propelled to a significant extent by an electric motor which draws electricity from a battery which—

"(i) has a capacity of—

"(I) in the case of a vehicle placed in service in 2022 or 2023, not less than 7 kilowatt hours, and

"(II) in the case of a vehicle placed in service after 2023, not less than 10 kilowatt hours, and

"(ii) is capable of being recharged from an external source of electricity,

"(G) for which, in the case of a vehicle placed into service after December 31, 2026, final assembly is within the United States, and

"(H) is not of a character subject to an allowance for depreciation.

"(2) MOTOR VEHICLE.—The term 'motor vehicle' means any vehicle which is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails) and which has at least 4 wheels.

"(3) QUALIFIED MANUFACTURER.—The term 'qualified manufacturer' means any manufacturer (within the meaning of the regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.) which enters into a written agreement with the Secretary under which such manufacturer agrees—

"(A) to ensure that each vehicle manufactured by such manufacturer after the later of the date on which such agreement takes effect or December 31, 2021, and that meets the requirements of subparagraphs (D), (E), and (F) of paragraph (1) and paragraph (6) of subsection (e) is labeled with a unique vehicle identification number, and

"(B) to make periodic written reports to the Secretary (at such times and in such manner as the Secretary may provide) providing such vehicle identification numbers and such other information related to such vehicle as the Secretary may require.

"(4) BATTERY CAPACITY.—The term 'capacity' means, with respect to any battery, the quantity of electricity which the battery is capable of storing, ex-

pressed in kilowatt hours, as measured from a 100 percent state of charge to a 0 percent state of charge.

''(f) SPECIAL RULES.—

''(1) BASIS REDUCTION.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed.

''(2) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for a vehicle for which a credit is allowable under subsection (a) shall be reduced by the amount of credit allowed under such subsection for such vehicle.

''(3) PROPERTY USED OUTSIDE UNITED STATES NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1).

''(4) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit.

''(5) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) for any

vehicle if the taxpayer elects to not have this section apply to such vehicle.

"(6) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—A vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

"(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

"(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

"(g) CREDIT ALLOWED FOR 2 AND 3-WHEELED PLUG-IN ELECTRIC VEHICLES.—

"(1) IN GENERAL.—In the case of a qualified 2- or 3-wheeled plug-in electric vehicle—

"(A) there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the sum of the applicable amount with respect to each such qualified 2- or 3-wheeled plug-in electric vehicle

placed in service by the taxpayer during the taxable year, and

"(B) the amount of the credit allowed under subparagraph (A) shall be treated as a credit allowed under subsection (a).

"(2) APPLICABLE AMOUNT.—For purposes of paragraph (1), the applicable amount is an amount equal to the lesser of—

"(A) 10 percent of the cost of the qualified 2- or 3-wheeled plug-in electric vehicle, or

"(B) $2,500.

"(3) QUALIFIED 2- OR 3-WHEELED PLUG-IN ELECTRIC VEHICLE.—The term 'qualified 2- or 3-wheeled plug-in electric vehicle' means any vehicle which—

"(A) has 2 or 3 wheels,

"(B) meets the requirements of subparagraphs (A), (B), (C), (E), (F), and (G) of subsection (e)(1) (determined by substituting '2.5 kilowatt hours' for '7 kilowatt hours' in subparagraph (F)(i)(I) and by substituting '2.5 kilowatt hours' for '10 kilowatt hours' in subparagraph (F)(i)(II)),

"(C) is manufactured primarily for use on public streets, roads, and highways, and

"(D) is capable of achieving a speed of 45 miles per hour or greater.

"(h) VIN NUMBER REQUIREMENT.—No credit shall be allowed under this section with respect to any vehicle unless the taxpayer includes the vehicle identification number of such vehicle on the return of tax for the taxable year.

"(i) TREATMENT OF CERTAIN POSSESSIONS.—

"(1) PAYMENTS TO POSSESSIONS WITH MIRROR CODE TAX SYSTEMS.—The Secretary shall pay to each possession of the United States which has a mirror code tax system amounts equal to the loss (if any) to that possession by reason of the application of the provisions of this section (determined without regard to this subsection). Such amounts shall be determined by the Secretary based on information provided by the government of the respective possession.

"(2) PAYMENTS TO OTHER POSSESSIONS.—The Secretary shall pay to each possession of the United States which does not have a mirror code tax system amounts estimated by the Secretary as being equal to the aggregate benefits (if any) that would have been provided to residents of such possession by reason of the provisions of this section if a mirror code

tax system had been in effect in such possession. The preceding sentence shall not apply unless the respective possession has a plan which has been approved by the Secretary under which such possession will promptly distribute such payments to its residents.

"(3) MIRROR CODE TAX SYSTEM; TREATMENT OF PAYMENTS.—Rules similar to the rules of paragraphs (4) and (5) of section 21(h) shall apply for purposes of this section.

"(j) ASSEMBLY AND CONTENT QUALIFICATIONS.—For purposes of this section—

"(1) DOMESTIC ASSEMBLY QUALIFICATIONS.—The term 'domestic assembly qualifications' means, with respect to any new qualified plug-in electric vehicle, that the final assembly of such vehicle occurs at a plant, factory, or other place which is operating under a collective bargaining agreement negotiated by an employee organization (as defined in section 412(c)(4)), determined in a manner consistent with section 7701(a)(46).

"(2) DOMESTIC CONTENT QUALIFICATIONS.—The term 'domestic content qualifications' means, with respect to any model of a new qualified plug-in electric vehicle, that vehicles of that model—

"(A) are assembled by a manufacturer which utilizes not less than 50 percent domestic content in the component parts for final assembly of such vehicles, and

"(B) are powered by battery cells which are manufactured in the United States (with suchbattery cells to be included for purposes of the requirement described in subparagraph (A)), as certified by the manufacturer, at such time, and in such form and manner, as the Secretary may prescribe.

"(3) FINAL ASSEMBLY.—The term 'final assembly' means the process by which a manufacturer produces a new qualified plug-in electric vehicle at, or through the use of, a plant, factory, or other place from which the vehicle is delivered to a dealer or importer with all component parts necessary for the mechanical operation of the vehicle included with the vehicle, whether or not the component parts are permanently installed in or on the vehicle.

"(k) TERMINATION.—No credit shall be allowed under this section with respect to any vehicle acquired after December 31, 2031.".

(b) TRANSFER OF CREDIT.—Subsection (f) of section 36C is amended by adding at the end the following new paragraphs:

"(7) IN GENERAL.—Subject to such regulations or other guidance as the Secretary determines necessary or appropriate, if, with respect to the credit allowed under subsection (a) for any taxable year, the taxpayer elects the application of this subparagraph for such taxable year with respect to such credit, the eligible entity specified in such election, and not the taxpayer who has purchased or leased the vehicle, shall be treated as the taxpayer for purposes of this title with respect to such credit.

"(8) ELIGIBLE ENTITY.—For purposes of this paragraph, the term 'eligible entity' means, with respect to the vehicle for which the credit is allowed under subsection (a), the dealer which sold such vehicle to the taxpayer and has—

"(A) subject to paragraph (10), registered with the Secretary for purposes of this paragraph, at such time, and in such form and manner, as the Secretary may prescribe,

"(B) prior to the election described in paragraph (7), disclosed to the taxpayer purchasing such vehicle—

"(i) the manufacturer's suggested retail price,

"(ii) the value of the credit allowed or other incentive available for the purchase or lease of such vehicle,

"(iii) all fees associated with the purchase or lease of such vehicle, and

"(iv) the amount provided by the dealer to such taxpayer as a condition of the election described in paragraph (7),

"(C) made payment to such taxpayer (whether in cash or in the form of a partial payment or down payment for the purchase of such vehicle) in an amount equal to the credit otherwise allowable to such taxpayer, and

"(D) with respect to any incentive otherwise available for the purchase of a vehicle for which a credit is allowed under this section, including any incentive in the form of a rebate or discount provided by the dealer or manufacturer, ensured that—

"(i) the availability or use of such incentive shall not limit the ability of a taxpayer to make an election described in paragraph (7), and

"(ii) such election shall not limit the value or use of such incentive.

"(9) TIMING.—An election described in paragraph (7) shall be made by the taxpayer not later than the date on which the vehicle for which the credit is allowed under subsection (a) is purchased.

"(10) REVOCATION OF REGISTRATION.—Upon determination by the Secretary that a dealer has failed to comply with the requirements described in paragraph (8), the Secretary may revoke the registration (as described in subparagraph (A) of such subparagraph) of such dealer.

"(11) TAX TREATMENT OF PAYMENTS.—With respect to any payment described in paragraph (8)(C), such payment—

"(A) shall not be includible in the gross income of the taxpayer, and

"(B) with respect to the dealer, shall not be deductible under this title.

"(12) ADVANCE PAYMENT TO REGISTERED DEALERS.—

"(A) IN GENERAL.—The Secretary shall establish a program to make advance payments to any eligible entity in an amount equal to the cumulative amount of the credits allowed under

subsection (a) with respect to any vehicles sold by such entity for which an election described in paragraph (1) has been made.

"(B) EXCESSIVE PAYMENTS.—Rules similar to the rules of section 6417(c)(8) shall apply for purposes of this subparagraph.

"(13) DEALER.—For purposes of this paragraph, the term 'dealer' means a person licensed by a State, the District of Columbia, the Commonwealth of Puerto Rico, any other territory or possession of the United States, or an Indian Tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304)) to engage in the sale of vehicles.".

(c) REPEAL OF NONREFUNDABLE NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE CREDIT.—Subpart B of part IV of subchapter A of chapter 1 is amended by striking section 30D (and by striking the item relating to such section in the table of sections of such subpart).

(d) CONFORMING AMENDMENTS.—

(1) Section 1016(a)(37) is amended by striking "section 30D(f)(1)" and inserting "section 36C(f)(1)".

(2) Section 6211(b)(4)(A) is amended by inserting "36C," after "36B,".

(3) Section 6213(g)(2), as amended by the preceding provisions of this Act, is amended—

(A) in subparagraph (R), by striking "and" at the end,

(B) in subparagraph (S), by striking the period at the end and inserting ", and", and

(C) by adding at the end the following:

"(T) an omission of a correct vehicle identification number required under section 36C(f) (relating to credit for new qualified plug-in electric drive motor vehicles) to be included on a return.".

(4) Section 6501(m) is amended by striking "30D(e)(4)" and inserting "36C(f)(5)".

(5) Section 166(b)(5)(A)(ii) of title 23, United States Code, is amended by striking "section 30D(d)(1)" and inserting "section 36C(e)(1)".

(6) Section 1324(b)(2) of title 31, United States Code, is amended by inserting "36C," after "36B,".

(7) The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by in-

1 serting after the item relating to section 36B the fol-
2 lowing new item:

"Sec. 36C. New qualified plug-in electric drive motor vehicles.".

3 (e) EFFECTIVE DATES.—
4 (1) The amendments made by subsections (a),
5 (c), and (d) of this section shall apply to vehicles ac-
6 quired after December 31, 2021.
7 (2) The amendments made by subsection (b)
8 shall apply to vehicles purchased or leased after De-
9 cember 31, 2022.

10 **SEC. 136402. CREDIT FOR PREVIOUSLY-OWNED QUALIFIED**
11 **PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.**

12 (a) IN GENERAL.—Subpart C of part IV of sub-
13 chapter A of chapter 1, as amended by the preceding pro-
14 visions of this Act, is amended by inserting after section
15 36C the following new section:

16 **"SEC. 36D. PREVIOUSLY-OWNED QUALIFIED PLUG-IN ELEC-**
17 **TRIC DRIVE MOTOR VEHICLES.**

18 "(a) ALLOWANCE OF CREDIT.—In the case of a
19 qualified buyer who during a taxable year places in service
20 a previously-owned qualified plug-in electric drive motor
21 vehicle, there shall be allowed as a credit against the tax
22 imposed by this subtitle for the taxable year an amount
23 equal to the sum of—
24 "(1) $1,250, plus

"(2) in the case of a vehicle which draws propulsion energy from a battery which exceeds 4 kilowatt hours of capacity (determined at the time of sale), the lesser of—

"(A) $1,250, and

"(B) the product of $208.50 and such excess kilowatt hours.

"(b) LIMITATIONS.—

"(1) SALE PRICE.—The credit allowed under subsection (a) with respect to sale of a vehicle shall not exceed 30 percent of the sale price.

"(2) ADJUSTED GROSS INCOME.—The amount which would (but for this paragraph) be allowed as a credit under subsection (a) shall be reduced (but not below zero) by $200 for each $1,000 (or fraction thereof) by which the taxpayer's adjusted gross income exceeds—

"(A) $150,000 in the case of a joint return or a surviving spouse (as defined in section 2(a)),

"(B) $112,500 in the case of a head of household (as defined in section 2(b)), and

"(C) $75,000 in the case of a taxpayer not described in paragraph (1) or (2).

"(c) DEFINITIONS.—For purposes of this section—

1 "(1) PREVIOUSLY-OWNED QUALIFIED PLUG-IN
2 ELECTRIC DRIVE MOTOR VEHICLE.—The term 'pre-
3 viously-owned qualified plug-in electric drive motor
4 vehicle' means, with respect to a taxpayer, a motor
5 vehicle—
6 "(A) the model year of which is at least 2
7 earlier than the calendar year in which the tax-
8 payer acquires such vehicle,
9 "(B) the original use of which commences
10 with a person other than the taxpayer,
11 "(C) which is acquired by the taxpayer in
12 a qualified sale,
13 "(D) registered by the taxpayer for oper-
14 ation in a State or possession of the United
15 States, and
16 "(E) which meets the requirements of sub-
17 paragraphs (C), (D), (E), (F), and (G) of sec-
18 tion 36C(e)(1).
19 "(2) QUALIFIED SALE.—The term 'qualified
20 sale' means a sale of a motor vehicle—
21 "(A) by a seller who holds such vehicle in
22 inventory (within the meaning of section 471)
23 for sale or lease,
24 "(B) for a sale price not to exceed
25 $25,000, and

"(C) which is the first transfer since the date of the enactment of this section to a person other than the person with whom the original use of such vehicle commenced.

"(3) QUALIFIED BUYER.—The term 'qualified buyer' means, with respect to a sale of a motor vehicle, a taxpayer—

"(A) who is an individual,

"(B) who purchases such vehicle for use and not for resale,

"(C) with respect to whom no deduction is allowable with respect to another taxpayer under section 151,

"(D) who has not been allowed a credit under this section for any sale during the 3-year period ending on the date of the sale of such vehicle, and

"(E) who possesses a certificate issued by the seller that certifies—

"(i) that the vehicle is a previously-owned qualified plug-in electric drive motor vehicle,

"(ii) the vehicle identification number of such vehicle,

"(iii) the capacity of the battery at time of sale, and

"(iv) such other information as the Secretary may require.

"(4) MOTOR VEHICLE; CAPACITY.—The terms 'motor vehicle' and 'capacity' have the meaning given such terms in paragraphs (2) and (4) of section 36C(e), respectively.

"(d) VIN NUMBER REQUIREMENT.—No credit shall be allowed under subsection (a) with respect to any vehicle unless the taxpayer includes the vehicle identification number of such vehicle on the return of tax for the taxable year.

"(e) APPLICATION OF CERTAIN RULES.—For purposes of this section, rules similar to the rules of paragraphs (1), (2), (4), (5), (6) and (7) of section 36C(f) shall apply for purposes of this section.

"(f) CERTIFICATE SUBMISSION REQUIREMENT.—The Secretary may require that the issuer of the certificate described in subsection (c)(3)(E) submit such certificate to the Secretary at the time and in the manner required by the Secretary.

"(g) TREATMENT OF CERTAIN POSSESSIONS.—

"(1) PAYMENTS TO POSSESSIONS WITH MIRROR CODE TAX SYSTEMS.—The Secretary shall pay to

each possession of the United States which has a mirror code tax system amounts equal to the loss (if any) to that possession by reason of the application of the provisions of this section. Such amounts shall be determined by the Secretary based on information provided by the government of the respective possession.

"(2) PAYMENTS TO OTHER POSSESSIONS.—The Secretary shall pay to each possession of the United States which does not have a mirror code tax system amounts estimated by the Secretary as being equal to the aggregate benefits (if any) that would have been provided to residents of such possession by reason of the provisions of this section if a mirror code tax system had been in effect in such possession. The preceding sentence shall not apply unless the respective possession has a plan which has been approved by the Secretary under which such possession will promptly distribute such payments to its residents.

"(3) MIRROR CODE TAX SYSTEM; TREATMENT OF PAYMENTS.—Rules similar to the rules of paragraphs (4) and (5) of section 21(h) shall apply for purposes of this section.

"(h) TERMINATION.—No credit shall be allowed under this section with respect to any vehicle acquired after December 31, 2031.".

(b) CONFORMING AMENDMENTS.—

(1) Section 6211(b)(4)(A), as amended by the preceding provisions of this Act, is amended by inserting "36D," after "36C,".

(2) Section 6213(g)(2), as amended by the preceding provisions of this Act, is amended—

(A) in subparagraph (S), by striking "and" at the end,

(B) in subparagraph (T), by striking the period at the end and inserting ", and", and

(C) by adding at the end the following:

"(U) an omission of a correct vehicle identification number required under section 36D(d) (relating to credit for previously-owned qualified plug-in electric drive motor vehicles) to be included on a return.".

(3) Paragraph (2) of section 1324(b) of title 31, United States Code, as amended by the preceding provisions of this Act, is amended by inserting "36D," after "36C,".

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

as amended by the preceding provisions of this Act, is amended by inserting after the item relating to section 36C the following new item:

"Sec. 36D. Previously-owned qualified plug-in electric drive motor vehicles.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to vehicles acquired after December 31, 2021.

SEC. 136403. QUALIFIED COMMERCIAL ELECTRIC VEHICLES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

"SEC. 45Y. CREDIT FOR QUALIFIED COMMERCIAL ELECTRIC VEHICLES.

"(a) IN GENERAL.—For purposes of section 38, the qualified commercial electric vehicle credit for any taxable year is an amount equal to the sum of the credit amounts determined under subsection (b) with respect to each qualified commercial electric vehicle placed in service by the taxpayer during the taxable year.

"(b) PER VEHICLE AMOUNT.—The amount determined under this subsection with respect to any qualified commercial electric vehicle shall be equal to 30 percent of the basis of such vehicle.

1 "(c) QUALIFIED COMMERCIAL ELECTRIC VEHI-
2 CLE.—For purposes of this section, the term 'qualified
3 commercial electric vehicle' means any vehicle which—
4 "(1) meets the requirements of subparagraphs
5 (A) and (C) of section 36C(e)(1) without regard to
6 any gross vehicle weight rating, and is acquired for
7 use or lease by the taxpayer and not for resale,
8 "(2) either—
9 "(A) meets the requirements of subpara-
10 graph (D) of section 36C(e)(1), or
11 "(B) is mobile machinery, as defined in
12 section 4053(8),
13 "(3) is primarily propelled by an electric motor
14 which draws electricity from a battery which—
15 "(A) has a capacity of not less than 30 kil-
16 owatt hours,
17 "(B) is capable of being recharged from an
18 external source of electricity,
19 "(C) is not powered or charged by an in-
20 ternal combustion engine, or
21 "(D) is a new qualified fuel cell motor ve-
22 hicle described in subparagraphs (A) and (B) of
23 section 30B(b)(3), and
24 "(4) is of a character subject to the allowance
25 for depreciation.

"(d) SPECIAL RULES.—

"(1) IN GENERAL.—Rules similar to the rules under subsection (f) of section 36C shall apply for purposes of this section.

"(2) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of a vehicle the use of which is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such vehicle to the person or entity using such vehicle shall be treated as the taxpayer that placed such vehicle in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such vehicle.

"(e) VIN NUMBER REQUIREMENT.—No credit shall be determined under subsection (a) with respect to any vehicle unless the taxpayer includes the vehicle identification number of such vehicle on the return of tax for the taxable year.

"(f) TERMINATION.—No credit shall be determined under this section with respect to any vehicle acquired after December 31, 2031.".

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b) is amended by striking paragraph (30) and inserting the following:

"(30) the qualified commercial electric vehicle credit determined under section 45Y,".

(2) Section 6213(g)(2), as amended by the preceding provisions of this Act, is amended—

(A) in subparagraph (T), by striking "and" at the end,

(B) in subparagraph (U), by striking the period at the end and inserting ", and", and

(C) by adding at the end the following:

"(V) an omission of a correct vehicle identification number required under section 45Y(e) (relating to commercial electric vehicle credit) to be included on a return.".

(3) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45Y. Qualified commercial electric vehicle credit.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to vehicles acquired after December 31, 2021.

SEC. 136404. QUALIFIED FUEL CELL MOTOR VEHICLES.

(a) IN GENERAL.—Section 30B(k)(1) is amended by striking "December 31, 2021" and inserting "December 31, 2031".

(b) NEW QUALIFIED FUEL CELL MOTOR VEHICLE.—Section 30B(b) is amended by striking "and" at

the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting ", and", and by adding at the end the following new subparagraph:

"(F) which is not property of a character subject to an allowance for depreciation.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2021.

SEC. 136405. ALTERNATIVE FUEL REFUELING PROPERTY CREDIT.

(a) IN GENERAL.—Section 30C(g) is amended by striking "December 31, 2021" and inserting "December 31, 2031".

(b) ADDITIONAL CREDIT FOR CERTAIN ELECTRIC CHARGING PROPERTY.—

(1) IN GENERAL.—Section 30C(a) is amended—

(A) by striking "equal to 30 percent" and inserting the following: "equal to the sum of—

"(1) 30 percent",

(B) by striking the period at the end and inserting ", plus", and

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

"(2) 20 percent of so much of such cost as exceeds the limitation under subsection (b)(1) that does not exceed the amount of cost attributable to qualified alternative vehicle refueling property (determined without regard to subsection (c)(1) and as if only electricity, and fuel at least 85 percent of the volume of which consists of hydrogen, were treated as clean-burning fuels for purposes of section 179A(d)) which—

"(A) is intended for general public use with no associated fee or payment arrangement,

"(B) is intended for general public use and accepts payment via a credit card reader, including a credit card reader that uses contactless technology, or

"(C) is intended for use exclusively by fleets of commercial or governmental vehicles.".

(2) CONFORMING AMENDMENT.—Section 30C(b) is amended—

(A) by striking "The credit allowed under subsection (a)" and inserting "The amount of cost taken into account under subsection (a)(1)",

(B) by striking "$30,000" and inserting "$100,000", and

(C) by striking "$1,000" and inserting "$3,333.33".

(3) BIDIRECTIONAL CHARGING EQUIPMENT INCLUDED AS QUALIFIED ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—Section 30C(c) is amended—

(A) by striking "For purposes of this section, the term" and inserting "For purposes of this section—

"(1) IN GENERAL.—The term", and

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

"(2) BIDIRECTIONAL CHARGING EQUIPMENT.—Property shall not fail to be treated as qualified alternative vehicle refueling property solely because such property—

"(A) is capable of charging the battery of a motor vehicle propelled by electricity, and

"(B) allows discharging electricity from such battery to an electric load external to such motor vehicle.".

(c) CERTAIN ELECTRIC CHARGING STATIONS INCLUDED AS QUALIFIED ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—Section 30C is amended by redesignating subsections (f) and (g) as subsections (g) and

(h), respectively, and by inserting after subsection (e) the following:

"(f) SPECIAL RULE FOR ELECTRIC CHARGING STATIONS FOR CERTAIN VEHICLES WITH 2 OR 3 WHEELS.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified alternative fuel vehicle refueling property' includes any property described in subsection (c) for the recharging of a motor vehicle described in paragraph (2) that is propelled by electricity, but only if the property—

"(A) meets the requirements of subsection (a)(2), and

"(B) is of a character subject to depreciation.

"(2) MOTOR VEHICLE.—A motor vehicle is described in this paragraph if the motor vehicle—

"(A) is manufactured primarily for use on public streets, roads, or highways (not including a vehicle operated exclusively on a rail or rails), and

"(B) has at least 2, but not more than 3, wheels.".

(d) WAGE AND APPRENTICESHIP REQUIREMENTS.—Section 30C, as amended by this section, is further

amended by redesignating subsections (g) and (h) as subsections (h) and (i) and by inserting after subsection (f) the following new subsection:

"(g) WAGE AND APPRENTICESHIP REQUIREMENTS.—

"(1) BASE CREDIT AMOUNT AND INCREASED CREDIT AMOUNT.—

"(A) IN GENERAL.—In the case of any qualified alternative fuel vehicle refueling property which does not satisfy the requirements of subparagraph (B), the amount of the credit determined under subsection (a) shall be 20 percent of such amount (determined without regard to this sentence).

"(B) INCREASED CREDIT FOR CERTAIN QUALIFIED ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY MEETING PROJECT REQUIREMENTS.—

"(i) IN GENERAL.—In the case of any qualified alternative fuel vehicle refueling property which meets the project requirements of this subparagraph, subparagraph (A) shall not apply.

"(ii) PROJECT REQUIREMENTS.—A project meets the requirements of this subparagraph if it is one of the following:

"(I) A project which commences construction prior to the date of the enactment of this paragraph.

"(II) A project which satisfies the requirements of paragraphs (2) and (3).

"(2) PREVAILING WAGE REQUIREMENTS.—

"(A) IN GENERAL.—The requirements described in this subparagraph with respect to any qualified alternative fuel vehicle refueling property are that the taxpayer shall ensure that any laborers and mechanics employed by contractors and subcontractors in the construction of such property shall be paid wages at rates not less than the prevailing rates for construction, alteration, or repair of a similar character in the locality as most recently determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31 of title 40, United States Code.

"(B) CORRECTION AND PENALTY RELATED TO FAILURE TO SATISFY WAGE REQUIRE-

MENTS.—In the case of any taxpayer which fails to satisfy the requirement under subparagraph (A) with respect to such qualified alternative fuel vehicle refueling property, rules similar to the rules of section 45(b)(8)(B) shall apply for purposes of this paragraph.

"(3) APPRENTICESHIP REQUIREMENTS.—The requirements described in this subparagraph with respect to the construction of any qualified alternative fuel vehicle refueling property are as follows:

"(A) LABOR HOURS.—

"(i) PERCENTAGE OF TOTAL LABOR HOURS.—All contractors and subcontractors engaged in the performance of construction on any project shall, subject to subparagraph (B), ensure that not less than the applicable percentage of the total labor hours of such work be performed by qualified apprentices.

"(ii) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage shall be—

"(I) in the case of any applicable project the construction of which be-

gins before January 1, 2023, 5 percent,

"(II) in the case of any applicable project the construction of which begins after December 31, 2022, and before January 1, 2024, 10 percent, and

"(III) in the case of any applicable project the construction of which begins after December 31, 2023, 15 percent.

"(B) APPRENTICE TO JOURNEYWORKER RATIO.—The requirement under subparagraph (A)(i) shall be subject to any applicable requirements for apprentice-to-journeyworker ratios of the Department of Labor or the applicable State apprenticeship agency.

"(C) PARTICIPATION.—Each contractor and subcontractor who employs 4 or more individuals to perform construction, alteration, or repair work on an applicable project shall employ 1 or more qualified apprentices to perform such work.

"(D) EXCEPTION.—

"(i) IN GENERAL.—Notwithstanding any other provision of this paragraph, this paragraph shall not apply in the case of a taxpayer who—

"(I) demonstrates a lack of availability of qualified apprentices in the geographic area of the construction, alteration, or repair work, and

"(II) makes a good faith effort to comply with the requirements of this paragraph.

"(ii) GOOD FAITH EFFORT.—For purposes of clause (i), a taxpayer shall be deemed to have satisfied the requirements under such paragraph with respect to an applicable project if such taxpayer has requested qualified apprentices from a registered apprenticeship program, as defined in section 3131(e)(3)(B), and such request has been denied, provided that such denial is not the result of a refusal by the contractors or subcontractors engaged in the performance of construction, alteration, or repair work on such applicable project to comply with the established standards and

requirements of such apprenticeship program.

"(E) DEFINITIONS.—For purposes of this paragraph—

"(i) LABOR HOURS.—The term 'labor hours' has the meaning given such term in section 45(b)(9)(E)(i).

"(ii) QUALIFIED APPRENTICE.—The term 'qualified apprentice' has the meaning given such term in section 45(b)(9)(E)(ii).

"(4) REGULATIONS AND GUIDANCE.—The Secretary shall issue such regulations or other guidance as the Secretary determines necessary or appropriate to carry out the purposes of this subsection.".

(e) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2021.

SEC. 136406. REINSTATEMENT AND EXPANSION OF EMPLOYER-PROVIDED FRINGE BENEFITS FOR BICYCLE COMMUTING.

(a) REPEAL OF SUSPENSION OF EXCLUSION FOR QUALIFIED BICYCLE COMMUTING BENEFITS.—Section 132(f) is amended by striking paragraph (8).

1 (b) EXPANSION OF BICYCLE COMMUTING BENE-
2 FITS.—Section 132(f)(5)(F) is amended to read as fol-
3 lows:

4 "(F) DEFINITIONS RELATED TO BICYCLE
5 COMMUTING BENEFITS.—

6 "(i) QUALIFIED BICYCLE COMMUTING
7 BENEFIT.—The term 'qualified bicycle
8 commuting benefit' means, with respect to
9 any calendar year—

10 "(I) any employer reimbursement
11 during the 15-month period beginning
12 with the first day of such calendar
13 year for reasonable expenses incurred
14 by the employee during such calendar
15 year for the purchase (including asso-
16 ciated finance charges), lease, rental
17 (including a bikeshare), improvement,
18 repair, or storage of qualified com-
19 muting property, or

20 "(II) the provision by the em-
21 ployer to the employee during such
22 calendar year of the use (including a
23 bikeshare), improvement, repair, or
24 storage of qualified commuting prop-
25 erty,

if the employee regularly uses such qualified commuting property for travel between the employee's residence, place of employment, or a mass transit facility that connects the employee to their residence or place of employment.

"(ii) QUALIFIED COMMUTING PROPERTY.—The term 'qualified commuting property' means—

"(I) any bicycle (other than a bicycle equipped with any motor),

"(II) any electric bicycle which meets the requirements of section 36E(c)(5),

"(III) any 2- or 3-wheel scooter (other than a scooter equipped with any motor), and

"(IV) any 2- or 3-wheel scooter propelled by an electric motor if such motor does not provide assistance if the speed of such scooter exceeds 20 miler per hour (or if the speed of such scooter is not capable of exceeding 20 miles per hour) and the weight of

such scooter does not exceed 100 pounds.

"(iii) BIKESHARE.—The term 'bikeshare' means a rental operation at which qualified commuting property is made available to customers to pick up and drop off for point-to-point use within a defined geographic area.".

(c) LIMITATION ON EXCLUSION.—Section 132(f)(2)(C) is amended to read as follows:

"(C) 30 percent of the dollar amount in effect under subparagraph (B) per month in the case of any qualified bicycle commuting benefit.".

(d) NO CONSTRUCTIVE RECEIPT.—Section 132(f)(4) is amended by striking "(other than a qualified bicycle commuting reimbursement)".

(e) CONFORMING AMENDMENT.—Section 132(f)(1)(D) is amended by striking "reimbursement" and inserting "benefit".

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

SEC. 136407. CREDIT FOR CERTAIN NEW ELECTRIC BICYCLES.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1, as amended by the preceding provisions of this Act, is amended by inserting after section 36D the following new section:

"SEC. 36E. ELECTRIC BICYCLES.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 15 percent of the cost of each qualified electric bicycle placed in service by the taxpayer during such taxable year.

"(b) LIMITATIONS.—

"(1) LIMITATION ON COST PER ELECTRIC BICYCLE TAKEN INTO ACCOUNT.—The amount taken into account under subsection (a) as the cost of any qualified electric bicycle shall not exceed $5,000.

"(2) BICYCLE LIMITATION WITH RESPECT TO CREDIT.—

"(A) LIMITATION ON NUMBER OF PERSONAL-USE BICYCLES.—In the case of any taxpayer for any taxable year, the number of personal-use bicycles taken into account under subsection (a) shall not exceed the excess (if any) of—

"(i) 1 (2 in the case of a joint return), reduced by

"(ii) the aggregate number of bicycles taken into account by the taxpayer under subsection (a) for the 2 preceding taxable years.

"(B) PHASEOUT BASED ON MODIFIED ADJUSTED GROSS INCOME.—So much of the credit allowed under subsection (a) to any taxpayer for any taxable year as would (but for this subparagraph) be treated under subsection (c)(2) as a credit allowable under subpart C shall be reduced by $200 for each $1,000 (or fraction thereof) by which the taxpayer's modified adjusted gross income exceeds—

"(i) $150,000 in the case of a joint return or a surviving spouse (as defined in section 2(a)),

"(ii) $112,500 in the case of a head of household (as defined in section 2(b)), and

"(iii) $75,000 in the case of a taxpayer not described in clause (i) or (ii).

"(C) MODIFIED ADJUSTED GROSS INCOME.—For purposes of subparagraph (B), the

term 'modified adjusted gross income' means adjusted gross income increased by any amount excluded from gross income under section 911, 931, or 933.

"(D) SPECIAL RULE FOR DETERMINATION OF MODIFIED ADJUSTED GROSS INCOME.—The modified adjusted gross income of the taxpayer that is taken into account for purposes of this paragraph shall be the lesser of—

"(i) the modified adjusted gross income for the taxable year in which the credit is claimed, or

"(ii) the modified adjusted gross income for the immediately preceding taxable year.

"(c) QUALIFIED ELECTRIC BICYCLE.—For purposes of this section, the term 'qualified electric bicycle' means a bicycle—

"(1) the original use of which commences with the taxpayer,

"(2) which is acquired for use by the taxpayer and not for resale,

"(3) which is made by a qualified manufacturer and is labeled with the qualified vehicle identification

number assigned to such bicycle by such manufacturer,

"(4) with respect to which the aggregate amount paid for such acquisition does not exceed $8,000, and

"(5) which is equipped with—

"(A) fully operable pedals,

"(B) a saddle or seat for the rider, and

"(C) an electric motor of less than 750 watts which is designed to provided assistance in propelling the bicycle and—

"(i) does not provide such assistance if the bicycle is moving in excess of 20 miler per hour, or

"(ii) if such motor only provides such assistance when the rider is pedaling, does not provide such assistance if the bicycle is moving in excess of 28 miles per hour.

"(d) VIN NUMBER REQUIREMENT.—

"(1) IN GENERAL.—No credit shall be allowed under subsection (a) with respect to any qualified electric bicycle unless the taxpayer includes the qualified vehicle identification number of such bicycle on the return of tax for the taxable year.

1 "(2) QUALIFIED VEHICLE IDENTIFICATION
2 NUMBER.—For purposes of this section, the term
3 'qualified vehicle identification number' means, with
4 respect to any bicycle, the vehicle identification num-
5 ber assigned to such bicycle by a qualified manufac-
6 turer pursuant to the methodology referred to in
7 paragraph (3).
8 "(3) QUALIFIED MANUFACTURER.—For pur-
9 poses of this section, the term 'qualified manufac-
10 turer' means any manufacturer of qualified electric
11 bicycles which enters into an agreement with the
12 Secretary which provides that such manufacturer
13 will—
14 "(A) assign a vehicle identification number
15 to each qualified electric bicycle produced by
16 such manufacturer utilizing a methodology that
17 will ensure that such number (including any al-
18 phanumeric) is unique to such bicycle (by uti-
19 lizing numbers or letters which are unique to
20 such manufacturer or by such other method as
21 the Secretary may provide),
22 "(B) label such bicycle with such number
23 in such manner as the Secretary may provide,
24 and

"(C) make periodic written reports to the Secretary (at such times and in such manner as the Secretary may provide) of the vehicle identification numbers so assigned and including such information as the Secretary may require with respect to the qualified electric bicycle to which such number was so assigned.

"(e) SPECIAL RULES.—

"(1) BASIS REDUCTION.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed (determined without regard to subsection (c)).

"(2) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for a qualified electric bicycle for which a credit is allowable under subsection (a) shall be reduced by the amount of credit allowed under such subsection for such vehicle (determined without regard to subsection (c)).

"(3) PROPERTY USED OUTSIDE UNITED STATES NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1).

1 "(4) RECAPTURE.—The Secretary shall, by reg-
2 ulations, provide for recapturing the benefit of any
3 credit allowable under subsection (a) with respect to
4 any property which ceases to be property eligible for
5 such credit.

6 "(5) ELECTION NOT TO TAKE CREDIT.—No
7 credit shall be allowed under subsection (a) for any
8 bicycle if the taxpayer elects to not have this section
9 apply to such bicycle.

10 "(f) TREATMENT OF CERTAIN POSSESSIONS.—

11 "(1) PAYMENTS TO POSSESSIONS WITH MIRROR
12 CODE TAX SYSTEMS.—The Secretary shall pay to
13 each possession of the United States which has a
14 mirror code tax system amounts equal to the loss (if
15 any) to that possession by reason of the application
16 of the provisions of this section (determined without
17 regard to this subsection). Such amounts shall be
18 determined by the Secretary based on information
19 provided by the government of the respective posses-
20 sion.

21 "(2) PAYMENTS TO OTHER POSSESSIONS.—The
22 Secretary shall pay to each possession of the United
23 States which does not have a mirror code tax system
24 amounts estimated by the Secretary as being equal
25 to the aggregate benefits (if any) that would have

been provided to residents of such possession by reason of the provisions of this section if a mirror code tax system had been in effect in such possession. The preceding sentence shall not apply unless the respective possession has a plan which has been approved by the Secretary under which such possession will promptly distribute such payments to its residents.

''(3) MIRROR CODE TAX SYSTEM; TREATMENT OF PAYMENTS.—Rules similar to the rules of paragraphs (4) and (5) of section 21(h) shall apply for purposes of this section.

''(g) TERMINATION.—This section shall not apply to bicycles placed in service after December 31, 2031.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b) is amended by striking ''plus'' at the end of paragraph (39), by striking the period at the end of paragraph (40) and inserting '', plus'', and by adding at the end the following new paragraph:

''(41) the portion of the electric bicycles credit to which section 36E(c)(1) applies.''.

(2) Section 1016(a) is amended by striking ''and'' at the end of paragraph (37), by striking the period at the end of paragraph (38) and inserting '',

and'', and by adding at the end the following new paragraph:

''(39) to the extent provided in section 36E(f)(1).''.

(3) Section 6211(b)(4)(A) of such Code is amended by inserting ''36E by reason of subsection (c)(2) thereof,'' before ''32,''.

(4) Section 6213(g)(2), as amended by the preceding provisions of this Act, is amended—

(A) in subparagraph (U), by striking ''and'' at the end,

(B) in subparagraph (V), by striking the period at the end and inserting '', and'', and

(C) by adding at the end the following:

''(W) an omission of a correct vehicle identification number required under section 36E(e) (relating to electric bicycles credit) to be included on a return.''.

(5) Section 6501(m) is amended by inserting ''36E(f)(4),'' after ''35(g)(11),''.

(6) Section 1324(b)(2) of title 31, United States Code, is amended by inserting ''36E,'' after ''36B,''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 36E. Electric bicycles.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

PART 5—INVESTMENT IN THE GREEN WORKFORCE

SEC. 136501. EXTENSION OF THE ADVANCED ENERGY PROJECT CREDIT.

(a) EXTENSION OF CREDIT.—Section 48C is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) ADDITIONAL ALLOCATIONS.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Secretary, after consultation with the Secretary of Energy, shall establish a program to consider and award certifications for qualified investments eligible for credits under this section to qualifying advanced energy project sponsors.

"(2) ANNUAL LIMITATION.—

1 "(A) IN GENERAL.—The amount of credits
2 that may be allocated under this subsection
3 during any calendar year shall not exceed the
4 annual credit limitation with respect to such
5 year.
6 "(B) ANNUAL CREDIT LIMITATION.—
7 "(i) IN GENERAL.—For purposes of
8 this subsection, the term 'annual credit
9 limitation' means $2,500,000,000 for each
10 of calendar years 2022 through 2031, and
11 zero thereafter.
12 "(ii) AMOUNT SET ASIDE FOR AUTO-
13 MOTIVE COMMUNITIES.—
14 "(I) IN GENERAL.—For purposes
15 of clause (i), $400,000,000 of the an-
16 nual credit limitation for each of cal-
17 endar years 2022 through 2031 shall
18 be allocated to qualified investments
19 located within automotive commu-
20 nities.
21 "(II) AUTOMOTIVE COMMU-
22 NITIES.—For purposes of this clause,
23 the term 'automotive communities'
24 means a census tract and any directly
25 adjoining census tract, including a no-

population census tract, that has experienced major job losses in the automotive manufacturing sector since January 1, 1994, as determined by the Secretary after consultation with the Secretary of Energy and Secretary of Labor.

"(C) CARRYOVER OF UNUSED LIMITATION.—If the annual credit limitation for any calendar year exceeds the aggregate amount designated for such year under this subsection, such limitation for the succeeding calendar year shall be increased by the amount of such excess. No amount may be carried under the preceding sentence to any calendar year after 2036.

"(3) CERTIFICATIONS.—

"(A) APPLICATION REQUIREMENT.—Each applicant for certification under this subsection shall submit an application at such time and containing such information as the Secretary may require.

"(B) TIME TO MEET CRITERIA FOR CERTIFICATION.—Each applicant for certification shall have 2 years from the date of acceptance by the Secretary of the application during

which to provide to the Secretary evidence that the requirements of the certification have been met.

"(C) PERIOD OF ISSUANCE.—An applicant which receives a certification shall have 2 years from the date of issuance of the certification in order to place the project in service and to notify the Secretary that such project has been so placed in service, and if such project is not placed in service (and the Secretary so notified) by that time period, then the certification shall no longer be valid. If any certification is revoked under this subparagraph, the amount of the annual credit limitation under paragraph (2) for the calendar year in which such certification is revoked shall be increased by the amount of the credit with respect to such revoked certification.

"(4) SELECTION CRITERIA.—Selection criteria similar to those in subsection (d)(3) shall apply, except that in determining designations under this subsection, the Secretary, after consultation with the Secretary of Energy, shall—

1 ''(A) in addition to the factors described in
2 subsection (d)(3)(B), take into consideration
3 which projects—
4 ''(i) will provide the greatest net im-
5 pact in avoiding or reducing anthropogenic
6 emissions of greenhouse gases, as deter-
7 mined by the Secretary after consultation
8 with the Administrator of the Environ-
9 mental Protection Agency,
10 ''(ii) will provide the greatest domestic
11 job creation (both direct and indirect) dur-
12 ing the credit period,
13 ''(iii) will provide the greatest job cre-
14 ation within the vicinity of the project, par-
15 ticularly with respect to—
16 ''(I) low-income communities (as
17 described in section 45D(e)), and
18 ''(II) dislocated workers who
19 were previously employed in manufac-
20 turing, coal power plants, or coal min-
21 ing, and
22 ''(iv) will provide the greatest job cre-
23 ation in areas with a population that is at
24 risk of experiencing higher or more adverse
25 human health or environmental effects and

a significant portion of such population is comprised of communities of color, low-income communities, Tribal and Indigenous communities, or individuals formerly employed in the fossil fuel industry, and

''(B) give the highest priority to projects which—

''(i) manufacture (other than primarily assembly of components) property described in a subclause of subsection (c)(1)(A)(i) (or components thereof), and

''(ii) have the greatest potential for commercial deployment of new applications.

''(5) DISCLOSURE OF ALLOCATIONS.—The Secretary shall, upon allocating a credit under this subsection, publicly disclose the identity of the applicant, the amount of the credit with respect to such applicant, and the project location for which such credit was allocated.

''(6) CREDIT CONDITIONED UPON WAGE AND APPRENTICESHIP REQUIREMENTS.—No credit shall be allocated for a project under this subsection unless the project meets the prevailing wage require-

ments of paragraph (7) and the apprenticeship requirements of paragraph (8).

"(7) PREVAILING WAGE REQUIREMENTS.—

"(A) IN GENERAL.—The requirements described in this paragraph with respect to a project are that the taxpayer shall ensure that any laborers and mechanics employed by contractors and subcontractors in the re-equipping, expansion, or establishment of an industrial or manufacturing facility shall be paid wages at rates not less than the prevailing rates for construction, alteration, or repair of a similar character in the locality as most recently determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31 of title 40, United States Code.

"(B) CORRECTION AND PENALTY RELATED TO FAILURE TO SATISFY WAGE REQUIREMENTS.—

"(i) IN GENERAL.—In the case of any taxpayer which fails to satisfy the requirement under subparagraph (A) with respect to any project—

"(I) rules similar to the rules of section 45(b)(8)(B) shall apply for purposes of this paragraph, and

"(II) if the failure to satisfy the requirement under subparagraph (A) is not corrected pursuant to the rules described in subclause (I), the certification with respect to the re-equipping, expansion, or establishment of an industrial or manufacturing facility shall no longer be valid.

"(8) APPRENTICESHIP REQUIREMENTS.—The requirements described in this subparagraph with respect to a project are as follows:

"(A) LABOR HOURS.—

"(i) PERCENTAGE OF TOTAL LABOR HOURS.—All contractors and subcontractors engaged in the performance of construction, alteration, or repair work on any project shall, subject to subparagraph (B), ensure that not less than the applicable percentage of the total labor hours of such work be performed by qualified apprentices.

"(ii) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage shall be—

"(I) in the case of any applicable project the construction of which begins before January 1, 2023, 5 percent,

"(II) in the case of any applicable project the construction of which begins after December 31, 2022, and before January 1, 2024, 10 percent, and

"(III) in the case of any applicable project the construction of which begins after December 31, 2023, 15 percent.

"(B) APPRENTICE TO JOURNEYWORKER RATIO.—The requirement under subparagraph (A)(i) shall be subject to any applicable requirements for apprentice-to-journeyworker ratios of the Department of Labor or the applicable State apprenticeship agency.

"(C) PARTICIPATION.—Each contractor and subcontractor who employs 4 or more individuals to perform construction, alteration, or

1 repair work on an applicable project shall em-
2 ploy 1 or more qualified apprentices to perform
3 such work.
4 ''(D) EXCEPTION.—
5 ''(i) IN GENERAL.—Notwithstanding
6 any other provision of this paragraph, this
7 paragraph shall not apply in the case of a
8 taxpayer who—
9 ''(I) demonstrates a lack of avail-
10 ability of qualified apprentices in the
11 geographic area of the construction,
12 alteration, or repair work, and
13 ''(II) makes a good faith effort to
14 comply with the requirements of this
15 paragraph.
16 ''(ii) GOOD FAITH EFFORT.—For pur-
17 poses of clause (i), a taxpayer shall be
18 deemed to have satisfied the requirements
19 under such paragraph with respect to an
20 applicable project if such taxpayer has re-
21 quested qualified apprentices from a reg-
22 istered apprenticeship program, as defined
23 in section 3131(e)(3)(B), and such request
24 has been denied, provided that such denial
25 is not the result of a refusal by the con-

tractors or subcontractors engaged in the performance of construction, alteration, or repair work on such applicable project to comply with the established standards and requirements of such apprenticeship program.

''(E) DEFINITIONS.—For purposes of this paragraph—

''(i) LABOR HOURS.—The term 'labor hours' has the meaning given such term in section 45(b)(9)(E)(i).

''(ii) QUALIFIED APPRENTICE.—The term 'qualified apprentice' has the meaning given such term in section 45(b)(9)(E)(ii).''.

(b) MODIFICATION OF QUALIFYING ADVANCED ENERGY PROJECTS.—

(1) INCLUSION OF WATER AS A RENEWABLE RESOURCE.—Section 48C(c)(1)(A)(i)(I) is amended by inserting ''water,'' after ''sun,''.

(2) ENERGY STORAGE SYSTEMS.—Section 48C(c)(1)(A)(i)(II) is amended by striking ''an energy storage system for use with electric or hybrid-electric motor vehicles'' and inserting ''energy storage systems and components''.

(3) MODIFICATION OF QUALIFYING ELECTRIC GRID PROPERTY.—Section 48C(c)(1)(A)(i)(III) is amended to read as follows:

"(III) electric grid modernization equipment or components,".

(4) USE OF CAPTURED CARBON.—Section 48C(c)(1)(A)(i)(IV) is amended by striking "sequester" and insert "use or sequester".

(5) ELECTRIC AND FUEL CELL VEHICLES.—Section 48C(c)(1)(A)(i)(VI) is amended—

(A) by striking "new qualified plug-in electric drive motor vehicles (as defined by section 30D)" and inserting "vehicles described in section 36C, 45Y, and 36E", and

(B) and striking "and power control units" and inserting "power control units, and equipment used for charging or refueling".

(6) PROPERTY FOR PRODUCTION OF HYDROGEN.—Section 48C(c)(1)(A)(i) is amended by striking "or" at the end of subclause (VI), by redesignating subclause (VII) as subclause (VIII), an by inserting after subclause (VI) the following new subclause:

"(VII) property designed to be used to produce qualified clean hydrogen (as defined in section 45X), or".

(7) RECYCLING OF ADVANCED ENERGY PROPERTY.—Section 48C(c)(1) is amended by adding at the end the following new subparagraph:

"(C) SPECIAL RULE FOR CERTAIN RECYCLING FACILITIES.—A facility which recycles batteries or similar energy storage property described in subparagraph (A)(i) shall be treated as part of a manufacturing facility described in such subparagraph.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 136502. LABOR COSTS OF INSTALLING MECHANICAL INSULATION PROPERTY.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1, as amended by the preceding provisions of this Act, is further amended by adding at the end the following new section:

"SEC. 45Z. LABOR COSTS OF INSTALLING MECHANICAL INSULATION PROPERTY.

"(a) IN GENERAL.—For purposes of section 38, the mechanical insulation labor costs credit determined under

this section for any taxable year is an amount equal to 10 percent of the mechanical insulation labor costs paid or incurred by the taxpayer during such taxable year.

"(b) MECHANICAL INSULATION LABOR COSTS.—For purposes of this section—

"(1) IN GENERAL.—The term 'mechanical insulation labor costs' means the labor cost of installing mechanical insulation property with respect to a mechanical system referred to in paragraph (2)(A) which was originally placed in service not less than 1 year before the date on which such mechanical insulation property is installed.

"(2) MECHANICAL INSULATION PROPERTY.—The term 'mechanical insulation property' means insulation materials, and facings and accessory products installed in connection to such insulation materials—

"(A) placed in service in connection with a mechanical system which—

"(i) is located in the United States,

"(ii) is of a character subject to an allowance for depreciation, and

"(iii) meets the requirements of section 434.403 of title 10, Code of Federal

Regulations (as in effect on the date of enactment of this section), and

"(B) which result in a reduction in energy loss from the mechanical system which is greater than the expected reduction from the installation of insulation materials which meet the minimum requirements of Reference Standard 90.1 (as defined in section 179D(c)(2)).

"(c) TERMINATION.—This section shall not apply to mechanical insulation labor costs paid or incurred after December 31, 2031.".

(b) CREDIT ALLOWED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b), as amended by the preceding provisions of this Act, is further amended by striking "plus" at the end of paragraph (40), by striking the period at the end of paragraph (41) and inserting ", plus", and by adding at the end the following new paragraph:

"(42) the mechanical insulation labor costs credit determined under section 45Z(a).".

(c) CONFORMING AMENDMENTS.—

(1) Section 280C is amended by adding at the end the following new subsection:

"(i) MECHANICAL INSULATION LABOR COSTS CREDIT.—

"(1) IN GENERAL.—No deduction shall be allowed for that portion of the mechanical insulation labor costs (as defined in section 45Z(b)) otherwise allowable as deduction for the taxable year which is equal to the amount of the credit determined for such taxable year under section 45Z(a).

"(2) SIMILAR RULE WHERE TAXPAYER CAPITALIZES RATHER THAN DEDUCTS EXPENSES.—If—

"(A) the amount of the credit determined for the taxable year under section 45Z(a), exceeds

"(B) the amount of allowable as a deduction for such taxable year for mechanical insulation labor costs (determined without regard to paragraph (1)),

the amount chargeable to capital account for the taxable year for such costs shall be reduced by the amount of such excess.".

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by the preceding provisions of this Act, is further amended by adding at the end the following new item:

"Sec. 45Z. Labor costs of installing mechanical insulation property.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after

December 31, 2021, in taxable years ending after such date.

PART 6—ENVIRONMENTAL JUSTICE

SEC. 136601. QUALIFIED ENVIRONMENTAL JUSTICE PROGRAM CREDIT.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1, as amended by the preceding provisions of this Act, is amended by inserting after section 36E the following new section:

"SEC. 36F. QUALIFIED ENVIRONMENTAL JUSTICE PROGRAMS.

"(a) ALLOWANCE OF CREDIT.—In the case of an eligible educational institution, there shall be allowed as a credit against the tax imposed by this subtitle for any taxable year an amount equal to the applicable percentage of the amounts paid or incurred by such taxpayer during such taxable year which are necessary for a qualified environmental justice program.

"(b) QUALIFIED ENVIRONMENTAL JUSTICE PROGRAM.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified environmental justice program' means a program conducted by one or more eligible educational institutions that is designed to address, or improve data about, qualified environmental stressors for the pri-

mary purpose of improving, or facilitating the improvement of, health and economic outcomes of individuals residing in low-income areas or areas that experience, or are at risk of experiencing, multiple exposures to qualified environmental stressors.

"(2) QUALIFIED ENVIRONMENTAL STRESSOR.—The term 'qualified environmental stressor' means, with respect to an area, a contamination of the air, water, soil, or food with respect to such area or a change relative to historical norms of the weather conditions of such area, including—

"(A) toxic pollutants (such as lead, pesticides, or fine particulate matter) in air, soil, food, or water,

"(B) high rates of asthma prevalence and incidence, and

"(C) such other adverse human health or environmental effects as are identified by the Secretary.

"(c) ELIGIBLE EDUCATIONAL INSTITUTION.—For purposes of this section, the term 'eligible educational institution' means an institution of higher education (as such term is defined in section 101 or 102(c) of the Higher Education Act of 1965) that is eligible to participate in a program under title IV of such Act.

1 ''(d) APPLICABLE PERCENTAGE.—For purposes of
2 this section, the term 'applicable percentage' means—
3 ''(1) in the case of a program involving material
4 participation of faculty and students of an institu-
5 tion described in section 371(a) of the Higher Edu-
6 cation Act of 1965, 30 percent, and
7 ''(2) in all other cases, 20 percent.
8 ''(e) CREDIT ALLOCATION.—
9 ''(1) ALLOCATION.—
10 ''(A) IN GENERAL.—The Secretary shall
11 allocate credit dollar amounts under this section
12 to eligible educational institutions, for qualified
13 environmental justice programs, that—
14 ''(i) submit applications at such time
15 and in such manner as the Secretary may
16 provide, and
17 ''(ii) are selected by the Secretary
18 under subparagraph (B).
19 ''(B) SELECTION CRITERIA.—The Sec-
20 retary, after consultation with the Secretary of
21 Energy, the Secretary of Education, the Sec-
22 retary of Health and Human Services, and the
23 Administrator of the Environmental Protection
24 Agency, shall select applications on the basis of
25 the following criteria:

"(i) The extent of participation of faculty and students of an institution described in section 371(a) of the Higher Education Act of 1965.

"(ii) The extent of the expected effect on the health or economic outcomes of individuals residing in areas within the United States that are low-income areas or areas that experience, or are at risk of experiencing, multiple exposures to qualified environmental stressors.

"(iii) The creation or significant expansion of qualified environmental justice programs.

"(2) LIMITATIONS.—

"(A) IN GENERAL.—The amount of the credit determined under this section for any taxable year to any eligible educational institution for any qualified environmental justice program shall not exceed the excess of—

"(i) the credit dollar amount allocated to such institution for such program under this subsection, over

"(ii) the credits previously claimed by such institution for such program under this section.

"(B) FIVE-YEAR LIMITATION.—No amounts paid or incurred after the 5-year period beginning on the date a credit dollar amount is allocated to an eligible educational institution for a qualified environmental justice program shall be taken into account under subsection (a) with respect to such institution for such program.

"(C) ALLOCATION LIMITATION.—The total amount of credits that may be allocated under the program shall not exceed—

"(i) $1,000,000,000 for each of taxable years 2022 through 2031, and

"(ii) $0 for each subsequent year.

"(D) CARRYOVER OF UNUSED LIMITATION.—If the annual credit limitation for any calendar year exceeds the aggregate amount designated for such year under this subsection, such limitation for the succeeding calendar year shall be increased by the amount of such excess. No amount may be carried under the preceding sentence to any calendar year after 2036.

1 "(f) REQUIREMENTS.—

2 "(1) IN GENERAL.—An eligible educational in-
3 stitution that has been allocated credit dollar
4 amounts under this section for a qualified environ-
5 mental justice project for a taxable year shall—

6 "(A) make publicly available the applica-
7 tion submitted to the Secretary under sub-
8 section (e) with respect to such project, and

9 "(B) submit an annual report to the Sec-
10 retary that describes the amounts paid or in-
11 curred for, and expected impact of, such
12 project.

13 "(2) FAILURE TO COMPLY.—In the case of an
14 eligible educations institution that has failed to com-
15 ply with the requirements of this subsection, the
16 credit dollar amount allocated to such institution
17 under this section is deemed to be $0.

18 "(g) PUBLIC DISCLOSURE.—The Secretary, upon
19 making an allocation of credit dollar amounts under this
20 section, shall publicly disclose—

21 "(1) the identity of the eligible educational in-
22 stitution receiving the allocation, and

23 "(2) the amount of such allocation.".

24 (b) CONFORMING AMENDMENTS.—

(1) Section 6211(b)(4)(A), as amended by the preceding provisions of this Act, is amended by inserting "36F," after "36D,".

(2) Paragraph (2) of section 1324(b) of title 31, United States Code, as amended by the preceding provisions of this Act, is amended by inserting "36F," after "36D,".

(c) CLERICAL AMENDMENT.—The table of sections for subpart C of part IV of subchapter A of chapter 1, as amended by the preceding provisions of this Act, is amended by inserting after the item relating to section 36E the following new item:

"Sec. 36F. Qualified environmental justice programs.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

PART 7—SUPERFUND

SEC. 136701. REINSTATEMENT OF SUPERFUND.

(a) HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—

(1) EXTENSION.—Section 4611(e) is amended to read as follows:

"(e) APPLICATION OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—The Hazardous Substance Superfund financing rate under this section shall apply after December 31, 2021.".

(2) ADJUSTMENT FOR INFLATION.—

(A) Section 4611(c)(2)(A) is amended by striking ''9.7 cents'' and inserting ''16.4 cents''.

(B) Section 4611(c) is amended by adding at the end the following:

''(3) ADJUSTMENT FOR INFLATION.—

''(A) IN GENERAL.—In the case of a year beginning after 2022, the amount in paragraph (2)(A) shall be increased by an amount equal to—

''(i) such amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting 'calendar year 2021' for 'calendar year 2016' in subparagraph (A)(ii) thereof.

''(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of $0.01, such amount shall be rounded to the next lowest multiple of $0.01.''.

(b) AUTHORITY FOR ADVANCES.—Section 9507(d)(3)(B) is amended by striking ''December 31, 1995'' and inserting ''December 31, 2031''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2022.

PART 8—APPROPRIATIONS

SEC. 136801. APPROPRIATIONS.

Immediately upon the enactment of this Act, in addition to amounts otherwise available, there are appropriated for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $3,831,000,000 to remain available until September 30, 2031, for necessary expenses for the Internal Revenue Service to carry out this subtitle (and the amendments made by this subtitle), which shall supplement and not supplant any other appropriations that may be available for this purpose.

Subtitle H—Social Safety Net

SEC. 137001. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

PART 1—CHILD TAX CREDIT

SEC. 137101. MODIFICATIONS APPLICABLE BEGINNING IN 2021.

(a) SAFE HARBOR EXCEPTION FOR FRAUD AND INTENTIONAL DISREGARD OF RULES AND REGULATIONS.—Section 24(j)(2)(B) is amended—

(1) by striking ''qualified'' each place it appears in clause (iv)(II) and inserting ''qualifying'', and

(2) by adding at the end the following new clause:

''(v) EXCEPTION FOR FRAUD AND INTENTIONAL DISREGARD OF RULES AND REGULATIONS.—

''(I) IN GENERAL.—For purposes of determining the safe harbor amount under clause (iv) with respect to any taxpayer, an individual shall not be treated as taken into account in determining the annual advance amount of such taxpayer if the Secretary determines that such individual was so taken into account due to fraud by the taxpayer or intentional disregard of rules and regulations by the taxpayer.

''(II) ARRANGEMENTS TO TAKE INDIVIDUAL INTO ACCOUNT MORE THAN ONCE.—For purposes of subclause (I), a taxpayer shall not fail to be treated as intentionally disregarding rules and regulations with

respect to any individual taken into account in determining the annual advance amount of such taxpayer if such taxpayer entered into a plan or other arrangement with, or expected, another taxpayer to take such individual into account in determining the credit allowed under this section for the taxable year.''.

(b) TREATMENT OF JOINT RETURNS.—Section 24(j) is amended by adding at the end the following new paragraph:

''(3) JOINT RETURNS.—Except as otherwise provided by the Secretary, in the case of an advance payment made under section 7527A with respect to a joint return, half of such payment shall be treated as having been made to each individual filing such return.''.

(c) ANNUAL ADVANCE AMOUNT.—Section 7527A(b) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by inserting ''or based on any other information known to the Secretary'' after ''reference taxable year'',

(B) in subparagraph (C), by inserting ''unless determined by the Secretary based on any information known to the Secretary,'' before ''the only children'', and

(C) in subparagraph (D), by inserting ''unless determined by the Secretary based on any information known to the Secretary,'' before ''the ages of'', and

(2) in paragraph (3)(A)(ii), by striking '' provided by the taxpayer'' and inserting ''provided, or known,''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning, and payments made, after December 31, 2020.

SEC. 137102. EXTENSION AND MODIFICATION OF CHILD TAX CREDIT AND ADVANCE PAYMENT FOR 2022.

(a) EXTENSIONS.—

(1) EXTENSION OF CHILD TAX CREDIT.—Section 24(i) is amended—

(A) by striking ''January 1, 2022'' in the matter preceding paragraph (1) and inserting ''January 1, 2023'', and

(B) by inserting ''AND 2022'' after ''2021'' in the heading thereof.

(2) EXTENSION OF PROVISIONS RELATED TO POSSESSIONS OF THE UNITED STATES.—

(A) Section 24(k)(2)(B) is amended—

(i) by striking ''December 31, 2021'' in the matter preceding clause (i) and inserting ''December 31, 2022'', and

(ii) by striking ''AFTER 2021'' in the heading thereof and inserting ''AFTER 2022''.

(B) Section 24(k)(3)(C)(ii) is amended—

(i) in subclause (I), by inserting ''or 2022'' after ''2021'', and

(ii) in subclause (II), by striking ''December 31, 2021'' and inserting ''December 31, 2022''.

(C) The heading of section 24(k)(2)(A) is amended by inserting ''AND 2022'' after ''2021''.

(3) EXTENSION OF ADVANCE PAYMENT.—Section 7527A is amended—

(A) in subsection (b)(1), by striking ''50 percent of'',

(B) in clauses (i) and (ii) of subsection (e)(4)(C), by inserting ''or 2022'' after ''in 2021'', and

(C) in subsection (f), by striking ''December 31, 2021'' and inserting ''December 31, 2022''.

(b) REPEAL OF SOCIAL SECURITY NUMBER REQUIREMENT.—Section 24(h) is amended by striking paragraph (7).

(c) APPLICATION OF INCOME PHASEOUT ON BASIS OF INCOME FOR PRECEDING TAXABLE YEAR.—Section 24(i) is amended by adding at the end the following new paragraph:

''(5) APPLICATION OF INCOME PHASEOUT ON BASIS OF INCOME FOR PRIOR TAXABLE YEAR.—If the taxpayer's modified adjusted gross income (as defined in subsection (b)) for the taxable year for which the credit allowed under this section is determined is greater than such taxpayer's modified adjusted gross income (as so defined) for the preceding taxable year, paragraph (4) and subsection (b)(1) shall both be applied with respect to such taxpayer's modified adjusted gross income (as so defined) for the preceding taxable year.''.

(d) INFLATION ADJUSTMENT.—Section 24(i), as amended by subsection (c), is amended by adding at the end the following new paragraph:

''(6) INFLATION ADJUSTMENTS.—

"(A) IN GENERAL.—In the case of any taxable year beginning after December 31, 2021, the $500 amount in subsection (h)(4)(A), the $3,000 and $3,600 amounts in paragraph (3) and subsection (j)(2)(B)(iv), and the dollar amounts in paragraph (4)(B), shall each be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the percentage (if any) by which—

"(I) the CPI (as defined in section 1(f)(4)) for the calendar year preceding the calendar year in which such taxable year begins, exceeds

"(II) the CPI (as so defined) for calendar year 2020.

"(B) ROUNDING.—

"(i) $500 AMOUNT.—In the case of the $500 amount in subsection (h)(4)(A), any increase under subparagraph (A) which is not a multiple of $10 shall be rounded to the nearest multiple of $10.

"(ii) $3,000 AND $3,600 AMOUNTS.—In the case of the $3,000 and $3,600 amounts in paragraph (3) and subsection

(j)(2)(B)(iv), any increase under subparagraph (A) which is not a multiple of $100 shall be rounded to the nearest multiple of $100.

"(iii) APPLICABLE THRESHOLD AMOUNTS.—In the case of the dollar amounts in paragraph (4)(B), any increase under subparagraph (A) which is not a multiple of $5,000 shall be rounded to the nearest multiple of $5,000.".

(e) MODIFICATION OF RECAPTURE SAFE HARBOR FOR 2022.—Section 24(j)(2)(B)(iv), as amended by the preceding provisions of this Act, is amended to read as follows:

"(iv) SAFE HARBOR AMOUNT.—For purposes of this subparagraph, the term 'safe harbor amount' means, with respect to any taxpayer for any taxable year, the aggregate of $3,000 ($3,600 in the case of a qualifying child who has not attained age 6 as of the close of the calendar year in which the taxable year of the taxpayer begins) with respect to each qualifying child who is—

"(I) taken into account in determining the annual advance amount with respect to such taxpayer under section 7527A with respect to months beginning in such taxable year, and

"(II) not taken into account in determining the credit allowed to such taxpayer under this section for such taxable year.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning, and payments made, after December 31, 2021.

SEC. 137103. ESTABLISHMENT OF MONTHLY CHILD TAX CREDIT WITH ADVANCE PAYMENT THROUGH 2025.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 is amended by inserting after section 24 the following new sections:

"SEC. 24A. MONTHLY CHILD TAX CREDIT.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year the sum of the monthly specified child allowances determined with respect to the taxpayer under subsection (b) for each calendar month during such taxable year.

"(b) MONTHLY SPECIFIED CHILD ALLOWANCE.—

"(1) IN GENERAL.—For purposes of this section, the term 'monthly specified child allowance' means, with respect to any taxpayer for any calendar month, the sum of—

"(A) $300 with respect to each specified child of such taxpayer who will not, as of the close of the taxable year which includes such month, have attained age 6, plus

"(B) $250 with respect to each specified child of such taxpayer who will, as of the close of the taxable year which includes such month, have attained age 6.

"(2) LIMITATIONS BASED ON MODIFIED ADJUSTED GROSS INCOME.—

"(A) INITIAL REDUCTION.—The monthly specified child allowance otherwise determined under paragraph (1) with respect to any taxpayer for any calendar month shall be reduced (but not below zero) by 1/12 of 5 percent of the excess (if any) of the taxpayer's modified adjusted gross income for the applicable taxable year over the initial threshold amount in effect for such applicable taxable year.

"(B) LIMITATION ON INITIAL REDUCTION.—The amount of the reduction under subparagraph (A) shall not exceed the lesser of—

"(i) the excess (if any) of—

"(I) the monthly specified child allowance with respect to the taxpayer for the calendar month (determined without regard to this paragraph), over

"(II) the amount which would be determined under subclause (I) if the dollar amounts in effect under subparagraphs (A) and (B) of paragraph (1) were each equal to $166.67, or

"(ii) 1/12 of 5 percent of the excess of the secondary threshold amount over the initial threshold amount.

"(C) SECONDARY REDUCTION.—The monthly specified child allowance otherwise determined under paragraph (1) with respect to any taxpayer for any calendar month (determined after the application of subparagraphs (A) and (B)) shall be reduced (but not below zero) by 1/12 of 5 percent of the excess (if any) of the taxpayer's modified adjusted gross in-

1 come for the applicable taxable year over the
2 secondary threshold amount.
3 "(D) DEFINITIONS RELATED TO LIMITA-
4 TIONS BASED ON MODIFIED ADJUSTED GROSS
5 INCOME.—For purposes of this paragraph—
6 "(i) INITIAL THRESHOLD AMOUNT.—
7 The term 'initial threshold amount'
8 means—
9 "(I) $150,000, in the case of a
10 joint return or surviving spouse (as
11 defined in section 2(a)),
12 "(II) ½ the dollar amount in ef-
13 fect under subclause (I), in the case of
14 a married individual filing a separate
15 return, and
16 "(III) $112,500, in any other
17 case.
18 "(iii) SECONDARY THRESHOLD
19 AMOUNT.—The term 'secondary threshold
20 amount' means—
21 "(I) $400,000, in the case of a
22 joint return or surviving spouse (as
23 defined in section 2(a)),

1 "(II) $300,000, in the case of a
2 head of household (as defined in sec-
3 tion 2(b)), and
4 "(III) $200,000, in any other
5 case.
6 "(iv) APPLICABLE TAXABLE YEAR.—
7 The term 'applicable taxable year' means,
8 with respect to any taxpayer, the relevant
9 taxable year with respect to which the tax-
10 payer has the lowest modified adjusted
11 gross income. For purposes of the pre-
12 ceding sentence, the term 'relevant taxable
13 year' means the taxable year for which the
14 credit allowed under this section is deter-
15 mined and each of the 2 immediately pre-
16 ceding taxable years.
17 "(v) MODIFIED ADJUSTED GROSS IN-
18 COME.—The term 'modified adjusted gross
19 income' means adjusted gross income in-
20 creased by any amount excluded from
21 gross income under section 911, 931, or
22 933.
23 "(c) SPECIFIED CHILD.—For purposes of this sec-
24 tion—

1 "(1) IN GENERAL.—The term 'specified child'
2 means, with respect to any taxpayer for any cal-
3 endar month, an individual—
4 "(A) who has the same principal place of
5 abode as the taxpayer for more than one-half of
6 such month,
7 "(B) who is younger than the taxpayer and
8 will not, as of the close of the calendar year
9 which includes such month, have attained age
10 18,
11 "(C) who receives care from the taxpayer
12 during such month that is not compensated,
13 "(D) who is not the spouse of the taxpayer
14 at any time during such month,
15 "(E) who is not a taxpayer with respect to
16 whom any individual is a specified child for
17 such month, and
18 "(F) who either—
19 "(i) is a citizen, national, or resident
20 of the United States, or
21 "(ii) if the taxpayer is a citizen or na-
22 tional of the United States, such individual
23 is described in section 152(f)(1)(B) with
24 respect to such taxpayer.
25 "(2) CARE FROM THE TAXPAYER.—

"(A) IN GENERAL.—Except as otherwise provided by the Secretary, whether any individual receives care from the taxpayer (within the meaning of paragraph (1)(C)) shall be determined on the basis of facts and circumstances with respect to the following factors:

"(i) The supervision provided by the taxpayer regarding the daily activities and needs of the individual.

"(ii) The maintenance by the taxpayer of a secure environment at which the individual resides.

"(iii) The provision or arrangement by the taxpayer of, and transportation by the taxpayer to, medical care at regular intervals and as required for the individual.

"(iv) The involvement by the taxpayer in, and financial and other support by the taxpayer for, educational or similar activities of the individual.

"(v) Any other factor that the Secretary determines to be appropriate to determine whether the individual receives care from the taxpayer.

"(B) DETERMINATION OF WHETHER CARE IS COMPENSATED.—For purposes of determining if care is compensated within the meaning of paragraph (1)(C), compensation from the Federal Government, a State or local government, a Tribal government, or any possession of the United States shall not be taken into account.

"(3) APPLICATION OF TIE-BREAKER RULES.—

"(A) IN GENERAL.—Except as provided in subparagraph (D), if any individual would (but for this paragraph) be a specified child of 2 or more taxpayers for any month, such individual shall be treated as the specified child only of the taxpayer who is—

"(i) the parent of the individual (or, if such individual would (but for this paragraph) be a specified child of 2 or more parents of the individual for such month, the parent of the individual determined under subparagraph (B)),

"(ii) if the individual is not a specified child of any parent of the individual (determined without regard to this paragraph), the specified relative of the individual with

the highest adjusted gross income for the taxable year which includes such month, or

"(iii) if the individual is neither a specified child of any parent of the individual nor a specified child of any specified relative of the individual (in both cases determined without regard to this paragraph), the taxpayer with the highest adjusted gross income for the taxable year which includes such month.

"(B) TIE-BREAKER AMONG PARENTS.—If any individual would (but for this paragraph) be the specified child of 2 or more parents of the individual for any month, such child shall be treated only as the specified child of—

"(i) the parent with whom the child resided for the longest period of time during such month, or

"(ii) if the child resides with both parents for the same amount of time during such month, the parent with the highest adjusted gross income for the taxable year which includes such month.

"(C) SPECIFIED RELATIVE.—For purposes of this paragraph, the term 'specified relative' means an individual who is—

"(i) an ancestor of a parent of the specified child,

"(ii) a brother or sister of a parent of the specified child, or

"(iii) a brother, sister, stepbrother, or stepsister of the specified child.

"(D) CERTAIN PARENTS OR SPECIFIED RELATIVES NOT TAKEN INTO ACCOUNT.—This paragraph shall be applied without regard to any parent or specified relative of an individual for any month if—

"(i) such parent or specified relative elects to have such individual not be treated as a specified child of such parent or specified relative for such month,

"(ii) in the case of a parent of such individual, the adjusted gross income of the taxpayer (with respect to whom such individual would be treated as a specified child after application of this subparagraph) for the taxable year which includes such month is higher than the highest ad-

1 justed gross income of any parent of the
2 individual for any taxable year which in-
3 cludes such month (determined without re-
4 gard to any parent with respect to whom
5 such individual is not a specified child, de-
6 termined without regard to subparagraphs
7 (A) and (B) and after application of this
8 subparagraph), and
9 ''(iii) in the case of a specified relative
10 of such individual, the adjusted gross in-
11 come of the taxpayer (with respect to
12 whom such individual would be treated as
13 a specified child after application of this
14 subparagraph) for the taxable year which
15 includes such month is higher than the
16 highest adjusted gross income of any par-
17 ent and any specified relative of the indi-
18 vidual for any taxable year which includes
19 such month (determined without regard to
20 any parent and any specified relative with
21 respect to whom such individual is not a
22 specified child, determined without regard
23 to subparagraphs (A) and (B) and after
24 application of this subparagraph).

"(E) TREATMENT OF JOINT RETURNS.—For purposes of this paragraph, with respect to any month, 2 individuals filing a joint return for the taxable year which includes such month shall be treated as 1 individual.

"(F) PARENT.—Except as otherwise provided by the Secretary, the term 'parent' shall have the same meaning as when used in section 152(c)(4).

"(4) SPECIAL RULES WITH RESPECT TO BIRTH AND DEATH.—

"(A) BIRTH.—

"(i) IN GENERAL.—In the case of the birth of an individual during any calendar year, such individual shall be treated as a specified child of the relevant taxpayer for each calendar month in such calendar year which precedes the calendar month referred to in clause (ii).

"(ii) RELEVANT TAXPAYER.—For purposes of clause (i), the term 'relevant taxpayer' means the taxpayer with respect to whom the individual referred to in clause (i) is a specified child for the first month for which such individual is a speci-

fied child with respect to any taxpayer (determined without regard to this subparagraph).

"(B) DEATH.—

"(i) IN GENERAL.—In the case of the death of an individual during any calendar year, such individual shall be treated as a specified child of the relevant taxpayer for each calendar month in such calendar year which follows the calendar month referred to in clause (ii).

"(ii) RELEVANT TAXPAYER.—For purposes of clause (i), the term 'relevant taxpayer' means the taxpayer with respect to whom the individual referred to in clause (i) is a specified child for the last month for which such individual is alive.

"(5) TREATMENT OF TEMPORARY ABSENCES.—For purposes of this subsection—

"(A) IN GENERAL.—In the case of any individual's temporary absence from such individual's principal place of abode, each day composing the temporary absence shall—

"(i) be treated as a day at such individual's principal place of abode, and

"(ii) not be treated as a day at any other location.

"(B) TEMPORARY ABSENCE.—For purposes of subparagraph (A), an absence shall be treated as temporary if—

"(i) the individual would have resided at the place of abode but for the absence, and

"(ii) under the facts and circumstances, it is reasonable to assume that the individual will return to reside at the place of abode.

"(6) SPECIAL RULE FOR DIVORCED PARENTS, ETC.—Rules similar to the rules section 152(e) shall apply for purposes of this subsection.

"(7) ELIGIBILTY DETERMINED ON BASIS OF PRESUMPTIVE ELIGIBILITY.—

"(A) IN GENERAL.—If a period of presumptive eligibility is established under section 7527B(c) for any individual with respect to any taxpayer—

"(i) such individual shall be treated as the specified child of such taxpayer for any month in such period of presumptive eligibility, and

"(ii) such individual shall not be treated as the specified child of any other taxpayer with respect to whom a period of presumptive eligibility has not been established for any such month.

"(B) ABILITY OF CREDIT CLAIMANTS TO ESTABLISH PRESUMPTIVE ELIGIBILITY.—Nothing in section 7527B(c) shall be interpreted to preclude a taxpayer who elects not to receive monthly advance child payments under section 7527B from establishing a period of presumptive eligibility (including any such period described in section 7527B(c)(2)(D)) with respect to any specified child for purposes of this section.

"(d) PORTION OF CREDIT REFUNDABLE.—If the taxpayer (in the case of a joint return, either spouse) has a principal place of abode (determined as provided in section 32) in the United States or Puerto Rico for more than one-half of any calendar month during the taxable year, so much of the credit otherwise allowed under subsection (a) as is attributable to monthly specified child allowances with respect to any such calendar month shall be allowed under subpart C (and not allowed under this subpart).

1 "(e) IDENTIFICATION REQUIREMENTS.—Rules simi-
2 lar to the rules of section 24(e) shall apply for purposes
3 of this section.
4 "(f) RESTRICTIONS ON TAXPAYERS WHO IMPROP-
5 ERLY CLAIMED CREDIT OR IMPROPERLY RECEIVED
6 MONTHLY ADVANCE CHILD PAYMENT.—
7 "(1) TAXPAYERS MAKING PRIOR FRAUDULENT
8 OR RECKLESS CLAIMS.—
9 "(A) IN GENERAL.—No credit shall be al-
10 lowed under this section for any taxable year
11 (and no payment shall be made under section
12 7527B for any month) in the disallowance pe-
13 riod.
14 "(B) DISALLOWANCE PERIOD.—For pur-
15 poses of subparagraph (A), the disallowance pe-
16 riod is—
17 "(i) the period of 10 taxable years
18 after the most recent taxable year for
19 which there was a final determination that
20 the taxpayer's claim of credit under this
21 section or section 24 (or payment under
22 section 7527A or 7527B) was due to
23 fraud,
24 "(ii) the period of 2 taxable years
25 after the most recent taxable year for

which there was a final determination that the taxpayer's claim of credit under this section or section 24 (or payment under section 7527A or 7527B) was due to reckless or intentional disregard of rules and regulations (but not due to fraud), and

"(iii) in addition to any period determined under clause (i) or (ii) (as the case may be), the period beginning on the date of the final determination described in such clause and ending with the beginning of the period described in such clause.

"(2) TAXPAYERS MAKING IMPROPER PRIOR CLAIMS.—In the case of a taxpayer who is denied credit under this section or section 24 for any taxable year as a result of the deficiency procedures under subchapter B of chapter 63, no credit shall be allowed under this section for any subsequent taxable year (and no payment shall be made under section 7527B for any subsequent month) unless the taxpayer provides such information as the Secretary may require to demonstrate eligibility for such credit.

"(3) COORDINATION WITH POSSESSIONS OF THE UNITED STATES.—In carrying out this section,

the Secretary shall coordinate with each possession of the United States to prevent the avoidance of the application of this subsection.

"(g) RECONCILIATION OF CREDIT AND MONTHLY ADVANCE CHILD PAYMENTS.—

"(1) IN GENERAL.—The amount otherwise determined under subsection (a) with respect to any taxpayer for any taxable year shall be reduced (but not below zero) by the aggregate amount of payments made under section 7527B to such taxpayer for one or more calendar months in such taxable year. Any failure to so reduce the credit shall be treated as arising out of a mathematical or clerical error and assessed according to section 6213(b)(1).

"(2) RECAPTURE OF EXCESS ADVANCE PAYMENTS IN CERTAIN CIRCUMSTANCES.—In the case of a taxpayer described in paragraph (3) for any taxable year, the tax imposed by this chapter for such taxable year shall be increased by the excess (if any) of—

"(A) the aggregate amount of payments made to the taxpayer under section 7527B for one or more calendar months in such taxable year, over

"(B) the amount determined under subsection (a) with respect to the taxpayer for such taxable year (without regard to paragraph (1) of this subsection).

"(3) TAXPAYERS SUBJECT TO RECAPTURE.—

"(A) FRAUD OR RECKLESS OR INTENTIONAL DISREGARD OF RULES AND REGULATIONS.—A taxpayer is described in this paragraph with respect to any taxable year if the Secretary determines that the amount described in paragraph (2)(A) with respect to the taxpayer for such taxable year was determined on the basis of fraud or a reckless or intentional disregard of rules and regulations.

"(B) UNDERSTATEMENT OF INCOME; CHANGES IN FILING STATUS.—If the amount described in paragraph (2)(A) with respect to the taxpayer for the taxable year was determined on the basis of an amount of the taxpayer's modified adjusted gross income which was less than the taxpayer's modified adjusted gross income for the applicable taxable year (as defined in subsection (b))—

"(i) such taxpayer shall be treated as described in this paragraph, and

"(ii) the increase determined under paragraph (2) by reason of this subparagraph shall not exceed the excess of—

"(I) the amount described in paragraph (2)(A), over

"(II) the amount which would be so described if the payments described therein had been determined on the basis of the taxpayer's modified adjusted gross income for the applicable taxable year (as defined in subsection (b)).

A rule similar to the rule of the preceding sentence shall apply if the amount described in paragraph (2)(A) with respect to the taxpayer for the taxable year was determined on the basis of a filing status of the taxpayer which differs from the taxpayer's filing status for the applicable taxable year (as so defined).

"(C) PAYMENTS MADE OUTSIDE OF PERIOD OF PRESUMPTIVE ELIGIBILITY.—If any payment described in paragraph (2)(A) with respect to the taxpayer for the taxable year was made with respect to a child for a month which

was not part of a period of presumptive eligibility established under section 7527B(c) for such child with respect to such taxpayer—

"(i) such taxpayer shall be treated as described in this paragraph, and

"(ii) the increase determined under paragraph (2) by reason of this subparagraph shall not exceed the portion of such payment so made.

"(D) CERTAIN PAYMENTS MADE AFTER NOTICE FROM SECRETARY.—If the Secretary notifies a taxpayer under section 7527B(j)(2) that such taxpayer is subject to recapture with respect to any payments—

"(i) such taxpayer shall be treated as described in this paragraph, and

"(ii) the increase determined under paragraph (2) by reason of this subparagraph shall not exceed the aggregate amount of such payments.

"(E) TAXPAYERS MOVING TO ANOTHER JURISDICTION.—To minimize the amount of advance payments made under section 7527B to ineligible individuals, the Secretary shall issue regulations or other guidance for purposes of

this paragraph which apply with respect to taxpayers who are described in section 7527B(b)(4) with respect to the reference month but are not so described with respect to one or more months during the taxable year for which advance payments under section 7527B are made.

"(F) OTHER CIRCUMSTANCES TO PREVENT ABUSE.—A taxpayer is described in this paragraph with respect to any taxable year pursuant to regulations or other guidance of the Secretary describing other recapture circumstances to facilitate the administration and enforcement by the Secretary of section 7527B to minimize the amount of advance payments made under section 7527B to ineligible individuals and to prevent abuse.

"(4) JOINT RETURNS.—Except as otherwise provided by the Secretary, in the case of an advance payment made under section 7527B with respect to a joint return, half of such payment shall be treated as having been made to each individual filing such return.

"(h) INFLATION ADJUSTMENTS.—

1 "(1) MONTHLY SPECIFIED CHILD ALLOW-
2 ANCE.—
3 "(A) IN GENERAL.—In the case of any
4 month beginning after December 31, 2022,
5 each of the dollar amounts in subsection (b)(1)
6 shall be increased by an amount equal to—
7 "(i) such dollar amount, multiplied by
8 "(ii) the percentage (if any) by
9 which—
10 "(I) the CPI (as defined in sec-
11 tion 1(f)(4)) for the calendar year
12 preceding the calendar year in which
13 such month begins, exceeds
14 "(II) the CPI (as so defined) for
15 calendar year 2020.
16 "(B) ROUNDING.—Any increase under
17 subparagraph (A) which is not a multiple of
18 $10 shall be rounded to the nearest multiple of
19 $10.
20 "(2) INITIAL THRESHOLD AMOUNT.—
21 "(A) IN GENERAL.—In the case of any
22 taxable year beginning after December 31,
23 2022, the dollar amounts in subclauses (I) and
24 (III) of subsection (b)(2)(D)(i) shall each be in-
25 creased by an amount equal to—

1 ''(i) such dollar amount, multiplied by
2 ''(ii) the percentage (if any) by
3 which—
4 ''(I) the CPI (as defined in sec-
5 tion 1(f)(4)) for the calendar year
6 preceding the calendar year in which
7 such taxable year begins, exceeds
8 ''(II) the CPI (as so defined) for
9 calendar year 2020.
10 ''(B) ROUNDING.—Any increase under
11 subparagraph (A) which is not a multiple of
12 $5,000 shall be rounded to the nearest multiple
13 of $5,000.
14 ''(i) APPLICATION OF CREDIT IN POSSESSIONS.—
15 ''(1) MIRROR CODE POSSESSIONS.—
16 ''(A) IN GENERAL.—The Secretary shall
17 pay to each possession of the United States
18 with a mirror code tax system amounts equal to
19 the loss (if any) to that possession by reason of
20 the application of this section (determined with-
21 out regard to this subsection) with respect to
22 taxable years beginning after 2022 and before
23 2026. Such amounts shall be determined by the
24 Secretary based on information provided by the
25 government of the respective possession.

"(B) COORDINATION WITH CREDIT ALLOWED AGAINST UNITED STATES INCOME TAXES.—No credit shall be allowed under this section for any taxable year to any individual to whom a credit is allowable against taxes imposed by a possession of the United States with a mirror code tax system by reason of the application of this section in such possession for such taxable year.

"(C) MIRROR CODE TAX SYSTEM.—For purposes of this paragraph, the term 'mirror code tax system' means, with respect to any possession of the United States, the income tax system of such possession if the income tax liability of the residents of such possession under such system is determined by reference to the income tax laws of the United States as if such possession were the United States.

"(2) CROSS REFERENCES RELATED TO APPLICATION OF CREDIT TO RESIDENTS OF PUERTO RICO.—

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

"(B) For application of advance payment to residents of Puerto Rico, see section 7527B(b)(4).

"(3) AMERICAN SAMOA.—

"(A) IN GENERAL.—The Secretary shall pay to American Samoa amounts estimated by the Secretary as being equal to the aggregate benefits that would have been provided to residents of American Samoa by reason of the application of this section for taxable years beginning after 2022 and before 2026 if the provisions of this section had been in effect in American Samoa (applied as if American Samoa were the United States and without regard to the application of this section to residents of Puerto Rico under subsection (d)).

"(B) DISTRIBUTION REQUIREMENT.—Subparagraph (A) shall not apply unless American Samoa has a plan, which has been approved by the Secretary, under which American Samoa will promptly distribute such payments to its residents.

"(C) COORDINATION WITH CREDIT ALLOWED AGAINST UNITED STATES INCOME TAXES.—

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

"(ii) APPLICATION OF SECTION IN EVENT OF ABSENCE OF APPROVED PLAN.—In the case of a taxable year with respect to which a plan is not approved under subparagraph (B), subsection (d) shall be applied by substituting ', Puerto Rico, or American Samoa' for 'or Puerto Rico'.

"(4) TREATMENT OF PAYMENTS.—For purposes of section 1324 of title 31, United States Code, the payments under this subsection shall be treated in the same manner as a refund due from a credit provision referred to in subsection (b)(2) of such section.

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

"(1) for determining whether an individual receives care from a taxpayer for purposes of subsection (c)(1), and

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

"(A) whose taxable year is other than a calendar year,

"(B) whose filing status for a taxable year is different from the status used for determining one or more monthly payments under section 7527B during such taxable year, or

"(C) whose principal place of abode for any month is different from the principal place of abode used for determining the monthly payment under section 7527B for such month.

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

"SEC. 24B. CREDIT FOR CERTAIN OTHER DEPENDENTS.

"(a) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to $500 with respect to each specified dependent of such taxpayer for such taxable year.

"(b) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

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

"(2) THRESHOLD AMOUNT.—For purposes of this subsection, the term 'threshold amount' means—

"(A) $400,000, in the case of a joint return or surviving spouse (as defined in section 2(a)),

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

"(C) $200,000, in any other case.

"(3) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this subsection, the term 'modified adjusted gross income' means adjusted gross income increased by any amount excluded from gross income under section 911, 931, or 933.

"(c) SPECIFIED DEPENDENT.—For purposes of this section, the term 'specified dependent' means, with respect to any taxpayer for any taxable year, any dependent of such taxpayer for such taxable year unless such dependent—

1 ''(1) is a specified child of the taxpayer, or any
2 other taxpayer, for any month during such taxable
3 year, or
4 ''(2) would not be a dependent if subparagraph
5 (A) of section 152(b)(3) were applied without regard
6 to all that follows 'resident of the United States'.
7 ''(d) IDENTIFICATION REQUIREMENTS.—Rules simi-
8 lar to the rules of section 24(e) shall apply for purposes
9 of this section.
10 ''(e) TAXABLE YEAR MUST BE FULL TAXABLE
11 YEAR.—Except in the case of a taxable year closed by rea-
12 son of the death of the taxpayer, no credit shall be allow-
13 able under this section in the case of a taxable year cov-
14 ering a period of less than 12 months.
15 ''(f) INFLATION ADJUSTMENT.—
16 ''(1) IN GENERAL.—In the case of any taxable
17 year beginning after December 31, 2022, the $500
18 amount in subsection (a) shall be increased by an
19 amount equal to—
20 ''(A) such dollar amount, multiplied by
21 ''(B) the percentage (if any) by which—
22 ''(i) the CPI (as defined in section
23 1(f)(4)) for the calendar year preceding
24 the calendar year in which such taxable
25 year begins, exceeds

"(ii) the CPI (as so defined) for calendar year 2020.

"(2) ROUNDING.—If the increase determined under paragraph (1) is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10.

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

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

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

"SEC. 7527B. MONTHLY PAYMENTS OF CHILD TAX CREDIT.

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

"(b) MONTHLY ADVANCE CHILD PAYMENT.—For purposes of this section and except as otherwise provided in this section, the term 'monthly advance child payment' means, with respect to any taxpayer for any calendar

month, the amount (if any) which is estimated by the Secretary as being equal to the monthly specified child allowance which would be determined under section 24A(b) with respect to such taxpayer for such calendar month if—

"(1) unless determined by the Secretary based on any information known to the Secretary, the only specified children of such taxpayer for such calendar month are the specified children of such taxpayer for the reference month,

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

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

"(4) unless determined by the Secretary based on any information known to the Secretary, no monthly specified child allowance were determined with respect to such taxpayer for such calendar month unless the taxpayer (in the case of a joint return, either spouse) has a principal place of abode

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

"(c) PRESUMPTIVE ELIGIBILITY.—

"(1) IN GENERAL.—An individual shall be treated as a specified child of a taxpayer for purposes of determining any monthly advance child payment under this section only if such month is part of the period of presumptive eligibility determined by the Secretary under this subsection with respect to such specified child and such taxpayer (determined by treating the month described in subclause (I) of paragraph (2)(A)(ii) as being the first month beginning after the determination described in such subclause).

"(2) PERIOD OF PRESUMPTIVE ELIGIBILITY.—For purposes of this section—

"(A) IN GENERAL.—Except as otherwise provided by the Secretary, the term 'period of presumptive eligibility' means the period—

"(i) beginning with the month for which presumptive eligibility is established, and

"(ii) ending with the earliest of—

"(I) the beginning of the month described in clause (i) if the Secretary determines that the taxpayer committed fraud or intentionally disregarded rules or regulations in establishing or maintaining presumptive eligibility,

"(II) in the case of any notification from the Secretary that the period of presumptive eligibility has been terminated or suspended by reason of any question regarding eligibility of the taxpayer for monthly advance child payments with respect to such child, the month specified in such notice as the month on which such termination or suspension begins, and

"(III) the month following any failure of the taxpayer to make the required annual renewal of presumptive eligibility by such date as the Secretary may provide.

"(B) ESTABLISHING PRESUMPTIVE ELIGIBILITY.—A taxpayer shall establish presumptive

eligibility with respect to any specified child for any month at such time and in such manner as the Secretary may provide. Except as otherwise provided by the Secretary, in order to establish a period of presumptive eligibility the taxpayer must express a reasonable expectation and intent that the taxpayer will continue to be eligible with respect to such specified child for at least the two months following the month for which presumptive eligibility is to be established.

"(C) METHOD OF ESTABLISHING PRESUMPTIVE ELIGIBILITY.—The Secretary shall ensure information to establish presumptive eligibility under this paragraph may be provided on the return of tax for the taxable year ending before the calendar year which includes the month for which such eligibility is to be established, through the on-line portal described in subsection (c), or in such other manner as the Secretary may provide.

"(D) INCLUSION OF AUTOMATIC GRACE PERIODS AND PERIODS OF HARDSHIP.—The period of presumptive eligibility shall include any

period to which paragraph (1) or (2) of subsection (g) applies.

"(E) AUTOMATIC ELIGIBILITY FOR BIRTH OF CHILD.—The Secretary shall issue regulations or other guidance to establish procedures pursuant to which, to the maximum extent administratively practicable—

"(i) a parent of a child born during a calendar month shall be treated as automatically establishing presumptive eligibility with respect to such child,

"(ii) the period of such automatic presumptive eligibility is determined, and

"(iii) the first monthly advance child payment with respect to such child is adjusted to properly take into account each month in the taxable year preceding such birth.

"(F) PRESUMPTIVE ELIGIBILITY BASED ON CERTAIN GOVERNMENT PROGRAMS.—The Secretary shall issue regulations or other guidance to establish procedures under which—

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

child is treated as automatically establishing presumptive eligibility with respect to such child, and

"(ii) the period for which such automatic presumptive eligibility is determined (including any additional circumstances under which such period will terminate).

"(G) COORDINATION WITH PRESUMPTION.—For purposes of determining the status of any individual as a specified child for purposes of determining presumptive eligibility with respect to any period, section 24A(c) shall be applied without regard to paragraph (7) thereof.

"(3) NOTICE OF TERMINATION OF PRESUMPTIVE ELIGIBILITY BY REASON OF FAILURE TO MAKE ANNUAL RENEWAL.—If a taxpayer's period of presumptive eligibility with respect to any specified child terminates by reason of paragraph (2)(A)(ii)(IV), the Secretary shall provide the taxpayer a written notice of such termination.

"(d) DETERMINATION OF REFERENCE MONTH AND REFERENCE TAXABLE YEAR.—For purposes of this section—

1 "(1) REFERENCE MONTH.—The term 'reference
2 month' means, with respect to any taxpayer for any
3 calendar month, the most recent of—
4 "(A) in the case of a taxpayer who filed a
5 return of tax for the last taxable year ending
6 before such calendar month, the last month of
7 such taxable year,
8 "(B) in the case of a taxpayer who filed a
9 return of tax for the taxable year preceding the
10 taxable year described in subparagraph (A), the
11 last month of such preceding taxable year, and
12 "(C) in the case of a taxpayer who pro-
13 vides, through a specified alternative mecha-
14 nism, information which is sufficient to esti-
15 mate the taxpayer's monthly advance child pay-
16 ment for such month, such month.
17 "(2) REFERENCE TAXABLE YEAR.—The term
18 'reference taxable year' means, with respect to any
19 taxpayer for any calendar month, the most recent
20 of—
21 "(A) the taxable year described in subpara-
22 graph (A) or (B) of paragraph (1), or
23 "(B) in the case of a taxpayer who pro-
24 vides, through a specified alternative mecha-
25 nism, information which is sufficient to esti-

mate the taxpayer's modified adjusted gross income for the taxable year which includes such month, such taxable year.

"(3) AVAILABILITY OF INFORMATION.—Any month or year referred to in subparagraphs (A), (B), or (C) of paragraph (1) or subparagraph (A) or (B) of paragraph (2) shall not be taken into account in determining the reference month or reference taxable year with respect to any calendar month unless all relevant information with respect to such month or year is available to the Secretary and the Secretary has adequate time to make estimates under this section on the basis of such information before the beginning of such calendar month.

"(4) TREATMENT OF INSUFFICIENT INFORMATION.—Except as otherwise provided by the Secretary—

"(A) if a taxpayer is not described in subparagraph (A), (B), or (C) of paragraph (1) with respect to any calendar month, the monthly advance child payment with respect to such taxpayer for such calendar month shall be treated as zero unless the Secretary determines that the Secretary can make the estimate described in subsection (b) on the basis of infor-

mation known to the Secretary which the Secretary determines is reasonably reliable, and

"(B) if the taxpayer is not described in paragraph (1)(C) and the information on the return of tax referred to in subparagraph (A) or (B) of paragraph (1) does not establish the status of the taxpayer (in the case of a joint return, either spouse) as having a principal place of abode (determined as provided in section 32) in the United States or Puerto Rico for more than one-half of the reference month, the Secretary shall determine such status based on information known to the Secretary.

"(5) TRANSITION RULE.—In any case with respect to which section 24A was not in effect for the taxable year described in subparagraph (A), (B), or (C) of paragraph (1) (whichever is applicable), subsection (b)(1) shall be applied by substituting 'the qualifying children of such taxpayer for the taxable year which includes the reference month' for 'the specified children of such taxpayer for the reference month'.

"(e) ON-LINE INFORMATION PORTAL; SPECIFIED ALTERNATIVE MECHANISMS.—

1 "(1) ON-LINE INFORMATION PORTAL.—The
2 Secretary shall establish an on-line portal which al-
3 lows taxpayers to—
4 "(A) subject to such restrictions as the
5 Secretary may provide, elect to begin or cease
6 receiving payments under this section, and
7 "(B) provide information to the Secretary
8 which is relevant in determining the monthly
9 advance child payment and the taxpayer's eligi-
10 bility for such payment, including information
11 regarding—
12 "(i) the number of the taxpayer's
13 specified children, including by reason of
14 the birth of a child,
15 "(ii) the taxpayer's marital status,
16 "(iii) the taxpayer's modified adjusted
17 gross income,
18 "(iv) the taxpayer's principal place of
19 abode, and
20 "(v) any other factor which the Sec-
21 retary may provide.
22 "(2) SPECIFIED ALTERNATIVE MECHANISM.—
23 For purposes of this section, the term 'specified al-
24 ternative mechanism' means the on-line portal estab-
25 lished under paragraph (1), the on-line portal estab-

lished under section 7527A, and any other mechanism or method established by the Secretary to allow taxpayer's to provide the information described in paragraph (1) (including in connection with the filing of any return of tax).

"(f) SPECIFIED CHILD OF MORE THAN 1 TAXPAYER.—

"(1) IN GENERAL.—In the event that (without regard to this paragraph and determined without regard to any election under subsection (e)(1)) any specified child would be taken into account in determining the monthly advance child payment of more than one taxpayer for the same calendar month—

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

"(B) if any such taxpayer is described in subsection (d)(1)(C) (or more than 1 taxpayer is described in subparagraph (A) of this paragraph), the Secretary shall establish procedures under which the Secretary expeditiously adjudicates the taxpayer's competing claims of presumptive eligibility with respect to the same child.

"(2) PROVISIONS RELATED TO ADJUDICATION.—

"(A) EXPEDITED PROCESS; APPEALS.—The procedures established under paragraph (1)(B) shall include—

"(i) an expedited process for taxpayers who meet such requirements as the Secretary may establish for such expedited process, and

"(ii) procedures for adjudicating an appeal of an adverse decision.

"(B) INFORMATION RECEIPT AND COORDINATION.—The Secretary may enter into agreements to receive information from, and otherwise coordinate with—

"(i) Federal agencies (including the Social Security Administration and the Department of Agriculture),

"(ii) any State, local government, Tribal government, or possession of the United States, and

"(iii) any other individual or entity that the Secretary determines to be appropriate for purposes of adjudicating a competing claim described in paragraph (1).

"(C) ADJUDICATION NOT TREATED AS ASSESSMENT.—An adjudication under the procedures established under paragraph (1)(B) (including the adjudication of any appeal) shall not be treated as an assessment described in section 6201.

"(D) ADJUDICATION NOT TREATED AS INSPECTION OF TAXPAYER'S BOOKS OF ACCOUNT.—The inspection of a taxpayer's books of account in connection with any adjudication under the procedures established under paragraph (1)(B) (including the adjudication of any appeal) shall not be treated as an examination or inspection of a taxpayer's books of account for purposes of section 7605(b).

"(3) RETROACTIVE PAYMENTS.—If, pursuant to the procedures established under paragraph (1)(B), the Secretary determines that a child is a specified child of a taxpayer and the Secretary did not make payments to such taxpayer with respect to such child for any portion of the period during which the determination was made, the Secretary may make a one-time payment to the taxpayer with respect to which such child is the specified child in an amount equal to the aggregate amount by which the monthly ad-

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

"(4) RECAPTURE OF PAYMENTS.—If, pursuant to the procedures established under paragraph (1)(B), the Secretary makes payments with respect to the child during the period during which the determination is made—

"(A) the Secretary shall provide each taxpayer which receives such payments notice that such payments may be subject to recapture, and

"(B) upon making such determination, the Secretary shall determine on the basis of the facts and circumstances of each such taxpayer whether any such payments should be subject to recapture and shall so notify each such taxpayer.

"(g) RULES RELATED TO GRACE PERIODS AND HARDSHIPS.—

"(1) AUTOMATIC GRACE PERIOD.—

"(A) IN GENERAL.—Notwithstanding subsection (f), in the case of any failure or delay in establishing a period of presumptive eligibility with respect to which the taxpayer elects

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

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

"(2) HARDSHIP.—Notwithstanding subsection (f), if the Secretary determines that a failure or delay in establishing a period of presumptive eligibility with respect to any specified child was due to domestic violence, serious illness, natural disaster, or any other hardship, credit under section 24A or retroactive payment under this section (similar to the payment described in subsection (f)(3)) shall be allowed or made with respect to so much of the period of such failure or delay as does not exceed 6 months.

"(h) PROVISIONS RELATED TO FORM, MANNER, AND TREATMENT OF PAYMENTS.—

"(1) APPLICATION OF ELECTRONIC FUNDS PAYMENT REQUIREMENT.—The payments made by the Secretary under subsection (a) shall be made by electronic funds transfer to the same extent and in the same manner as if such payments were Federal payments not made under this title.

"(2) APPLICATION OF CERTAIN RULES.—Rules similar to the rules of subparagraphs (B) and (C) of section 6428A(f)(3) shall apply for purposes of this section, applied by substituting 'January 1, 2022' for 'January 1, 2019' in clauses (i) and (ii) of such subparagraph (B).

"(3) EXCEPTION FROM REDUCTION OR OFFSET.—Any payment made to any individual under this section shall not be—

"(A) subject to reduction or offset pursuant to subsection (c), (d), (e), or (f) of section 6402 or any similar authority permitting offset, or

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

"(4) APPLICATION OF ADVANCE PAYMENTS IN THE POSSESSIONS OF THE UNITED STATES.—

"(A) PUERTO RICO.—

1 ''(i) For application of child tax credit
2 to residents of Puerto Rico, see section
3 24A(d).
4 ''(ii) For application of monthly ad-
5 vance child payments to residents of Puer-
6 to Rico, see subsection (b)(4).
7 ''(B) MIRROR CODE POSSESSIONS.—In the
8 case of any possession of the United States with
9 a mirror code tax system (as defined in section
10 24A(i)(1)(C)), this section shall not be treated
11 as part of the income tax laws of the United
12 States for purposes of determining the income
13 tax law of such possession unless such posses-
14 sion elects to have this section be so treated.
15 ''(C) ADMINISTRATIVE EXPENSES OF AD-
16 VANCE PAYMENTS.—
17 ''(i) MIRROR CODE POSSESSIONS.—In
18 the case of any possession described in
19 subparagraph (B) which makes the elec-
20 tion described in such subparagraph, the
21 amount otherwise paid by the Secretary to
22 such possession under section 24A(i)(1)(A)
23 with respect to taxable years beginning in
24 2023, 2024, and 2025 shall each be in-
25 creased by $300,000 if such possession has

a plan, which has been approved by the Secretary, for making monthly advance child payments consistent with such election.

"(ii) AMERICAN SAMOA.— The amount otherwise paid by the Secretary to American Samoa under subparagraph (A) of section 24A(i)(3) with respect to taxable years beginning in 2023, 2024, and 2025 shall each be increased by $300,000 if the plan described in subparagraph (B) of such section includes a program, which has been approved by the Secretary, for making monthly advance child payments under rules similar to the rules of this section.

"(iii) TIMING OF PAYMENT.—The Secretary may pay, upon the request of the possession of the United States to which the payment is to be made, the amount of the increase determined under clause (i) or (ii), respectively, immediately upon approval of the plan with respect to which such payment relates.

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

"(1) DEFINITIONS.—Except as otherwise provided in this section, terms used in this section which are also used in section 24A shall have the same respective meanings as when used in section 24A.

"(2) TREATMENT OF CERTAIN DEATHS.—A child shall not be taken into account in determining the monthly advance child payment for any calendar month if the death of such child before the beginning of the calendar year which includes such month is known to the Secretary as of date on which the Secretary estimates such payment.

"(3) IDENTIFICATION REQUIREMENTS.—Rules similar to the rules which apply under section 24A(e) shall apply for purposes of this section except that such rules shall apply with respect to the return of tax for the reference taxable year or, in the case of information provided through a specified alternative mechanism, with respect to the information provided through such mechanism.

"(4) RESTRICTIONS ON TAXPAYERS WHO IMPROPERLY CLAIMED CREDIT OR MONTHLY ADVANCE CHILD PAYMENTS.—For restrictions on taxpayers who improperly claimed credit or monthly advance child payments, see section 24A(f).

1 "(j) NOTICE OF PAYMENTS.—
2 "(1) IN GENERAL.—Not later than January 31
3 of the calendar year following any calendar year dur-
4 ing which the Secretary makes one or more pay-
5 ments to any taxpayer under this section, the Sec-
6 retary shall provide such taxpayer with a written no-
7 tice which includes—
8 "(A) the taxpayer's taxpayer identity (as
9 defined in section 6103(b)(6)),
10 "(B) the aggregate amount of such pay-
11 ments made to such taxpayer during such cal-
12 endar year, and
13 "(C) such other information as the Sec-
14 retary determines appropriate.
15 "(2) CERTAIN PAYMENTS SUBJECT TO RECAP-
16 TURE.—In the case of any payments made to a tax-
17 payer which the Secretary has determined are sub-
18 ject to recapture, the notice provided under para-
19 graph (1) to such taxpayer shall include the amount
20 of such payments.
21 "(k) REGULATIONS.—The Secretary shall issue such
22 regulations or other guidance as the Secretary determines
23 necessary or appropriate to carry out the purposes of this
24 section.

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

(c) SUSPENSION OF CHILD TAX CREDIT DURING PERIOD THAT MONTHLY CHILD TAX CREDIT IS IN EFFECT.—Section 24 is amended by adding at the end the following new subsection:

"(l) COORDINATION WITH MONTHLY CHILD TAX CREDIT.—This section shall not apply to (and no payment shall be made under subsection (k) with respect to) any taxable year beginning after December 31, 2022, and before January 1, 2026.".

(d) CONFORMING AMENDMENTS.—

(1) Section 26(b)(2) is amended by striking "and" at the end of subparagraph (Y), by striking the period at the end of subparagraph (Z) and inserting ", and", and by adding at the end the following new subparagraph:

"(AA) section 24A(g)(2) (relating to recapture of certain monthly advance child payments).".

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

"(ii) the credits under sections 24, 24A, and 24B and the payments under sections 7527A and 7527B,".

(3) Section 3402(f)(1)(C) is amended by inserting "or section 24A (determined after application of subsection (g) thereof)" after "section 24 (determined after application of subsection (j) thereof)".

(4) Section 6103(l)(13)(A)(v) is amended by insert "or section 24A, as the case may be" after "section 24".

(5) Section 6211(b)(4)(A) is amended by inserting "24A by reason of subsection (d) thereof," after "24 by reason of subsections (d) and (i)(1) thereof,".

(6) Section 6213(g)(2)(I) is amended by inserting "or section 24A(e) (relating to monthly child tax credit)" after "section 24(e) (relating to child tax credit)".

(7) Section 6213(g)(2)(L) is amended by inserting "24A," after "24,".

(8) Section 6213(g)(2)(P) is amended—

(A) by inserting "or 24A(f)(2)" after "section 24(g)(2)",

(B) by inserting "or 24A" after "under section 24", and

(C) by striking ''subsection (g)(1) thereof'' and inserting ''section 24(g)(1) or section 24A(f)(1), respectively''.

(9) Section 6695(g)(2) is amended by inserting ''24A,'' after ''24,''.

(10) Paragraph (2) of section 1324(b) of title 31, United States Code, as amended by the preceding provisions of this Act, is amended—

(A) by inserting ''24A,'' after ''24,'', and

(B) by inserting ''7527B,'' after ''7527A,''.

(11) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 24 the following new items:

''Sec. 24A. Monthly child tax credit.
''Sec. 24B. Credit for certain other dependents.''.

(12) The table of sections for chapter 77 is amended by inserting after the item relating to section 7527A the following new item:

''Sec. 7527B. Monthly payments of child tax credit.''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 2022.

(2) MONTHLY ADVANCE CHILD PAYMENTS.—The amendments made by subsection (b) shall apply to payments made for calendar months beginning after December 31, 2022.

SEC. 137104. REFUNDABLE CHILD TAX CREDIT AFTER 2025.

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

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

''(1) subsection (d) shall not apply, and

''(2) the credit determined under subsection (a) (after application of paragraph (1)) shall be allowed under subpart C (and not allowed under this subpart).''.

(b) CONFORMING AMENDMENTS RELATED TO POSSESSIONS OF THE UNITED STATES.—

(1) PUERTO RICO.—Section 24(k)(2) is amended—

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

(i) by inserting ''and before January 1, 2026,'' after ''December 31, 2022,'', and

(ii) by inserting ''AND BEFORE 2026'' after ''AFTER 2022'', and

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

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

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

(A) in subclause (I), by striking ''and'' at the end,

(B) in subclause (II)—

(i) by inserting ''and before January 1, 2026,'' after ''after December 31, 2022,'', and

(ii) by striking the period at the end and inserting '', and'', and

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

"(III) if such taxable year begins after December 31, 2025, subsection (m) shall be applied by substituting 'Puerto Rico or American Samoa' for 'Puerto Rico'.".

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

SEC. 137105. APPROPRIATIONS.

Immediately upon the enactment of this Act, in addition to amounts otherwise available, there are appropriated out of any money in the Treasury not otherwise appropriated:

(1) $9,000,000,000 to remain available until September 30, 2026, for necessary expenses for the Internal Revenue Service to administer the Child Tax Credit, and advance payments of the Child Tax Credit, including the costs of disbursing such payments, which shall supplement and not supplant any other appropriations that may be available for this purpose, and

(2) $1,000,000,000 is appropriated to the Department of the Treasury, to remain available until

September 30, 2026, to support efforts to increase enrollment of eligible families in the Child Tax Credit, for advance payments of the Child Tax Credit, and for other tax benefits, including but not limited to program outreach, costs of data sharing arrangements, systems changes, forms changes, and related efforts, and efforts by federal agencies to facilitate the cross-enrollment of beneficiaries of other programs in the Child Tax Credit, and for advance payments of the Child Tax Credit, including by establishing intergovernmental cooperative agreements with states and local governments, tribal governments, and possessions of the United States: Provided, that such amount shall be available in addition to any amounts otherwise available: Provided further, that these funds may be awarded by federal agencies to state and local governments, tribal governments, and possessions of the United States, and private entities, including organizations dedicated to free tax return preparation.

PART 2—CHILD AND DEPENDENT CARE TAX CREDIT

SEC. 137201. CERTAIN IMPROVEMENTS TO THE CHILD AND DEPENDENT CARE CREDIT MADE PERMANENT.

(a) CREDIT REFUNDABLE FOR TAXPAYERS WITH PRINCIPAL PLACE OF ABODE IN THE UNITED STATES.—Section 21(g) is amended to read as follows;

''(g) CREDIT REFUNDABLE FOR TAXPAYERS WITH PRINCIPAL PLACE OF ABODE IN THE UNITED STATES.—If the taxpayer (in the case of a joint return, either spouse) has a principal place of abode in the United States (determined as provided in section 32) for more than one-half of the taxable year, the credit allowed under subsection (a) shall be treated as a credit allowed under subpart C (and not allowed under this subpart).''.

(b) INCREASE IN DOLLAR LIMIT ON AMOUNT CREDITABLE.—Section 21(c) is amended—

(1) by striking ''$3,000'' in paragraph (1) and inserting ''$8,000'', and

(2) by striking ''$6,000'' in paragraph (2) and inserting ''$16,000''.

(c) INCREASE IN APPLICABLE PERCENTAGE.—Section 21(a)(2) is amended—

(1) by striking ''35 percent'' and inserting ''50 percent'', and

(2) by striking ''$15,000'' and inserting ''$125,000''.

(d) APPLICATION OF INCREASED DOLLAR LIMITATION TO SPOUSES WHO ARE STUDENTS OR INCAPABLE OF CARING FOR THEMSELVES.—Section 21(d)(2) is amended by striking ''of not less than—'' and all that follows through ''In the case of'' and inserting ''of not less than 1/12 of the dollar amount in effect under paragraph (1) or (2) of subsection (c) (whichever is applicable to the taxpayer for the taxable year). In the case of''.

(e) INFLATION ADJUSTMENT.—Section 21(e) is amended by adding at the end the following new paragraph:

''(11) INFLATION ADJUSTMENT.—

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

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year be-

gins, determined by substituting 'calendar year 2020' for 'calendar year 2016' in subparagraph (A)(ii) thereof.

"(B) ROUNDING.—

"(i) LIMITATION BASED ON ADJUSTED GROSS INCOME.—If any increase determined under subparagraph (A) of the $125,000 dollar amount in subsection (a)(2) is not a multiple of $5,000, such amount shall be rounded to the nearest multiple of $5,000.

"(i) DOLLAR LIMITATIONS.—If any increase determined under subparagraph (A) of any dollar amount in subsection (c) is not a multiple of $100, such amount shall be rounded to the nearest multiple of $100.".

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

(1) IN GENERAL.—Section 21(a)(2) is amended by striking "20 percent" and inserting "the phaseout percentage".

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

"(3) PHASEOUT PERCENTAGE.—For purposes of paragraph (2), the term 'phaseout percentage' means 20 percent reduced (but not below zero) by 1 percentage point for each $2,000 (or fraction thereof) by which the taxpayer's adjusted gross income for the taxable year exceeds $400,000.".

(g) APPLICATION OF CREDIT IN POSSESSIONS.—Section 21(h) is amended—

(1) in paragraph (1)—

(A) by striking "The Secretary" and inserting "With respect to taxable years beginning in or with calendar years after 2020, the Secretary", and

(B) by striking "with respect to taxable years beginning in or with 2021",

(2) in paragraph (2)—

(A) by striking "The Secretary" and inserting "With respect to taxable years beginning in or with calendar years after 2020, the Secretary", and

(B) by striking "with respect to taxable years beginning in or with 2021", and

(3) in paragraph (3), by striking "in or with 2021" and inserting "after December 31, 2020".

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

SEC. 137202. INCREASE IN EXCLUSION FOR EMPLOYER-PROVIDED DEPENDENT CARE ASSISTANCE MADE PERMANENT.

(a) IN GENERAL.—Section 129(a)(2)(A) is amended by striking ''$5,000 ($2,500'' and inserting ''$10,500 (half such dollar amount''.

(b) INFLATION ADJUSTMENT.—Section 129(e) is amended by adding at the end the following new paragraph:

''(10) INFLATION ADJUSTMENT.—

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

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2020' for 'calendar year 2016' in subparagraph (A)(ii) thereof.

"(B) ROUNDING.—If any increase determined under subparagraph (A) is not a multiple of $100, such amount shall be rounded to the nearest multiple of $100.".

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

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

(e) RETROACTIVE PLAN AMENDMENTS.—A plan that otherwise satisfies all applicable requirements of sections 125 and 129 of the Internal Revenue Code of 1986 (including any rules or regulations thereunder) shall not fail to be treated as a cafeteria plan or dependent care assistance program merely because such plan is amended pursuant to a provision under this subsection and such amendment is retroactive, if—

(1) such amendment is adopted no later than the last day of the plan year in which the amendment is effective, and

(2) the plan is operated consistent with the terms of such amendment during the period beginning on the effective date of the amendment and ending on the date the amendment is adopted.

PART 3—SUPPORTING CAREGIVERS

SEC. 137301. PAYROLL TAX CREDIT FOR CHILD CARE WORKERS.

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

"SEC. 3135. PAYROLL CREDIT FOR CERTAIN WAGES PAID TO CHILD CARE WORKERS.

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

''(b) LIMITATIONS AND REFUNDABILITY.—

''(1) LIMITATION ON WAGES TAKEN INTO ACCOUNT.—The amount of qualified child care wages with respect to any eligible employee which may be taken into account under subsection (a) by the eligible child care employer for any calendar quarter shall not exceed $2,500.

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

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

"(3) REFUNDABILITY OF EXCESS CREDIT.—

"(A) CREDIT IS REFUNDABLE.—If the amount of the credit under subsection (a) exceeds the limitation of paragraph (2) for any calendar quarter, such excess shall be treated as an overpayment that shall be refunded under sections 6402(a) and 6413(b).

"(B) ADVANCING CREDIT.—In anticipation of the credit, including the refundable portion under subparagraph (A), the credit shall be advanced, according to forms and instructions provided by the Secretary, up to an amount calculated under subsection (a), subject to the limits under paragraph (1), all calculated through the end of the most recent payroll period in the quarter.

"(c) ELIGIBLE CHILD CARE EMPLOYER.—For purposes of this section, the term 'eligible child care employer' means any employer which operates one or more qualified child care facilities.

"(d) QUALIFIED CHILD CARE FACILITY.—For purposes of this section, the term 'qualified child care facility' means any facility which is certified as an HHS Partici-

pating Child Care Provider by the Secretary of Health and Human Services under section 418A(c) of the Social Security Act.

"(e) ELIGIBLE EMPLOYEE.—For purposes of this section, the term 'eligible employee' means, with respect to any eligible child care employer for any calendar quarter, any employee of such employer if—

"(1) the aggregate wages paid to such employee for such quarter do not exceed 25 percent of the dollar amount in effect for such quarter under section 414(q)(1)(B)(i) (relating to highly compensated employees), and

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

"(f) QUALIFIED CHILD CARE WAGES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified child care wages' means, with respect to any eligible employee for any calendar quarter, so much of the child care wages paid by the eligible child care employer to such employee during such quarter as are paid at a rate in excess of the applicable minimum rate. Such term shall not include any wages paid by an

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

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

"(3) CHILD CARE WAGES.—The term 'child care wages' means wages paid for the services of the employee to provide child care at a qualified child care facility or to provide support services for such a facility.

"(4) EXCEPTION.—The term 'child care wages' shall not include any wages taken into account under section 41, 45A, 45P, 45R, 51, 1396, 3131, 3132, 3134, or 6432.

"(g) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) APPLICABLE EMPLOYMENT TAXES.—The term 'applicable employment taxes' means the following:

"(A) The taxes imposed under section 3111(b).

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

"(2) WAGES.—

"(A) IN GENERAL.—The term 'wages' means wages (as defined in section 3121(a)), determined without regard to paragraphs (1) through (22) of section 3121(b)) and compensation (as defined in section 3231(e), determined without regard to the sentence in paragraph (1) thereof which begins 'Such term does not include remuneration').

"(B) ALLOWANCE FOR CERTAIN HEALTH PLAN EXPENSES.—

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

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

"(ii) ALLOCATION RULES.—For purposes of this section, amounts treated as wages under clause (i) shall be treated as paid with respect to any eligible employee (and with respect to any period) to the extent that such amounts are properly allocable to such employee (and to such period) in such manner as the Secretary may prescribe. Except as otherwise provided by the Secretary, such allocation shall be treated as properly made if made on the basis of being pro rata among periods of coverage.

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

"(4) DENIAL OF DOUBLE BENEFIT.—For purposes of chapter 1, the gross income of the employer, for the taxable year which includes the last day of any calendar quarter with respect to which a credit is allowed under this section, shall be increased by the amount of such credit.

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

"(6) CERTAIN GOVERNMENTAL EMPLOYERS.—No credit shall be allowed under this section to the Government of the United States or to any agency or instrumentality thereof. The preceding sentence shall not apply to any organization described in section 501(c)(1) and exempt from tax under section 501(a).

"(7) COORDINATION WITH CERTAIN PROGRAMS.—

"(A) IN GENERAL.—This section shall not apply to so much of the qualified child care wages paid by an eligible child care employer as are taken into account as payroll costs in connection with—

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

"(ii) a grant under section 324 of the Economic Aid to Hard-Hit Small Businesses, Non-Profits, and Venues Act, or

"(iii) a restaurant revitalization grant under section 5003 of the American Rescue Plan Act of 2021.

"(B) APPLICATION WHERE PPP LOANS NOT FORGIVEN.—The Secretary shall issue guidance providing that payroll costs paid during the covered period shall not fail to be treated as qualified child care wages under this section by reason of subparagraph (A)(i) to the extent that—

"(i) a covered loan of the taxpayer under section 7(a)(37) of the Small Business Act is not forgiven by reason of a decision under section 7(a)(37)(J) of such Act, or

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

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

nection with either such section, have the same meaning as when used in such section, respectively.

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

''(9) THIRD PARTY PAYORS.—Any credit allowed under this section shall be treated as a credit described in section 3511(d)(2).

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

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2021' for 'calendar year 2016' in subparagraph (A)(ii) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $100, such amount shall be rounded to the nearest multiple of $100.

1 ''(h) REGULATIONS.—The Secretary shall prescribe
2 such regulations or other guidance as may be necessary
3 to carry out the purposes of this section, including—
4 ''(1) regulations or other guidance to prevent
5 the avoidance of the purposes of the limitations
6 under this section,
7 ''(2) regulations or other guidance to minimize
8 compliance and record-keeping burdens under this
9 section,
10 ''(3) regulations or other guidance providing for
11 waiver of penalties for failure to deposit amounts in
12 anticipation of the allowance of the credit allowed
13 under this section,
14 ''(4) regulations or other guidance for recap-
15 turing the benefit of credits determined under this
16 section in cases where there is a subsequent adjust-
17 ment to the credit determined under subsection (a),
18 ''(5) regulations or other guidance to permit the
19 advancement of the credit determined under sub-
20 section (a), and
21 ''(6) regulations or other guidance for applying
22 subsection (f) with respect to eligible employees not
23 paid at a single rate of pay.''.

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

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

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

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

SEC. 137302. CREDIT FOR CAREGIVER EXPENSES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 is amended by inserting after section 25D the following new section:

''SEC. 25E. CREDIT FOR CAREGIVER EXPENSES.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual for whom there are 1 or more qualified care recipients, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the qualified expenses paid or incurred by such individual during the taxable year (and not compensated for by insurance or otherwise).

''(b) QUALIFIED CARE RECIPIENT.—For purposes of this section—

1 "(1) IN GENERAL.—The term 'qualified care re-
2 cipient' means, with respect to any taxable year, any
3 individual who—
4 "(A) is the spouse of the taxpayer, or any
5 other person who bears a relationship to the
6 taxpayer described in any of subparagraphs (A)
7 through (H) of section 152(d)(2),
8 "(B) has been certified, before the due
9 date for filing the return of tax for the taxable
10 year, by a licensed health care practitioner (as
11 defined in section 7702B(c)(4)) as being an in-
12 dividual with long-term care needs (as defined
13 in paragraph (3)) for a period—
14 "(i) which is expected to be at least
15 180 consecutive days, and
16 "(ii) a portion of which occurs within
17 the taxable year, and
18 "(C) resides in a personal residence and
19 not an institutional care facility.
20 "(2) PERIOD FOR MAKING CERTIFICATION.—
21 Notwithstanding paragraph (1)(B), a certification
22 shall not be treated as valid unless it is made within
23 the 18-month period ending on such due date (or
24 such other period as the Secretary prescribes).

1 "(3) INDIVIDUALS WITH LONG-TERM CARE
2 NEEDS.—For purposes of this subsection, the term
3 'individual with long-term care needs' means any in-
4 dividual who meets the requirements of any of the
5 following subparagraphs:
6 "(A) The individual is at least 6 years of
7 age and—
8 "(i) is unable to perform (without
9 substantial assistance from another indi-
10 vidual) at least 2 activities of daily living
11 (as defined in section 7702B(c)(2)(B)) due
12 to a loss of functional capacity, or
13 "(ii) requires substantial supervision
14 to protect such individual from threats to
15 health and safety due to severe cognitive
16 impairment and is unable to perform, with-
17 out reminding or cuing assistance, at least
18 1 activity of daily living (as so defined) or,
19 to the extent provided in regulations pre-
20 scribed by the Secretary (in consultation
21 with the Secretary of Health and Human
22 Services), is unable to engage in age ap-
23 propriate activities.
24 "(B) The individual is at least 2 but not
25 6 years of age and is unable, due to a loss of

1 functional capacity, to perform (without sub-
2 stantial assistance from another individual) at
3 least 2 of the following activities:
4 ''(i) Eating.
5 ''(ii) Transferring.
6 ''(iii) Mobility.
7 ''(C) The individual is under 2 years of age
8 and requires specific durable medical equipment
9 by reason of a severe health condition or re-
10 quires a skilled practitioner trained to address
11 the individual's condition to be available if the
12 individual's parents or guardians are absent.
13 ''(4) INSTITUTIONAL CARE FACILITY.—For pur-
14 poses of paragraph (1)(C), an institutional care fa-
15 cility (including two or more places, establishments,
16 or institutions owned by the same legal entity) in-
17 cludes any congregate, protected living residential
18 arrangement that provides or coordinates personal
19 or health care services, including assistance with the
20 activities of daily living and social care, for two or
21 more adults who are aged, infirm, or disabled
22 ''(c) QUALIFIED EXPENSES.—For purposes of this
23 section—

1 "(1) IN GENERAL.—The term 'qualified ex-
2 penses' means expenses for goods, services, and sup-
3 ports described in paragraph (2) which—
4 "(A) assist a qualified care recipient with
5 accomplishing activities of daily living (as de-
6 fined in section 7702B(c)(2)(B)) and instru-
7 mental activities of daily living (as defined in
8 section 1915(k)(6)(F) of the Social Security
9 Act), and
10 "(B) are provided solely for use by such
11 qualified care recipient.
12 "(2) ITEMS DESCRIBED.—The goods, services,
13 and supports described in this paragraph are—
14 "(A) human assistance, supervision, cuing,
15 and standby assistance,
16 "(B) health maintenance tasks (such as
17 medication management),
18 "(C) respite care,
19 "(D) assistive technologies and devices (in-
20 cluding remote health monitoring),
21 "(E) accessibility modifications of the
22 qualified care recipient's residence,
23 "(F) counseling, support groups, or train-
24 ing relating to caring for a qualified care recipi-
25 ent, and

"(G) any other items which directly relate to the health and safety of a qualified care recipient, as determined by the Secretary after consultation with the Secretary of Health and Human Services.

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

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

"(5) DOCUMENTATION REQUIREMENT.—An expense shall not be treated as a qualified expense unless the taxpayer substantiates such expense under such regulations or guidance as the Secretary shall provide.

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

"(e) SPECIAL RULES.—For purposes of this section—

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

"(2) LICENSED HEALTH CARE PRACTITIONER.—

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

"(i) shall not be related (within the meaning of section 51(i)(1)) to the taxpayer or the qualified care recipient, or have a conflict of interest (as determined under regulations provided by the Secretary) with respect to the taxpayer or the qualified care recipient,

"(ii) shall be licensed and eligible under applicable State law to certify limitations in performing activities of daily living, and

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

1 ''(B) IDENTIFICATION REQUIREMENT.—
2 ''(i) IN GENERAL.—No credit shall be
3 allowed with respect to any qualified care
4 recipient unless the taxpayer includes the
5 name and specified provider identification
6 number of such licensed health care practi-
7 tioner on the return of tax for the taxable
8 year.
9 ''(ii) SPECIFIED PROVIDER IDENTI-
10 FICATION NUMBER.—The term 'specified
11 provider identification number' means a
12 valid National Provider Identifier as au-
13 thorized in section 1173 of the Social Se-
14 curity Act.
15 ''(3) INDIVIDUAL MAY NOT BE CLAIMED BY
16 MORE THAN 1 TAXPAYER.—An individual shall be
17 treated as a qualified care recipient with respect to
18 only 1 taxpayer, as determined by the Secretary, for
19 any taxable year.
20 ''(4) IDENTIFICATION REQUIREMENT.—No
21 credit shall be allowed with respect to any qualified
22 care recipient unless the taxpayer includes the name
23 and taxpayer identification number of the qualified
24 care recipient on the return of tax for the taxable
25 year.

"(f) TERMINATION.—No credit shall be allowed under this section for any taxable year beginning after December 31, 2025.".

(b) MATH ERROR AUTHORITY.—Section 6213(g)(2), as amended by the preceding provisions of this Act, is amended by striking "and" at the end of subparagraph (T), by striking the period at the end of subparagraph (U) and inserting ", and", and by inserting after subparagraph (U) the following new subparagraph:

"(V) an omission of a correct TIN required under section 25E(e)(4) or a correct specified provider identification number required under section 25E(e)(2)(B).".

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

"Sec. 25E. Credit for caregiver expenses.".

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

PART 4—EARNED INCOME TAX CREDIT

SEC. 137401. CERTAIN IMPROVEMENTS TO THE EARNED INCOME TAX CREDIT MADE PERMANENT.

(a) DECREASE IN MINIMUM AGE REQUIREMENT.—

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

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

''(5) APPLICABLE MINIMUM AGE.—

''(A) IN GENERAL.—The term 'applicable minimum age' means—

''(i) except as otherwise provided in this subparagraph, age 19,

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

''(iii) in the case of a qualified former foster youth or a qualified homeless youth, age 18.

''(B) SPECIFIED STUDENT.—For purposes of this paragraph, the term 'specified student' means, with respect to any taxable year, an individual who is an eligible student (as defined in section 25A(b)(3)) during at least 5 calendar months during the taxable year.

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

1 term 'qualified former foster youth' means an
2 individual who—
3 ''(i) on or after the date that such in-
4 dividual attained age 14, was in foster care
5 provided under the supervision or adminis-
6 tration of an entity administering (or eligi-
7 ble to administer) a plan under part B or
8 part E of title IV of the Social Security
9 Act (without regard to whether Federal as-
10 sistance was provided with respect to such
11 child under such part E), and
12 ''(ii) provides (in such manner as the
13 Secretary may provide) consent for entities
14 which administer a plan under part B or
15 part E of title IV of the Social Security
16 Act to disclose to the Secretary informa-
17 tion related to the status of such individual
18 as a qualified former foster youth.
19 ''(D) QUALIFIED HOMELESS YOUTH.—For
20 purposes of this paragraph, the term 'qualified
21 homeless youth' means, with respect to any tax-
22 able year, an individual who certifies, in a man-
23 ner as provided by the Secretary, that such in-
24 dividual is either an unaccompanied youth who
25 is a homeless child or youth, or is unaccom-

panied, at risk of homelessness, and self-supporting.''.

(b) ELIMINATION OF MAXIMUM AGE FOR CREDIT.—Section 32(c)(1)(A)(ii)(II) is amended by striking ''but not attained age 65''.

(c) INCREASE IN CREDIT AND PHASEOUT PERCENTAGES.—The table contained in section 32(b)(1) is amended by striking ''7.65'' each place it appears therein and inserting ''15.3''.

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

(1) IN GENERAL.—The table contained in section 32(b)(2)(A) is amended—

(A) by striking ''$4,220'' and inserting ''$9,820'', and

(B) by striking ''$5,280'' and inserting ''$11,610''.

(2) APPLICATION OF INFLATION ADJUSTMENT.—Section 32(j)(1) is amended—

(A) by striking ''(2021 in the case of the dollar amount in subsection (i)(1))'' and inserting ''(2021 in the case of the $9,820 and $11,610 amounts in subsection (b)(2)(A) and the $10,000 amount in subsection (i)(1))'',

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

(C) in subparagraph (B)(iii), by inserting ''the $9,820 and $11,610 amounts in subsection (b)(2)(A) and'' before ''the $10,000 amount in subsection (i)(1)''.

(e) Section 32, as amended by subsection (f), is amended by adding at the end the following new subsection:

''(n) ELECTION TO DETERMINE EARNED INCOME BASED ON PRIOR TAXABLE YEAR.—

''(1) IN GENERAL.—In the case of a taxpayer whose earned income for any taxable year is less than the earned income of such taxpayer for the preceding taxable year, if such taxpayer elects (at such time and in such manner as the Secretary may provide) the application of this subsection for such taxable year, the earned income of such taxpayer for such taxable year shall be treated for purposes of this section as being equal to the earned income of such taxpayer for such preceding taxable year.

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

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

''(3) TREATMENT AS MATHEMATICAL OR CLERICAL ERROR.—In the case of a taxpayer described in paragraph (1) who makes the election described in such paragraph, the use on the return for purposes of this section of an amount of earned income for the preceding taxable year which differs from the amount of such earned income as shown in the electronic files of the Internal Revenue Service shall be treated as a mathematical or clerical error for purposes of section 6213.

''(4) TREATMENT OF REFERENCES.—Any provision of this title which defines or determines earned income by reference to this section shall be applied without regard to this subsection unless such provision specifically provides otherwise.''.

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

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

SEC. 137402. FUNDS FOR ADMINISTRATION OF EARNED INCOME TAX CREDITS IN THE TERRITORIES.

(a) PUERTO RICO.—Section 7530(a)(1) is amended by striking ''plus'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', plus'', and by adding at the end the following new subparagraph:

''(C) reasonable administrative costs associated with the provision of the earned income tax credit not in excess of $4,000,000.''.

(b) POSSESSIONS WITH MIRROR CODE TAX SYSTEMS.—Section 7530(b)(1) is amended by striking ''plus'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', plus'', and by adding at the end the following new subparagraph:

''(C) reasonable administrative costs associated with the provision of the earned income tax credit not in excess of $200,000.''.

(c) AMERICAN SAMOA.—Section 7530(c)(1) is amended by striking ''plus'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', plus'', and by adding at the end the following new subparagraph:

''(C) reasonable administrative costs associated with the provision of the earned income tax credit not in excess of $200,000.''.

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

PART 5—EXPANDING ACCESS TO HEALTH COVERAGE AND LOWERING COSTS

SEC. 137501. IMPROVE AFFORDABILITY AND REDUCE PREMIUM COSTS OF HEALTH INSURANCE FOR CONSUMERS.

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

"(A) APPLICABLE PERCENTAGE.—The applicable percentage for any taxable year shall be the percentage such that the applicable percentage for any taxpayer whose household income is within an income tier specified in the following table shall increase, on a sliding scale in a linear manner, from the initial premium percentage to the final premium percentage specified in such table for such income tier:

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

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

(1) IN GENERAL.—Section 36B(c)(1)(A) is amended by striking ''but does not exceed 400 percent''.

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

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

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

(a) IN GENERAL.—Section 36B(c)(2)(C) is amended—

(1) in clause (i)(II), by striking ''9.5 percent'' and inserting ''8.5 percent'', and

(2) by striking clause (iv).

(b) QUALIFIED SMALL EMPLOYER HEALTH REIMBURSEMENT ARRANGEMENTS.—Section 36B(c)(4) is amended—

(1) in subparagraph (C)(ii), by striking ''9.5 percent'' and inserting ''8.5 percent'', and

(2) by striking subparagraph (F).

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

SEC. 137503. TREATMENT OF LUMP-SUM SOCIAL SECURITY BENEFITS IN DETERMINING HOUSEHOLD INCOME.

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

"(C) EXCLUSION OF PORTION OF LUMP-SUM SOCIAL SECURITY BENEFITS.—

"(i) IN GENERAL.—The term 'modified adjusted gross income' shall not include so much of any lump-sum social security benefit payment as is attributable to months ending before the beginning of the taxable year.

"(ii) LUMP-SUM SOCIAL SECURITY BENEFIT PAYMENT.—For purposes of this subparagraph, the term 'lump-sum social security benefit payment' means any payment of social security benefits (as defined in section 86(d)(1)) which constitutes more than 1 month of such benefits.

"(iii) ELECTION TO INCLUDE EXCLUDABLE AMOUNT.—With respect to any

taxable year beginning on or after the termination date (as defined in subsection (h)(2)), a taxpayer may elect (at such time and in such manner as the Secretary may provide) to have this subparagraph not apply for such taxable year.''.

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

SEC. 137504. TEMPORARY EXPANSION OF HEALTH INSURANCE PREMIUM TAX CREDITS FOR CERTAIN LOW-INCOME POPULATIONS.

(a) IN GENERAL.—Section 36B is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

''(h) CERTAIN TEMPORARY RULES BEGINNING IN 2022.—

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

''(A) ELIGIBILITY FOR CREDIT NOT LIMITED BASED ON INCOME.—Section 36B(c)(1)(A) shall be disregarded in determining whether a taxpayer is an applicable taxpayer.

1 "(B) CREDIT ALLOWED TO CERTAIN LOW-
2 INCOME EMPLOYEES OFFERED EMPLOYER-PRO-
3 VIDED COVERAGE.—Subclause (II) of sub-
4 section (c)(2)(C)(i) shall not apply if the tax-
5 payer's household income does not exceed 138
6 percent of the poverty line for a family of the
7 size involved. Subclause (II) of subsection
8 (c)(2)(C)(i) shall also not apply to an individual
9 described in the last sentence of such subsection
10 if the taxpayer's household income does not ex-
11 ceed 138 percent of the poverty line for a fam-
12 ily of the size involved.
13 "(C) CREDIT ALLOWED TO CERTAIN LOW-
14 INCOME EMPLOYEES OFFERED QUALIFIED
15 SMALL EMPLOYER HEALTH REIMBURSEMENT
16 ARRANGEMENTS.—A qualified small employer
17 health reimbursement arrangement shall not be
18 treated as constituting affordable coverage for
19 an employee (or any spouse or dependent of
20 such employee) for any months of a taxable
21 year if the employee's household income for
22 such taxable year does not exceed 138 percent
23 of the poverty line for a family of the size in-
24 volved.
25 "(D) LIMITATIONS ON RECAPTURE.—

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

"(ii) LIMITATION ON INCREASE FOR CERTAIN NON-FILERS.—In the case of any taxpayer who would not be required to file a return of tax for the taxable year but for any requirement to reconcile advance credit payments under subsection (f), if an Exchange established under title I of the Patient Protection and Affordable Care Act has determined that—

"(I) such taxpayer is eligible for advance payments under section 1412 of such Act for any portion of such taxable year, and

"(II) such taxpayer's household income for such taxable year is pro-

jected to not exceed 138 percent of the poverty line for a family of the size involved,

subsection (f)(2)(A) shall not apply to such taxpayer for such taxable year and such taxpayer shall not be required to file such return of tax.

''(iii) INFORMATION PROVIDED BY EXCHANGE.—The information required to be provided by an Exchange to the Secretary and to the taxpayer under subsection (f)(3) shall include such information as is necessary to determine whether such Exchange has made the determinations described in subclauses (I) and (II) of clause (ii) with respect to such taxpayer.

''(2) TERMINATION DATE.—For purposes of this subsection, the term 'termination date' means the later of—

''(A) January 1, 2025, or

''(B) the date on which the Secretary of Health and Human Services makes a written certification to the Secretary that the Secretary of Health and Human Services has fully implemented the program described in section 1948

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

(b) EMPLOYER SHARED RESPONSIBILITY PROVISION NOT APPLICABLE WITH RESPECT TO CERTAIN LOW-INCOME TAXPAYERS RECEIVING PREMIUM ASSISTANCE.—Section 4980H(c)(3) is amended to read as follows:

''(3) APPLICABLE PREMIUM TAX CREDIT AND COST-SHARING REDUCTION.—

''(A) IN GENERAL.—The term 'applicable premium tax credit and cost-sharing reduction' means—

''(i) any premium tax credit allowed under section 36B,

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

''(iii) any advance payment of such credit or reduction under section 1412 of such Act.

''(B) EXCEPTION WITH RESPECT TO CERTAIN LOW-INCOME TAXPAYERS.—Such term shall not include any premium tax credit, cost-sharing reduction, or advance payment otherwise described in subparagraph (A) if such

1 credit, reduction, or payment is allowed or paid
2 for a taxable year of an employee (beginning
3 after December 31, 2021, and before the termi-
4 nation date, as defined in section 36B(h)(2))
5 with respect to which—
6 ''(i) an Exchange established under
7 title I of the Patient Protection and Af-
8 fordable Care Act has determined that
9 such employee's household income for such
10 taxable year is projected to not exceed 138
11 percent of the poverty line for a family of
12 the size involved, or
13 ''(ii) such employee's household in-
14 come for such taxable year does not exceed
15 138 percent of the poverty line for a family
16 of the size involved.''.
17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to taxable years beginning after
19 December 31, 2021.
20 **SEC. 137505. ENSURING AFFORDABILITY OF COVERAGE**
21 **FOR CERTAIN LOW-INCOME POPULATIONS.**
22 (a) REDUCING COST SHARING UNDER QUALIFIED
23 HEALTH PLANS.—Section 1402 of the Patient Protection
24 and Affordable Care Act (42 U.S.C. 18071) is amended—
25 (1) in subsection (b)—

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

(B) in the matter following paragraph (2), by adding at the end the following new sentence: ''In the case of an individual with a household income of less than 138 percent of the poverty line for a family of the size involved for any month occurring during the period beginning on January 1, 2022, and ending on December 31, 2022, such individual shall, for such month and for each succeeding month during such period, be treated as having household income equal to 100 percent for purposes of applying this section.''; and

(2) in subsection (c)—

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

(B) in paragraph (2), in the matter preceding subparagraph (A), by inserting ''with respect to eligible insureds (other than, with respect to plan years 2023 and 2024, specified enrollees)'' after ''under the plan'';

(C) in paragraph (3)—

(i) in subparagraph (A), by striking ''this subsection'' and inserting ''paragraph (1) or (2)''; and

(ii) in subparagraph (B), by striking ''this section'' and inserting ''paragraphs (1) and (2)''; and

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

''(6) SPECIAL RULE FOR SPECIFIED ENROLLEES.—

''(A) IN GENERAL.—The Secretary shall establish procedures under which the issuer of a qualified health plan to which this section applies shall reduce cost-sharing under the plan with respect to months occurring during plan years 2023 and 2024 for enrollees who are specified enrollees (as defined in subparagraph (C)) in a manner sufficient to increase the plan's share of the total allowed costs of bene-

1 fits provided under the plan to 99 percent of
2 such costs.
3 "(B) METHODS FOR REDUCING COST
4 SHARING.—
5 "(i) IN GENERAL.—An issuer of a
6 qualified health plan making reductions
7 under this paragraph shall notify the Sec-
8 retary of such reductions and the Sec-
9 retary shall, out of funds made available
10 under clause (ii), make periodic and timely
11 payments to the issuer equal to 12 percent
12 of the total allowed costs of benefits pro-
13 vided under each such plan to specified en-
14 rollees during plan years 2023 and 2024.
15 "(ii) APPROPRIATION.—There are ap-
16 propriated, out of any monies in the Treas-
17 ury not otherwise appropriated, such sums
18 as may be necessary to the Secretary for
19 purposes of making payments under clause
20 (i).
21 "(C) SPECIFIED ENROLLEE DEFINED.—
22 For purposes of this section, the term 'specified
23 enrollee' means, with respect to a month occur-
24 ring during a plan year, an eligible insured with
25 a household income of less than 138 percent of

the poverty line for a family of the size involved during such month. Such insured shall be deemed to be a specified enrollee for each succeeding month in such plan year.''.

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

(1) in paragraph (6)—

(A) in subparagraph (C), by striking at the end ''and'';

(B) in subparagraph (D), by striking the period at the end and inserting ''; and''; and

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

''(E) with respect to a qualified health plan with respect to which section 1402 applies, for months occurring during the period beginning on January 1, 2022, and ending on December 31, 2024, enrollment periods described in subparagraph (A) of paragraph (8) for individuals described in subparagraph (B) of such paragraph.''; and

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

1 "(8) SPECIAL ENROLLMENT PERIOD FOR CER-
2 TAIN LOW-INCOME POPULATIONS.—
3 "(A) IN GENERAL.—The enrollment period
4 described in this paragraph is, in the case of an
5 individual described in subparagraph (B), the
6 continuous period beginning on the first day
7 that such individual is so described.
8 "(B) INDIVIDUAL DESCRIBED.—For pur-
9 poses of subparagraph (A), an individual de-
10 scribed in this subparagraph is an individual—
11 "(i) with a household income of less
12 than 138 percent of the poverty line for a
13 family of the size involved; and
14 "(ii) who is not eligible for minimum
15 essential coverage (as defined in section
16 5000A(f) of the Internal Revenue Code of
17 1986), other than for coverage described in
18 any of subparagraphs (B) through (E) of
19 paragraph (1) of such section.".
20 (c) ADDITIONAL BENEFITS FOR CERTAIN LOW-IN-
21 COME INDIVIDUALS FOR PLAN YEAR 2024.—Section
22 1301(a) of the Patient Protection and Affordable Care Act
23 (42 U.S.C. 18021(a)) is amended—
24 (1) in paragraph (1)—

(A) in subparagraph (B), by striking "and" at the end;

(B) in subparagraph (C)(iv), by striking the period and inserting "; and"; and

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

"(D) provides, with respect to a plan offered in the silver level of coverage to which section 1402 applies during plan year 2024, for benefits described in paragraph (5) in the case of an individual who, for a month during such plan year, has a household income of less than 138 percent of the poverty line for a family of the size involved, and who is eligible to receive cost-sharing reductions under section 1402."; and

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

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

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

1 scribed in subsection (a)(4)(C) of section 1905
2 of the Social Security Act, without any restric-
3 tion on the choice of a qualified provider from
4 whom such an individual so enrolled in such
5 plan may receive such services described in such
6 subsection, and without any imposition of cost
7 sharing, which are not otherwise provided under
8 such plan as part of the essential health bene-
9 fits package described in section 1302(a).
10 ''(B) PAYMENTS FOR ADDITIONAL BENE-
11 FITS.—
12 ''(i) IN GENERAL.—An issuer of a
13 qualified health plan making payments for
14 services described in subparagraph (A) fur-
15 nished to individuals described in para-
16 graph (1)(D) during plan year 2024 shall
17 notify the Secretary of such payments and
18 the Secretary shall, out of funds made
19 available under clause (ii), make periodic
20 and timely payments to the issuer equal to
21 payments for such services so furnished.
22 ''(ii) APPROPRIATION.—There is ap-
23 propriated, out of any monies in the Treas-
24 ury not otherwise appropriated, such sums
25 as may be necessary to the Secretary for

1 purposes of making payments under clause
2 (i).''.
3 (d) EDUCATION AND OUTREACH ACTIVITIES.——
4 (1) IN GENERAL.—Section 1321(c) of the Pa-
5 tient Protection and Affordable Care Act (42 U.S.C.
6 18041(c)) is amended by adding at the end the fol-
7 lowing new paragraph:
8 ''(3) OUTREACH AND EDUCATIONAL ACTIVI-
9 TIES.—
10 ''(A) IN GENERAL.—In the case of an Ex-
11 change established or operated by the Secretary
12 within a State pursuant to this subsection, the
13 Secretary shall carry out outreach and edu-
14 cational activities for purposes of informing in-
15 dividuals described in section
16 1902(a)(10)(A)(i)(VIII) of the Social Security
17 Act who reside in States that have not ex-
18 pended amounts under a State plan (or waiver
19 of such plan) under title XIX of such Act for
20 all such individuals about qualified health plans
21 offered through the Exchange, including by in-
22 forming such individuals of the availability of
23 coverage under such plans and financial assist-
24 ance for coverage under such plans. Such out-
25 reach and educational activities shall be pro-

1 vided in a manner that is culturally and linguis-
2 tically appropriate to the needs of the popu-
3 lations being served by the Exchange (including
4 hard-to-reach populations, such as racial and
5 sexual minorities, limited English proficient
6 populations, individuals residing in areas where
7 the unemployment rates exceeds the national
8 average unemployment rate, individuals in rural
9 areas, veterans, and young adults).
10 ''(B) LIMITATION ON USE OF FUNDS.—No
11 funds appropriated under this paragraph shall
12 be used for expenditures for promoting non-
13 ACA compliant health insurance coverage.
14 ''(C) NON-ACA COMPLIANT HEALTH INSUR-
15 ANCE COVERAGE.—For purposes of subpara-
16 graph (B):
17 ''(i) The term 'non-ACA compliant
18 health insurance coverage' means health
19 insurance coverage, or a group health plan,
20 that is not a qualified health plan.
21 ''(ii) Such term includes the following:
22 ''(I) An association health plan.
23 ''(II) Short-term limited duration
24 insurance.

"(D) FUNDING.—There are appropriated, out of any monies in the Treasury not otherwise appropriated, $15,000,000 for fiscal year 2022, and $30,000,000 for each of fiscal years 2023 and 2024, to carry out this paragraph. Funds appropriated under this subparagraph shall remain available until expended.".

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

(A) by striking "FUNDING.—Grants under" and inserting "FUNDING.—

"(A) STATE EXCHANGES.—Grants under"; and

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

"(B) FEDERAL EXCHANGES.—For purposes of carrying out this subsection, with respect to an Exchange established and operated by the Secretary within a State pursuant to section 1321(c), the Secretary shall obligate $10,000,000 out of amounts collected through the user fees on participating health insurance issuers pursuant to section 156.50 of title 45, Code of Federal Regulations (or any successor

regulations) for fiscal year 2022, and $20,000,000 for each of fiscal years 2023 and 2024. Such amount so obligated for a fiscal year shall remain available until expended.''.

SEC. 137506. ESTABLISHING A HEALTH INSURANCE AFFORDABILITY FUND.

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

"PART 6—IMPROVE HEALTH INSURANCE AFFORDABILITY FUND

"SEC. 1351. ESTABLISHMENT OF PROGRAM.

''There is hereby established the 'Improve Health Insurance Affordability Fund' to be administered by the Secretary of Health and Human Services, acting through the Administrator of the Centers for Medicare & Medicaid Services (in this section referred to as the 'Administrator'), to provide funding, in accordance with this part, to the 50 States and the District of Columbia (each referred to in this section as a 'State') beginning on January 1, 2023, for the purposes described in section 1352.

1 **"SEC. 1352. USE OF FUNDS.**

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

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

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

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

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

"(2) A plan (commonly referred to as a 'transitional plan') continued under the letter issued by the Centers for Medicare & Medicaid Services on November 14, 2013, to the State Insurance Commissioners outlining a transitional policy for coverage in the individual and small group markets to which section 1251 does not apply, and under the extension of the transitional policy for such coverage set forth in the Insurance Standards Bulletin Series guidance issued by the Centers for Medicare & Medicaid Services on March 5, 2014, February 29, 2016, February 13, 2017, April 9, 2018, March 25, 2019, January 31, 2020, and January 19, 2021, or under any subsequent extensions thereof.

"(3) Student health insurance coverage (as defined in section 147.145 of title 45, Code of Federal Regulations, or any successor regulation).

"(4) Excepted benefits (as defined in section 2791(c) of the Public Health Service Act).

"SEC. 1353. STATE ELIGIBILITY AND APPROVAL; DEFAULT SAFEGUARD.

"(a) ENCOURAGING STATE OPTIONS FOR ALLOCATIONS.—

"(1) IN GENERAL.—Subject to subsection (b), to be eligible for an allocation of funds under this

part for a year (beginning with 2023), a State shall submit to the Administrator an application at such time (but, in the case of allocations for 2023, not later than 120 days after the date of the enactment of this part and, in the case of allocations for a subsequent year, not later than January 1 of the previous year) and in such form and manner as specified by the Administrator containing—

"(A) a description of how the funds will be used; and

"(B) such other information as the Administrator may require.

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

"(3) 5-YEAR APPLICATION APPROVAL.—If an application of a State is approved for a purpose described in section 1352 for a year, such application shall be treated as approved for such purpose for each of the subsequent 4 years.

"(4) OVERSIGHT AUTHORITY AND AUTHORITY TO REVOKE APPROVAL.—

"(A) OVERSIGHT.—The Secretary may conduct periodic reviews of the use of funds provided to a State under this section, with respect to a purpose described in section 1352, to ensure the State uses such funds for such purpose and otherwise complies with the requirements of this section.

"(B) REVOCATION OF APPROVAL.—The approval of an application of a State, with respect to a purpose described in section 1352, may be revoked if the State fails to use funds provided to the State under this section for such purpose or otherwise fails to comply with the requirements of this section.

"(b) DEFAULT FEDERAL SAFEGUARD FOR 2023 AND 2024 FOR CERTAIN STATES.—

"(1) IN GENERAL.—For 2023 and 2024, in the case of a State described in paragraph (5), with respect to such year, the State shall not be eligible to submit an application under subsection (a), and the Administrator, in consultation with the applicable State authority, shall from the amount calculated under paragraph (3) for such year, carry out the

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

"(2) SPECIFIED USE.—The amount described in paragraph (3), with respect to a State described in paragraph (5) for 2023 or 2024, shall be used to carry out the purpose described in section 1352(a)(1) in such State for such year, as applicable, by providing reinsurance payments to health insurance issuers with respect to attachment range claims (as defined in section 1354(b)(2), using the dollar amounts specified in subparagraph (B) of such section for such year) in an amount equal to, subject to paragraph (4), the percentage (specified for such year by the Secretary under such subparagraph) of the amount of such claims.

"(3) AMOUNT DESCRIBED.—The amount described in this paragraph, with respect to 2023 or 2024, is the amount equal to the total sum of amounts that the Secretary would otherwise estimate under section 1354(b)(2)(A)(i) for such year for each State described in paragraph (5) for such year, as applicable, if each such State were not so described for such year.

"(4) ADJUSTMENT.—For purposes of this subsection, the Secretary may apply a percentage under

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

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

"SEC. 1354. ALLOCATIONS.

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

"(b) ALLOCATIONS.—

"(1) PAYMENT.—

"(A) IN GENERAL.—From amounts appropriated under subsection (a) for a year, the

Secretary shall, with respect to a State not described in section 1353(b) for such year and not later than the date specified under subparagraph (B) for such year, allocate for such State the amount determined for such State and year under paragraph (2).

"(B) SPECIFIED DATE.—For purposes of subparagraph (A), the date specified in this subparagraph is—

"(i) for 2023, the date that is 90 days after the date of the enactment of this part; and

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

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

"(2) ALLOCATION AMOUNT DETERMINATIONS.—

"(A) IN GENERAL.—For purposes of paragraph (1), the amount determined under this paragraph for a year for a State described in

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

"(i) the amount that the Secretary estimates would be expended under this part for such year on attachment range claims of individuals residing in such State if such State used such funds only for the purpose described in paragraph (1) of section 1352(a) at the dollar amounts and percentage specified under subparagraph (B) for such year; minus

"(ii) the amount, if any, by which the Secretary determines—

"(I) the estimated amount of premium tax credits under section 36B of the Internal Revenue Code of 1986 that would be attributable to individuals residing in such State for such year without application of this part; exceeds

"(II) the estimated amount of premium tax credits under section 36B of the Internal Revenue Code of 1986 that would be attributable to individuals residing in such State for

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

For purposes of the previous sentence and section 1353(b)(3), the term 'attachment range claims' means, with respect to an individual, the claims for such individual that exceed a dollar amount specified by the Secretary for a year, but do not exceed a ceiling dollar amount specified by the Secretary for such year, under subparagraph (B).

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

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

(b) BASIC HEALTH PROGRAM FUNDING ADJUSTMENTS.—Section 1331 of the Patient Protection and Affordable Care Act (42 U.S.C. 18051) is amended—

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

"(3) PROVISION OF INFORMATION ON QUALIFIED HEALTH PLAN PREMIUMS.—

"(A) IN GENERAL.—For plan years beginning on or after January 1, 2023, the program described in paragraph (1) shall provide that a State may not establish a basic health program unless such State furnishes to the Secretary, with respect to each qualified health plan offered in such State during a year that receives any reinsurance payment from funds made available under part 6 for such year, the adjusted premium amount (as defined in subparagraph (B)) for each such plan and year.

"(B) ADJUSTED PREMIUM AMOUNT DEFINED.—For purposes of subparagraph (A), the term 'adjusted premium amount' means, with respect to a qualified health plan and a year,

the monthly premium for such plan and year that would have applied had such plan not received any payments described in subparagraph (A) for such year.''; and

(2) in subsection (d)(3)(A)(ii), by adding at the end the following new sentence: ''In making such determination, the Secretary shall calculate the value of such premium tax credits that would have been provided to such individuals enrolled through a basic health program established by a State during a year using the adjusted premium amounts (as defined in subsection (a)(3)(B)) for qualified health plans offered in such State during such year.''.

SEC. 137507. SPECIAL RULE FOR INDIVIDUALS RECEIVING UNEMPLOYMENT COMPENSATION.

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

(b) MODIFICATION OF INCOME NOT TAKEN INTO ACCOUNT.—Section 36B(g)(1)(B) is amended by striking ''133 percent'' and inserting ''150 percent''.

(c) CONFORMING AMENDMENT.—Section 36B(g) by inserting ''THROUGH 2025'' after ''2021'' in the heading thereof.

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

SEC. 137508. PERMANENT CREDIT FOR HEALTH INSURANCE COSTS.

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

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

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

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

PART 6—PATHWAY TO PRACTICE TRAINING PROGRAMS

SEC. 137601. ESTABLISHING RURAL AND UNDERSERVED PATHWAY TO PRACTICE TRAINING PROGRAMS FOR POST-BACCALAUREATE STUDENTS AND MEDICAL STUDENTS.

(a) PROGRAM.—

(1) IN GENERAL.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following new section:

"SEC. 1899C. RURAL AND UNDERSERVED PATHWAY TO PRACTICE TRAINING PROGRAM FOR POST-BACCALAUREATE AND MEDICAL STUDENTS.

''(a) IN GENERAL.—Not later than October 1, 2023, the Secretary shall, subject to the succeeding provisions of this section, carry out the 'Rural and Underserved Pathway to Practice Training Program for Post-Baccalaureate and Medical Students' (in this section, referred to as the 'Program') under which the Secretary awards Pathway to Practice medical scholarship vouchers to qualifying students described in subsection (b) for the purpose of increasing the number of physicians practicing in rural and underserved communities.

''(b) QUALIFYING STUDENT DESCRIBED.—For purposes of this section, a qualifying student described in this subsection is an individual who—

1 ''(1) attests he or she—
2 ''(A) is or will be a first-generation student
3 of a 4-year college, graduate school, or profes-
4 sional school;
5 ''(B) was a Pell Grant recipient; or
6 ''(C) lived in a medically underserved area,
7 rural area, or health professional shortage area
8 for a period of 4 or more years prior to attend-
9 ing an undergraduate program;
10 ''(2) has accepted enrollment in—
11 ''(A) a post-baccalaureate program that is
12 not more than 2 years and intends to enroll in
13 a qualifying medical school within 2 years after
14 completion of such program; or
15 ''(B) a qualifying medical school;
16 ''(3) will practice medicine in a health profes-
17 sional shortage area, medically underserved area,
18 public hospital, rural area, or as required under sub-
19 section (d)(5); and
20 ''(4) submits an application and a signed copy
21 of the agreement described under subsection (c).
22 ''(c) APPLICATIONS.—
23 ''(1) IN GENERAL.—To be eligible to receive a
24 Pathway to Practice medical scholarship voucher
25 under this section, a qualifying student described in

subsection (b) shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

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

"(d) PATHWAY TO PRACTICE MEDICAL SCHOLARSHIP VOUCHER DETAILS.—

"(1) NUMBER.—On an annual basis, the Secretary may award a Pathway to Practice medical scholarship voucher under the Program to not more than 1,000 qualifying students described in subsection (b).

"(2) PRIORITIZATION CRITERIA.—In determining whether to award a Pathway to Practice medical scholarship voucher under the Program to qualifying students described in subsection (b), the Secretary shall prioritize applications from any such student who attests that he or she—

"(A) was a participant in the Health Resources and Services Administration Health Careers Opportunity Program or an Area Health Education Center scholar;

"(B) is a disadvantaged student (as defined by the National Health Service Corps of the Health Resources & Services Administration of the Department of Health and Human Services); or

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

"(3) DURATION.—Each Pathway to Practice medical scholarship voucher awarded to a qualifying student pursuant to paragraph (1) shall be so awarded to such a student on an annual basis for each year of enrollment in a post-baccalaureate program and a qualifying medical school (as appropriate).

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

"(A) tuition;

"(B) academic fees (as determined by the qualifying medical school);

"(C) required textbooks and equipment;

"(D) a monthly stipend equal to the amount provided for individuals under the health professions scholarship and financial assistance program described in section 2121(c) of title 10, United States Code; and

"(E) any other educational expenses normally incurred by students at the post-baccalaureate program or qualifying medical school (as appropriate).

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

"(A) complete a post-baccalaureate program that is not more than 2 years (if applicable pursuant to the option under subsection (b)(2)(A));

"(B) graduate from a qualifying medical 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-

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

"(H) for the purpose of determining the amount of Pathway to Practice medical scholarship vouchers paid or incurred by a qualifying medical school or any provider of a post-baccalaureate program referred to in subsection (b)(2)(A) for the costs of tuition under paragraph (4)(A), consent to any personally identifying information being shared with the Secretary of the Treasury.

"(6) RESPONSIBILITIES OF PARTICIPATING EDUCATIONAL INSTITUTIONS.—Each annual award of an amount of Pathway to Practice medical scholarship voucher under paragraph (2) shall be made with respect to a specific qualifying medical school or post-baccalaureate program that is not more than 2 years and such school or program shall (as a condition of, and prior to, such award being made with respect to such school or program)—

"(A) submit to the Secretary such information as the Secretary may require to determine the amount of such award on the basis of the costs of the costs of the items specified under paragraph (4) (except for subparagraph (D)) with respect to such school or program, and

"(B) enter into an agreement with the Secretary under which such school or provider will verify (in such manner as the Secretary may provide) that amounts paid by such school or provider to the qualifying student are used for such costs.

"(e) DEFINITIONS.—In this section:

"(1) HEALTH PROFESSIONAL SHORTAGE AREA.—The team 'health professional shortage area' has the meaning given such term in subparagraphs (A) or (B) of section 332(a)(1) of the Public Health Service Act.

"(2) INITIAL RESIDENCY PERIOD.—The term 'initial residency period' has the meaning given such term in section 1886(h)(5)(F).

"(3) MEDICALLY UNDERSERVED AREA.—The term 'medically underserved area' means an area

1 designated pursuant to section 330(b)(3)(A) of the
2 Public Health Service Act.
3 "(4) PELL GRANT RECIPIENT.—The term 'Pell
4 Grant recipient' has the meaning given such term in
5 section 322(3) of the Higher Education Act of 1965.
6 "(5) PERIOD OF BOARD ELIGIBILITY.—The
7 term 'period of board eligibility' has the meaning
8 given such term in section 1886(h)(5)(G).
9 "(6) QUALIFYING MEDICAL SCHOOL.—The term
10 'qualifying medical school' means a school of medi-
11 cine accredited by the Liaison Committee on Medical
12 Education of the American Medical Association and
13 the Association of American Medical Colleges (or ap-
14 proved by such Committee as meeting the standards
15 necessary for such accreditation) or a school of oste-
16 opathy accredited by the American Osteopathic As-
17 sociation, or approved by such Association as meet-
18 ing the standards necessary for such accreditation
19 which—
20 "(A) for each academic year, enrolls at
21 least 10 qualifying students who are in enrolled
22 in such a school;
23 "(B) requires qualifying students to enroll
24 in didactic coursework and clinical experience
25 applicable to practicing medicine in health pro-

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

"(i) clinical rotations in such areas in applicable specialties (as applicable and as available);

"(ii) coursework or training experiences focused on medical issues prevalent in such areas and cultural and structural competency; and

"(C) is located in a State (as defined in section 210(h)).

"(7) RURAL AREA.—The term 'rural area' has the meaning given such term in section 1886(d)(2)(D).

"(f) PENALTY FOR FALSE INFORMATION.—Any person who knowingly and willfully obtains by fraud, false statement, or forgery, or fails to refund any funds, assets, or property provided under this section or attempts to so obtain by fraud, false statement or forgery, or fail to refund any funds, assets, or property, received pursuant to this section shall be fined not more than $20,000 or imprisoned for not more than 5 years, or both.".

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

(A) in subsection (a)(1)(A)—

(i) by striking ", or the" and inserting ", the"; and

(ii) by inserting "or the Rural and Underserved Pathway to Practice Training Program for Post- Baccalaureate and Medical Students under section 1899C" before ", owes a past-due obligation";

(B) in subsection (b)—

(i) in paragraph (1), by striking at the end "or";

(ii) in paragraph (2), by striking the period at the end and inserting "; or"; and

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

"(3) subject to subsection (f), owed by an individual to the United States by breach of an agreement under section 1899C(c) and which payment has not been paid by the individual for any amounts received under the Rural and Underserved Pathway to Practice Training Program for Post-Baccalaureate and Medical Students (and accrued interest determined in accordance with subsection (f)(4)) in the case such individual fails to complete the requirements of such agreement."; and

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

"(f) AUTHORITIES WITH RESPECT TO THE COLLECTION UNDER THE PATHWAY TO PRACTICE TRAINING PROGRAM.—The Secretary—

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

"(2) may allow payments described in paragraph (1) to be paid in installments over such 5-year period, which shall accrue interest in an amount determined pursuant to paragraph (5);

"(3) may waive the requirement for an individual to pay a past-due obligation under subsection (b)(3) in the case of hardship (as determined by the Secretary);

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

"(5) shall make a final determination of whether the amount of payment under section 1899C made to a qualifying student (as described in subsection (b) of such section) was in excess of or less than the amount of payment that is due, and payment of such excess or deficit is not made (or effected by offset) within 90 days of the date of the determination, and interest shall accrue on the balance of such excess or deficit not paid or offset (to the extent that the balance is owed by or owing to the provider) at a rate determined in accordance with the regulations of the Secretary of the Treasury applicable to charges for late payments.".

SEC. 137602. FUNDING FOR THE RURAL AND UNDERSERVED PATHWAY TO PRACTICE TRAINING PROGRAMS FOR POST-BACCALAUREATE STUDENTS AND MEDICAL STUDENTS.

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

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

"SEC. 36G. PATHWAY TO PRACTICE MEDICAL SCHOLARSHIP VOUCHER CREDIT.

"(a) IN GENERAL.—In the case of a qualified educational institution, there shall be allowed as a credit against the tax imposed by this subtitle for any taxable year an amount equal to the aggregate amount paid or incurred by such institution during such taxable year pursuant to any Pathway to Practice medical scholarship voucher awarded to a qualifying student with respect to such institution.

"(b) DETERMINATION OF AMOUNTS PAID PURSUANT TO QUALIFIED SCHOLARSHIP VOUCHERS, ETC.—For purposes of this section—

"(1) an amount shall be treated as paid or incurred pursuant to an annual award of a Pathway to Practice medical scholarship voucher only if such amount is paid or incurred in reimbursement, or anticipation of, an expense described in subparagraphs (A) through (E) of paragraph (4) of section 1899C(d) of the Social Security Act and is subject to verification in such manner as the Secretary of Health and Human Services may provide under paragraph (6) of such section, and

"(2) in the case of any amount credited by a qualified educational institution against a liability owed by the qualifying student to such institution, such amount shall be treated as paid by such institution to such student as of the date that such liability would otherwise be due.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED EDUCATIONAL INSTITUTION.—The term 'qualified educational institution' means, with respect to any annual award of a Pathway to Practice medical scholarship voucher—

"(A) any qualifying medical school (as defined in subsection (e)(6) of section 1899C of the Social Security Act), and

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

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

"(2) QUALIFYING STUDENT.—The term 'qualifying student' means any student to whom the Secretary of Health and Human Services has made an annual award of a Pathway to Practice medical scholarship voucher under section 1899C of the Social Security Act.

"(3) ANNUAL AWARD OF A PATHWAY TO PRACTICE MEDICAL SCHOLARSHIP VOUCHER.—The term 'annual award of a Pathway to Practice medical scholarship voucher' means the annual award of a Pathway to Practice medical scholarship voucher referred to in section 1899C(d)(3) of the Social Security Act.

"(d) COORDINATION OF ACADEMIC AND TAXABLE YEARS.—The credit allowed under subsection (a) with respect to any Pathway to Practice medical scholarship voucher shall not exceed the amount of such voucher which is for expenses described in subparagraphs (A) through (E) of section 1899C(d)(4) of the Social Security Act, reduced by any amount of such voucher with respect to which credit was allowed under this section for any prior taxable year.

"(e) REGULATIONS.—The Secretary shall issue such regulations or other guidance as are necessary or appropriate to carry out the purposes of this section.".

(b) CONFORMING AMENDMENTS.—

(1) Section 6211(b)(4)(A), as amended by the preceding provisions of this Act, is amended by inserting "36G," after "36F,".

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

ceding provisions of this Act, is amended by inserting "36G," after "36F,".

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

"Sec. 36G. Pathway to Practice medical scholarship voucher credit.".

(c) INFORMATION SHARING.—The Secretary of Health and Human Services shall annually provide the Secretary of the Treasury such information regarding the program under section 1899C of the Social Security Act as the Secretary of the Treasury may require to administer the tax credits determined under section 36G of the Internal Revenue Code of 1986, including information to identify qualifying students and the qualified educational institutions at which such students are enrolled and the amount of the annual award of the Pathway to Practice medical scholarship voucher awarded to each such student with respect to such institution. Terms used in this subparagraph shall have the same meaning as when used is such section 36G.

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

SEC. 137603. ESTABLISHING RURAL AND UNDERSERVED PATHWAY TO PRACTICE TRAINING PROGRAMS FOR MEDICAL RESIDENTS.

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

(1) in subsection (d)(5)(B)(v), by inserting ''(h)(4)(H)(vii),'' after ''The provisions of subsections (h)(4)(H)(vi),''; and

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

''(vii) INCREASE IN FULL-TIME EQUIVALENT LIMITATION FOR HOSPITALS IMPLEMENTING PATHWAY TRAINING PROGRAMS.—

''(I) IN GENERAL.—For cost reporting periods beginning on or after October 1, 2026, during which a resident trains in an applicable hospital or hospitals (as defined in subclause (II) in an approved medical residency training program), the Secretary shall, after any adjustment made under any preceding provision of this paragraph or under any of paragraphs (7) through (9), subject to subclause (III), increase the limitation under

subparagraph (F) for such cost reporting period by the number of full-time equivalent residents so trained under such program during such period (in this clause, referred to as the 'Rural and Underserved Pathway to Practice Training Programs for Medical Residents' or 'Program').

''(II) APPLICABLE HOSPITAL OR HOSPITALS DEFINED.—For purposes of this clause, the term 'applicable hospital or hospitals' means any hospital that has been recognized by the Accreditation Council for Graduate Medical Education as meeting at least the following requirements for their approved medical residency training programs:

''(aa) The programs provide mentorships for residents.

''(bb) The programs include cultural and structural competency as part of the training of residents under the programs.

"(cc) The programs have a demonstrated record of training medical residents in medically underserved areas, rural areas, or health professional shortage areas.

"(dd) The hospital agrees to promote community-based training of residents under their programs, as appropriate.

"(III) ANNUAL LIMITATION FOR NUMBER OF RESIDENTS IN PROGRAM.—The Secretary shall ensure that, during any 1-year period and across all approved medical residency training programs described in subclause (I), not more than 1,000 full-time equivalent residents are trained each year.

"(IV) OTHER DEFINITIONS.—

"(aa) HEALTH PROFESSIONAL SHORTAGE AREA.—The team 'health professional shortage area' has the meaning given such term in subparagraphs (A)

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

"(bb) MEDICAL UNDERSERVED AREA.—The term 'medically underserved area' means an area designated pursuant to section 330(b)(3)(A) of the Public Health Service Act.

"(cc) QUALIFYING MEDICAL SCHOOL.—The term 'qualifying medical school' has the meaning given such term in section 1899C(e)(6).

"(dd) QUALIFYING MEDICAL STUDENT.—The term 'qualifying medical student' has the meaning given such term in section 1899C(b).

"(ee) RURAL AREA.—The term 'rural area' has the meaning given such term in section 1886(d)(2)(D).".

SEC. 137604. ADMINISTRATIVE FUNDING OF THE RURAL AND UNDERSERVED PATHWAY TO PRACTICE TRAINING PROGRAMS FOR POST-BACCALAUREATE STUDENTS, MEDICAL STUDENTS, AND MEDICAL RESIDENTS.

The Secretary shall provide for the transfer of $6,000,000 from the Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Medical Insurance Trust Fund under section 1841 of such Act (42 U.S.C. 1395t), in addition to amounts otherwise available to remain available until expended, to carry out the administration of the Rural and Underserved Pathway to Practice Training Program for Post-Baccalaureate and Medical Students under section 1899C of such Act (42 U.S.C. 1395mmm) and the Rural and Underserved Pathway to Practice Training Programs for Medical Residents under section 1886(h)(4)(H)(vii) of such Act (42 U.S.C. 1395ww(h)(4)(H)(vii)).

PART 7—HIGHER EDUCATION

SEC. 137701. CREDIT FOR PUBLIC UNIVERSITY RESEARCH INFRASTRUCTURE.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1, as amended by the preceding provisions of this Act, is amended by adding at the end the following new section:

"SEC. 45AA. PUBLIC UNIVERSITY RESEARCH INFRASTRUCTURE CREDIT.

"(a) ALLOWANCE OF CREDIT.—For purposes of section 38, the public university research infrastructure credit determined under this section for a taxable year is an amount equal to 40 percent of the qualified cash contributions made by a taxpayer during such taxable year.

"(b) QUALIFIED CASH CONTRIBUTION.—

"(1) IN GENERAL.—

"(A) DEFINED.—For purposes of subsection (a), the qualified cash contribution for any taxable year is the aggregate amount contributed in cash by a taxpayer during such taxable year to a certified educational institution in connection with a qualifying project that, but for this section, would be treated as a charitable contribution for purposes of section 170(c).

"(B) QUALIFIED CASH CONTRIBUTIONS TAKEN INTO ACCOUNT FOR PURPOSES OF CHARITABLE CONTRIBUTION LIMITATIONS.—Any qualified cash contributions made by a taxpayer under this section shall be taken into account for purposes of determining the percentage limitations under section 170(b).

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

to the extent that it is designated as such by a certified educational institution under subsection (d).

''(c) DEFINITIONS.—For purposes of this section—

''(1) QUALIFYING PROJECT.—The term 'qualifying project' means a project to purchase, construct, or improve research infrastructure property.

''(2) RESEARCH INFRASTRUCTURE PROPERTY.—The term 'research infrastructure property' means any portion of a property, building, or structure of an eligible educational institution, or any land associated with such property, building, or structure, that is used for research.

''(3) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' means—

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

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

"(4) CERTIFIED EDUCATIONAL INSTITUTION.—The term 'certified educational institution' means an eligible educational institution which has been allocated a credit amount for a qualifying project and—

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

"(B) designates credit amounts to taxpayers for qualifying cash contributions toward such project under subsection (d)(4).

"(d) QUALIFYING UNIVERSITY RESEARCH INFRASTRUCTURE PROGRAM.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—Not later than 180 days after the date of the enactment of this section, the Secretary, after consultation with the Secretary of Education, shall establish a program to—

"(i) certify and allocate credit amounts for qualifying projects to eligible educational institutions, and

"(ii) allow certified educational institutions to designate cash contributions for qualifying projects of such certified educational institutions as qualified cash contributions.

"(B) LIMITATIONS.—

"(i) ALLOCATION LIMITATION PER INSTITUTION.—The credit amounts allocated to a certified educational institution under subparagraph (A)(i) for all projects shall not exceed $50,000,000 per calendar year.

"(ii) OVERALL ALLOCATION LIMITATION.—

"(I) IN GENERAL.—The total amount of qualifying project credit amounts that may be allocated under subparagraph (A)(i) shall not exceed—

"(aa) $500,000,000 for each of calendar years 2022, 2023, 2024, 2025, and 2026, and

"(bb) $0 for each subsequent year.

"(II) ROLLOVER OF UNALLOCATED CREDIT AMOUNTS.—Any credit amounts described in subclause (I) that are unallocated during a calendar year shall be carried to the succeeding calendar year and added to the limitation allowable under such

subclause for such succeeding calendar year.

"(iii) DESIGNATION LIMITATION.—The aggregate amount of cash contributions which are designated by a certified educational institution as qualifying cash contributions with respect to any qualifying project shall not exceed 250 percent of the credit amount allocated to such certified educational institution for a qualifying project under subparagraph (A)(i).

"(2) CERTIFICATION APPLICATION.—Each eligible educational institution which applies for certification of a project under this paragraph shall submit an application in such time, form, and manner as the Secretary may require.

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

"(A) based on the extent of the expected expansion of an eligible educational institution's targeted research within disciplines in science, mathematics, engineering, and technology, and

"(B) in a manner that ensures consideration is given to eligible educational institutions with full-time student populations of less than 12,000.

"(4) DESIGNATION OF QUALIFIED CASH CONTRIBUTIONS TO TAXPAYERS.—The Secretary, after consultation with the Secretary of Education, shall establish a process by which certified educational institutions shall designate cash contributions to such institutions as qualified cash contributions.

"(5) DISCLOSURE OF ALLOCATIONS AND DESIGNATIONS.—

"(A) ALLOCATIONS.—The Secretary shall, upon allocating credit amounts to an applicant under this subsection, publicly disclose the identity of the applicant and the credit amount allocated to such applicant.

"(B) DESIGNATIONS.—Each certified educational institution shall, upon designating contributions of a taxpayer as qualified cash contributions under this subsection, publicly disclose the identity of the taxpayer and the amount of contributions designated in such time, form, and manner as the Secretary may require.

1 ''(e) REGULATIONS AND GUIDANCE.—The Secretary,
2 after consultation with the Secretary of Education when
3 applicable, shall prescribe such regulations and guidance
4 as may be necessary or appropriate to carry out the pur-
5 poses of this section, including regulations for—
6 ''(1) prevention of abuse,
7 ''(2) establishment of reporting requirements,
8 ''(3) establishment of selection criteria for ap-
9 plications, and
10 ''(4) disclosure of allocations.
11 ''(f) PENALTY FOR NONCOMPLIANCE.—
12 ''(1) IN GENERAL.—If at any time during the
13 5-year period beginning on the date of the allocation
14 of credit amounts to a certified educational institu-
15 tion under subsection (d)(1)(A)(i) there is a non-
16 compliance event with respect to such credit
17 amounts, then the following rules shall apply:
18 ''(A) GENERAL RULE.—Any cash contribu-
19 tion designated as a qualifying cash contribu-
20 tion with respect to a qualifying project for
21 which such credit amounts were allocated under
22 subsection (d)(1)(A)(ii) shall be treated as un-
23 related business taxable income (as defined in
24 section 512) of such certified educational insti-
25 tution.

"(B) RULE FOR UNUSED CREDIT AMOUNTS.—In the case of unused credit amounts described under paragraph (2)(A) and identified pursuant to subsection (g), the Secretary shall reallocate any portion of such unused credit amounts to certified educational institutions in lieu of imposing the general rule under subparagraph (A).

"(2) NONCOMPLIANCE EVENT.—For purposes of this subsection, the term 'noncompliance event' means, with respect to a credit amount allocated to a certified educational institution—

"(A) cash contributions equaling the amount of such credit amount are not designated as qualifying cash contributions within 2 years after December 31 of the year such credit amount is allocated,

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

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

"(ii) a period of time that the Secretary determines is appropriate, or

"(C) the research infrastructure property placed in service as part of a qualifying project with respect to which such credit amount was allocated ceases to be used for research within five years after such property is placed in service.

"(g) REVIEW AND REALLOCATION OF CREDIT AMOUNTS.—

"(1) REVIEW.—Not later than 5 years after the date of enactment of this section, the Secretary shall review the credit amounts allocated under this section as of such date.

"(2) REALLOCATION.—

"(A) IN GENERAL.—The Secretary may reallocate credit amounts allocated under this section if the Secretary determines, as of the date of the review in paragraph (1), that such credit amounts are subject to a noncompliance event.

"(B) ADDITIONAL PROGRAM.—If the Secretary determines that credits under this section are available for reallocation pursuant to the requirements set forth in subparagraph (A), the Secretary is authorized to conduct an additional program for applications for certification.

"(C) DEADLINE FOR REALLOCATION.—The Secretary shall not certify any project, or reallocate any credit amount, pursuant to this paragraph after December 31, 2031.

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

"(i) RULE FOR TRUSTS AND ESTATES.—For purposes of this section, rules similar to the rules of subsection (d) of section 52 shall apply.

"(j) TERMINATION.—This section shall not apply to qualified cash contributions made after December 31, 2033.".

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

"(43) the public university research infrastructure credit determined under section 45AA.".

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

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

"Sec. 45AA. Public university research infrastructure credit.".

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

SEC. 137702. MODIFICATION OF EXCISE TAX ON INVESTMENT INCOME OF PRIVATE COLLEGES AND UNIVERSITIES.

(a) PHASEOUT OF INVESTMENT INCOME EXCISE TAX FOR PRIVATE COLLEGES AND UNIVERSITIES PROVIDING SUFFICIENT GRANTS AND SCHOLARSHIPS.—Section 4968 is amended by adding at the end the following new subsection:

"(e) PHASEOUT FOR INSTITUTIONS PROVIDING QUALIFIED AID.—

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

"(A) the excess (if any) of—

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

dents for academic periods beginning during the taxable year, over

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

"(B) an amount equal to 13 percent of such aggregate undergraduate tuition and fees so received.

"(2) INSTITUTION MUST MEET REPORTING REQUIREMENT.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to an applicable educational institution for a taxable year unless such institution furnishes to the Secretary, and makes widely available, a statement detailing the average aggregate amount of Federal student loans received by a student for attendance at the institution, averaged among each of the following groups of first-time, full-time undergraduate students who during the taxable year completed a course of study for which the institution awarded a baccalaureate degree:

"(i) All such students.

"(ii) The students who have been awarded a Federal Pell Grant under subpart 1 of part A of title IV of the Higher Education Act of 1965 for attendance at the institution.

"(iii) The students who received work-study assistance under part C of title IV of such Act for attendance at such institution.

"(iv) The students who were provided such Federal student loans.

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

"(C) FEDERAL STUDENT LOANS.—For purposes of this paragraph, the term 'Federal student loans' means a loan made under part D of title IV of the Higher Education Act of 1965, except such term does not include a Federal Direct PLUS Loan made on behalf of a dependent student.

"(3) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) FIRST-TIME, FULL-TIME UNDERGRADUATE STUDENT.—The term 'first-time, full-time undergraduate student' shall have the same meaning as when used in section 132 of the Higher Education Act of 1965.

"(B) QUALIFIED AID AWARDS.—The term 'qualified aid awards' means, with respect to any applicable educational institution, grants and scholarships to the extent used for undergraduate tuition and fees.

"(C) UNDERGRADUATE TUITION AND FEES.—The term 'undergraduate tuition and fees' means, with respect to any institution, the tuition and fees required for the enrollment or attendance of a student as an undergraduate student at the institution.".

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

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

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2021' for 'calendar year 2016' in subparagraph (A)(ii) thereof.

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

(c) CLARIFICATION OF 500 STUDENT THRESHOLD.—Section 4968(b)(1)(A) is amended by inserting "below the graduate level" after "500 tuition-paying students".

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

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

(a) EXCLUSION FROM GROSS INCOME.—Section 117(b)(1) is amended by striking "received by an individual" and all that follows and inserting "received by an individual—

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

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

"(B) as a Federal Pell Grant under section 401 of the Higher Education Act of 1965.".

(b) TREATMENT FOR PURPOSES OF AMERICAN OPPORTUNITY TAX CREDIT AND LIFETIME LEARNING CREDIT.—Section 25A(g)(2) is amended—

(1) in subparagraph (A), by inserting "described in section 117(b)(1)(A)" after "a qualified scholarship", and

(2) in subparagraph (C), by inserting "or Federal Pell Grant under section 401 of the Higher Education Act of 1965" after "within the meaning of section 102(a)".

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

SEC. 137704. REPEAL OF DENIAL OF AMERICAN OPPORTUNITY TAX CREDIT ON BASIS OF FELONY DRUG CONVICTION.

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

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

Subtitle I—Responsibly Funding Our Priorities

SEC. 138001. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

PART 1—CORPORATE AND INTERNATIONAL TAX REFORMS

Subpart A—Corporate Tax Rate

SEC. 138101. INCREASE IN CORPORATE TAX RATE.

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

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) shall be the sum of—

"(A) 18 percent of so much of the taxable income as does not exceed $400,000,

"(B) 21 percent of so much of the taxable income as exceeds $400,000 but does not exceed $5,000,000, and

"(C) 26.5 percent of so much of the taxable income as exceeds $5,000,000.

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

"(2) CERTAIN PERSONAL SERVICE CORPORATION NOT ELIGIBLE FOR GRADUATED RATES.—Notwithstanding paragraph (1), the amount of the tax imposed by subsection (a) on the taxable income of a qualified personal service corporation (as defined in section 448(d)(2)) shall be equal to 26.5 percent of the taxable income.".

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

(1) IN GENERAL.—Section 243(a)(1) is amended by striking "50 percent" and inserting "60 percent".

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

(A) prior to amendment by subparagraph (B), by striking "65 percent" and inserting "72.5 percent", and

(B) by striking "50 percent" and inserting "60 percent".

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

(1) by amending subsection (a) to read as follows:

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

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

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

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

amounts specified in paragraph (2) shall be divided equally among the component members of such group on such December 31 unless the Secretary prescribes regulations permitting an unequal allocation of such amounts. Notwithstanding paragraph (1), in applying the last sentence of section 11(b)(1) to such component members, the taxable income of all such component members shall be taken into account and any increase in tax under such last sentence shall be divided among such component members in the same manner as amounts under paragraph (1).'', and

(2) by striking ''**ACCUMULATED EARNINGS CREDIT**'' in the heading and inserting ''**CERTAIN MULTIPLE TAX BENEFITS**''.

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

(e) NORMALIZATION REQUIREMENTS.—

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

than such reserve would be reduced under the average rate assumption method.

(2) ALTERNATIVE METHOD FOR CERTAIN TAXPAYERS.—If, as of the first day of the taxable year that includes the date of enactment of this Act—

(A) the taxpayer was required by a regulatory agency to compute depreciation for public utility property on the basis of an average life or composite rate method, and

(B) the taxpayer's books and underlying records did not contain the vintage account data necessary to apply the average rate assumption method,

the taxpayer will be treated as using a normalization method of accounting if, with respect to such jurisdiction, the taxpayer uses the alternative method for public utility property that is subject to the regulatory authority of that jurisdiction.

(3) DEFINITIONS.—For purposes of this subsection—

(A) TAX RESERVE DEFICIT.—The term ''tax reserve deficit'' means the excess of—

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

the Internal Revenue Code of 1986, or section 167(l)(3)(G)(ii) of such Code as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) if the amount of such reserve were determined by assuming that the corporate rate increases provided in the amendments made by this section were in effect for all prior periods, over

(ii) the balance in such reserve as of the day before such corporate rate increases take effect.

(B) AVERAGE RATE ASSUMPTION METHOD.—The average rate assumption method is the method under which the excess in the reserve for deferred taxes is reduced over the remaining lives of the property as used in its regulated books of account which gave rise to the reserve for deferred taxes. Under such method, if timing differences for the property reverse, the amount of the adjustment to the reserve for the deferred taxes is calculated by multiplying—

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

1 timing differences for the property as of
2 the beginning of the period in question, by
3 (ii) the amount of the timing dif-
4 ferences which reverse during such period.
5 (C) ALTERNATIVE METHOD.—The ''alter-
6 native method'' is the method in which the tax-
7 payer—
8 (i) computes the tax reserve deficit on
9 all public utility property included in the
10 plant account on the basis of the weighted
11 average life or composite rate used to com-
12 pute depreciation for regulatory purposes,
13 and
14 (ii) reduces the tax reserve deficit rat-
15 ably over the remaining regulatory life of
16 the property.
17 (4) TREATMENT OF NORMALIZATION VIOLA-
18 TION.—If, for any taxable year ending after the date
19 of the enactment of this Act, the taxpayer does not
20 use a normalization method of accounting, such tax-
21 payer shall not be treated as using a normalization
22 method of accounting for purposes of subsections
23 (f)(2) and (i)(9)(C) of section 168 of the Internal
24 Revenue Code of 1986.

(5) REGULATIONS.—The Secretary of the Treasury, or the Secretary's designee, shall issue such regulations or other guidance as may be necessary or appropriate to carry out this subsection, including regulations or other guidance to provide appropriate coordination between this subsection, section 13001(d) of Public Law 115-97, and section 203(e) of the Tax Reform Act of 1986.

Subpart B—Limitations on Deduction for Interest Expense

SEC. 138111. LIMITATIONS ON DEDUCTION FOR INTEREST EXPENSE.

(a) INTEREST EXPENSE OF CERTAIN MEMBERS OF INTERNATIONAL FINANCIAL REPORTING GROUPS.—Section 163 is amended by redesignating subsection (n) as subsection (p) and by inserting after subsection (m) the following new subsection:

"(n) LIMITATION ON DEDUCTION OF INTEREST BY CERTAIN MEMBERS OF INTERNATIONAL FINANCIAL REPORTING GROUPS.—

"(1) IN GENERAL.—In the case of any specified domestic corporation which is a member of any international financial reporting group, the deduction under this chapter for interest paid or accrued during the taxable year in excess of the amount of

interest includible in the gross income of such corporation shall not exceed the allowable percentage of 110 percent of such excess.

"(2) SPECIFIED DOMESTIC CORPORATION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'specified domestic corporation' means any domestic corporation other than—

"(i) any corporation if the excess of—

"(I) the average amount of interest paid or accrued by such corporation during the 3-taxable-year period ending with the taxable year to which paragraph (1) applies, over

"(II) the average amount of interest includible in the gross income of such corporation for such 3-taxable-year period,

does not exceed $12,000,000,

"(ii) any corporation to which paragraph (1) of section 163(j) does not apply by reason of paragraph (3) thereof (relating to exemption for certain small businesses), and

"(iii) any S corporation, real estate investment trust, or regulated investment company.

"(B) AGGREGATION RULE.—For purposes of subparagraph (A)(i), all domestic corporations which are members of the same international financial reporting group shall be treated as a single corporation.

"(3) INTERNATIONAL FINANCIAL REPORTING GROUP.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'international financial reporting group' means, with respect to any reporting year, two or more entities if—

"(i) either—

"(I) at least one entity is a foreign corporation engaged in a trade or business within the United States, or

"(II) at least one entity is a domestic corporation and another entity is a foreign corporation, and

"(ii) such entities are included in the same applicable financial statement with respect to such year.

"(B) ADDITIONAL MEMBERS.—

"(i) IN GENERAL.—To the extent provided by the Secretary in regulations or other guidance, the specified domestic corporation referred to in paragraph (1) may elect (at such time and in such manner as the Secretary may provide) for purposes of this subsection to treat any eligible corporation as a member of the international financial reporting group of which such specified domestic corporation is a member if such eligible corporation maintains (and such specified domestic corporation has access to) such books and records as the Secretary determines are satisfactory to allow for the application of this subsection with respect to such eligible corporation. Any election under this clause shall apply only with respect to the specified domestic corporation which makes such election.

"(ii) ELIGIBLE CORPORATION.—The term 'eligible corporation' means, with respect to any international financial reporting group, any corporation if at least 20 percent of the stock of such corporation (determined by vote and value) is held (di-

rectly or indirectly) by members of such international financial reporting group (determined without regard to this clause).

"(4) ALLOWABLE PERCENTAGE.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'allowable percentage' means, with respect to any specified domestic corporation for any taxable year, the ratio (expressed as a percentage and not greater than 100 percent) of—

"(i) such corporation's allocable share of the international financial reporting group's reported net interest expense for the reporting year of such group which ends in or with such taxable year of such corporation, over

"(ii) such corporation's reported net interest expense for such reporting year of such group.

"(B) REPORTED NET INTEREST EXPENSE.—The term 'reported net interest expense' means—

"(i) with respect to any international financial reporting group for any reporting year, the excess of—

"(I) the aggregate amount of interest expense reported in such group's applicable financial statements for such taxable year, over

"(II) the aggregate amount of interest income reported in such group's applicable financial statements for such taxable year, and

"(ii) with respect to any specified domestic corporation for any reporting year, the excess of—

"(I) the amount of interest expense of such corporation reported in the books and records of the international financial reporting group which are used in preparing such group's applicable financial statements for such taxable year, over

"(II) the amount of interest income of such corporation reported in such books and records.

"(C) ALLOCABLE SHARE OF REPORTED NET INTEREST EXPENSE.—With respect to any specified domestic corporation which is a member of any international financial reporting

group, such corporation's allocable share of such group's reported net interest expense for any reporting year is the portion of such expense which bears the same ratio to such expense as—

"(i) the EBITDA of such corporation for such reporting year, bears to

"(ii) the EBITDA of such group for such reporting year.

"(D) EBITDA.—

"(i) IN GENERAL.—The term 'EBITDA' means, with respect to any reporting year, earnings before interest income and interest expense, taxes, depreciation, depletion, and amortization—

"(I) as determined in the international financial reporting group's applicable financial statements for such year, or

"(II) for purposes of subparagraph (A)(i), as determined in the books and records of the international financial reporting group which are used in preparing such statements if not determined in such statements.

1 "(ii) TREATMENT OF INTRA-GROUP
2 DISTRIBUTIONS.—The EBITDA of any
3 specified domestic corporation shall be de-
4 termined without regard to any distribu-
5 tion received by such corporation from any
6 other member of the international financial
7 reporting group.
8 "(E) SPECIAL RULES FOR NON-POSITIVE
9 EBITDA.—
10 "(i) NON-POSITIVE GROUP EBITDA.—
11 In the case of any international financial
12 reporting group the EBITDA of which is
13 zero or less, paragraph (1) shall not apply
14 to any specified domestic corporation
15 which is a member of such group.
16 "(ii) NON-POSITIVE ENTITY
17 EBITDA.—In the case of any specified do-
18 mestic corporation the EBITDA of which
19 is zero or less, the allowable percentage
20 shall be 0 percent.
21 "(5) APPLICABLE FINANCIAL STATEMENT.—
22 For purposes of this subsection, the term 'applicable
23 financial statement' has the meaning given such
24 term in section 451(b)(3).

"(6) REPORTING YEAR.—For purposes of this subsection, the term 'reporting year' means any year for which an applicable financial statement is prepared or required to be prepared.

"(7) FOREIGN CORPORATIONS ENGAGED IN TRADE OR BUSINESS WITHIN THE UNITED STATES.—For purposes of this subsection, any foreign corporation engaged in a trade or business within the United States shall be treated as a domestic corporation with respect to any earnings, interest income and interest expense, or other amount, which is effectively connected with the conduct of a trade or business in the United States.

"(8) REGULATIONS.—The Secretary may issue such regulations or other guidance as are necessary or appropriate to carry out the purposes of this subsection, including regulations or other guidance which—

"(A) allows or requires the adjustment of amounts reported on applicable financial statements,

"(B) allows or requires any corporation to be included or excluded as a member of any international financial reporting group for pur-

poses of any determination or calculation under this subsection,

"(C) provides rules for the application of this subsection with respect to—

"(i) a domestic corporation that is a partner (directly or indirectly) in a partnership, and

"(ii) foreign corporation to which this subsection applies by reason of paragraph (7).".

(b) MODIFICATION OF APPLICATION OF LIMITATION ON BUSINESS INTEREST TO PARTNERSHIPS AND S CORPORATIONS.—Section 163(j)(4) is amended to read as follows:

"(4) APPLICATION TO PARTNERSHIPS AND S CORPORATIONS.—In the case of any partnership or S corporation, this subsection shall be applied at the partner or shareholder level, respectively.".

(c) CARRYFORWARD OF DISALLOWED INTEREST.—

(1) IN GENERAL.—Section 163 is amended by inserting after subsection (n), as added by subsection (a), the following new subsection:

"(o) CARRYFORWARD OF CERTAIN DISALLOWED INTEREST.—

"(1) IN GENERAL.—The amount of any interest not allowed as a deduction for any taxable year by reason of subsection (j)(1) or (n)(1) (whichever imposes the lower limitation with respect to such taxable year) shall be treated as interest (and as business interest for purposes of subsection (j)(1)) paid or accrued in the succeeding taxable year.

"(2) LIMITATION ON CARRYFORWARD.—Interest paid or accrued in a taxable year beginning after December 31, 2021 (determined without regard to paragraph (1)), shall not be carried forward under paragraph (1) past the fifth taxable year following the taxable year in which such interest was so paid or accrued. For purposes of the preceding sentence, interest shall be treated as allowed as a deduction on a first-in, first-out basis.".

(2) CONFORMING AMENDMENTS.—

(A) Section 163(j)(2) is amended to read as follows:

"(2) CARRYFORWARD CROSS-REFERENCE.—For carryforward treatment, see subsection (o).".

(B) Section 381(c)(20) is amended to read as follows:

"(20) CARRYFORWARD OF DISALLOWED INTEREST.—The carryover of disallowed interest described

in section 163(o) to taxable years ending after the date of distribution or transfer.''.

(C) Section 382(d)(3) is amended to read as follows:

''(3) APPLICATION TO CARRYFORWARD OF DISALLOWED INTEREST.—The term 'pre-change loss' shall include any carryover of disallowed interest described in section 163(o) under rules similar to the rules of paragraph (1).''.

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

(e) TRANSITION RULE.—In the case of a partner's first succeeding taxable year described in subclause (II) of section 163(j)(4)(B)(ii) of the Internal Revenue Code of 1986 (as in effect before the amendment made by subsection (b)) which begins after December 31, 2021, the amount of excess business interest which would (but for such amendment) be carried to such taxable year under such subclause shall be treated as interest (and as business interest for purposes of section 163(j) of such Code, as amended by this section) paid or accrued in such taxable year. For carryover of any such interest disallowed for such taxable year, see section 163(o) of such Code, as amended by this section.

Subpart C—Outbound International Provisions

SEC. 138121. MODIFICATIONS TO DEDUCTION FOR FOREIGN-DERIVED INTANGIBLE INCOME AND GLOBAL INTANGIBLE LOW-TAXED INCOME.

(a) IN GENERAL.—Section 250(a) is amended to read as follows:

''(a) IN GENERAL.—In the case of a domestic corporation for any taxable year, there shall be allowed as a deduction an amount equal to the sum of—

''(1) 21.875 percent of the foreign-derived intangible income of such domestic corporation for such taxable year, plus

''(2) 37.5 percent of—

''(A) the global intangible low-taxed income (if any) which is included in the gross income of such domestic corporation under section 951A for such taxable year, and

''(B) the amount treated as a dividend received by such corporation under section 78 which is attributable to the amount described in subparagraph (A).''.

(b) DEDUCTION TAKEN INTO ACCOUNT IN DETERMINING NET OPERATING LOSS DEDUCTION.—Section 172(d) is amended by striking paragraph (9).

(c) CERTAIN OTHER MODIFICATIONS.—

(1) Section 250(b)(3) is amended—

(A) in subparagraph (A)(i)—

(i) by striking ''and'' at the end of subclause (V),

(ii) by striking ''over'' at the end of subclause (VI), and

(iii) by adding at the end the following new subclauses:

''(VII) any income received or accrued which is of a kind which would be foreign personal holding company income (as defined in section 954(c)),

''(VIII) any amount included in the gross income of such corporation under section 1293, and

''(IX) any disqualified extraterritorial income, over'', and

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

''(C) DISQUALIFIED EXTRATERRITORIAL INCOME.—

''(i) IN GENERAL.—For purposes of subparagraph (A)(i)(IX), the term 'disqualified extraterritorial income' means any amount included in the gross income of the corporation with respect to any

transaction for any taxable year if any amount could (determined after application of clause (ii) but without regard to any election under section 942(a)(3) as in effect before its repeal) be excluded from the gross income of the corporation with respect to such transaction for such taxable year by reason of section 114 pursuant to the application of subsection (d) or (f) of section 101 of the American Jobs Creation Act of 2004.

''(ii) ELECTION OUT OF EXTRATERRITORIAL INCOME BENEFITS.—

''(I) IN GENERAL.—Except as provided in subclause (II), the corporation referred to in clause (i) may make an irrevocable election (at such time and in such form and manner as the Secretary may provide) to have subsections (d) and (f) of section 101 of the American Jobs Creation Act of 2004 not apply with respect to such corporation for the taxable year for which such election is made and all succeeding taxable years (applicable

with respect to all transactions, including transactions occurring before such taxable year).

''(II) EXPANDED AFFILIATED GROUPS.—In the case of any corporation which is a member of an expanded affiliated group, the election described in subclause (I) may be made only by the common parent of such group and shall apply with respect to all members of such group. For purposes of the preceding sentence, the term 'expanded affiliated group' means an affiliated group as defined in section 1504(a), determined without regard to section 1504(b)(3) and by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.''.

(2) Section 613A(d)(1) is amended by striking ''and'' at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting '', and'', and by inserting after subparagraph (E) the following new subparagraph:

"(F) any deduction allowable under section 250.".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 2021.

(2) CERTAIN OTHER MODIFICATIONS.—The amendments made by subsection (c) shall apply to taxable years beginning after December 31, 2017.

(e) TRANSITIONAL RULE FOR ACCELERATED PERCENTAGE REDUCTION.—

(1) IN GENERAL.—In the case of any taxable year which includes December 31, 2021 (other than a taxable year with respect to which such date is the last day of such taxable year)—

(A) the percentage in effect under section 250(a)(1)(A) of the Internal Revenue Code of 1986 shall be treated as being equal to the sum of—

(i) the pre-effective date percentage of 37.5 percent, plus

(ii) the post-effective date percentage of 21.875 percent, and

(B) the percentage in effect under section 250(a)(1)(B) of such Code shall be treated as being equal to the sum of—

(i) the pre-effective date percentage of 50 percent, plus

(ii) the post-effective date percentage of 37.5 percent.

(2) PRE- AND POST-EFFECTIVE DATE PERCENTAGES.—For purposes of this subsection, with respect to any taxable year—

(A) the term ''pre-effective date percentage'' means the ratio that the portion of such taxable year which precedes January 1, 2022, bears to the entire taxable year, and

(B) the term ''post-effective date percentage'' means the ratio that the remainder of such taxable year bears to the entire taxable year.

SEC. 138122. REPEAL OF ELECTION FOR 1-MONTH DEFERRAL IN DETERMINATION OF TAXABLE YEAR OF SPECIFIED FOREIGN CORPORATIONS.

(a) IN GENERAL.—Section 898(c) is amended by striking paragraph (2) and redesignating paragraph (3) as paragraph (2).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of specified foreign corporations beginning after November 30, 2021.

(c) TRANSITION RULE.—A taxpayer's first taxable year beginning after November 30, 2021, shall end at the same time as the first required year (within the meaning of section 898(c)(1) of the Internal Revenue Code of 1986) ending after such date.

SEC. 138123. MODIFICATIONS OF FOREIGN TAX CREDIT RULES APPLICABLE TO CERTAIN TAXPAYERS RECEIVING SPECIFIC ECONOMIC BENEFITS.

(a) IN GENERAL.—Section 901 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) SPECIAL RULES RELATING TO DUAL CAPACITY TAXPAYERS.—

"(1) GENERAL RULE.—Notwithstanding any other provision of this chapter, any amount paid or accrued by a dual capacity taxpayer to a foreign country or possession of the United States for any period shall not be considered a tax—

"(A) if, for such period, the foreign country or possession does not impose a generally applicable income tax, or

"(B) to the extent such amount exceeds the amount which would be paid or accrued by such dual capacity taxpayer under the generally applicable income tax imposed by such country or possession if such taxpayer were not a dual capacity taxpayer.

Nothing in this paragraph shall be construed to imply the proper treatment of any such amount not in excess of the amount determined under subparagraph (B).

"(2) DUAL CAPACITY TAXPAYER.—For purposes of this subsection, the term 'dual capacity taxpayer' means, with respect to any foreign country or possession of the United States, a person who—

"(A) is subject to a levy of such country or possession, and

"(B) receives (or will receive) directly or indirectly a specific economic benefit from such country or possession.

"(3) GENERALLY APPLICABLE INCOME TAX.—For purposes of this subsection, the term 'generally applicable income tax' means an income tax (or a series of income taxes) which is generally imposed under the laws of a foreign country or possession of the United States on residents of such foreign coun-

try or possession that are not dual capacity taxpayers.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2021, and to taxable years of United States shareholders in which or with which such taxable years of foreign corporations end.

SEC. 138124. MODIFICATIONS TO FOREIGN TAX CREDIT LIMITATIONS.

(a) COUNTRY-BY-COUNTRY APPLICATION OF LIMITATION ON FOREIGN TAX CREDIT BASED ON TAXABLE UNITS.—

(1) IN GENERAL.—Section 904 is amended by inserting after subsection (d) the following new subsection:

''(e) COUNTRY-BY-COUNTRY APPLICATION BASED ON TAXABLE UNITS.—

''(1) IN GENERAL.—The provisions of subsections (a), (b), (c), and (d) and sections 907 and 960 shall be applied separately with respect to each country by taking into account the aggregate income properly attributable or otherwise allocable to a taxable unit of the taxpayer which is a tax resident of such country.

''(2) TAXABLE UNITS.—

"(A) IN GENERAL.—Except as otherwise provided by the Secretary, each item shall be attributable or otherwise allocable to exactly one taxable unit of the taxpayer.

"(B) DETERMINATION OF TAXABLE UNITS.—Except as otherwise provided by the Secretary, the taxable units of a taxpayer are as follows:

"(i) GENERAL TAXABLE UNIT.—The person that is the taxpayer and that is not otherwise described in a separate clause of this subparagraph.

"(ii) CONTROLLED FOREIGN CORPORATIONS.—Each controlled foreign corporation with respect to which the taxpayer is a United States shareholder.

"(iii) INTERESTS IN PASS-THROUGH ENTITIES.—Each interest held (directly or indirectly) by the taxpayer or any controlled foreign corporation referred to in clause (ii) in a pass-through entity if such pass-through entity is a tax resident of a country other than the country with respect to which such taxpayer or controlled

1 foreign corporation (as the case may be) is
2 a tax resident.
3 ''(iv) BRANCHES.—Each branch (or
4 portion thereof) the activities of which are
5 directly or indirectly carried on by the tax-
6 payer or any controlled foreign corporation
7 referred to in clause (ii) and which give
8 rise to a taxable presence in a country
9 other than the country in which the tax-
10 payer or any such controlled foreign cor-
11 poration (as the case may be) is a tax resi-
12 dent.
13 ''(3) DEFINITIONS AND SPECIAL RULES.—For
14 purposes of this subsection—
15 ''(A) TAX RESIDENT.—Except as otherwise
16 provided by the Secretary, the term 'tax resi-
17 dent' means a person or arrangement subject to
18 tax under the tax law of a country as a resi-
19 dent, or a person or arrangement that gives rise
20 to a taxable presence by reason of its activities
21 in such country. If an entity is organized under
22 the law of a country, or resident in a country,
23 that does not impose an income tax with re-
24 spect to such entity, such entity shall, except as
25 provided by the Secretary, be treated as subject

to tax under the tax law of such country for the purposes of the preceding sentence.

"(B) PASS-THROUGH ENTITY.—Except as otherwise provided by the Secretary, the term 'pass-through entity' includes any partnership or other entity or arrangement to the extent that income, gain, deduction, or loss of the entity is taken into account in determining the income or loss of a person that owns (directly or indirectly) an interest in such entity.

"(C) BRANCH.—Except as otherwise provided by the Secretary, the term 'branch' means a taxable presence of a tax resident in a country other than its country of residence as determined under such other country's tax law. The Secretary shall provide regulations or other guidance applying such term to activities in a country that does not subject income to tax on the basis of residence or taxable presence.

"(D) TREATMENT OF FISCALLY AUTONOMOUS JURISDICTIONS.—Any fiscally autonomous jurisdiction shall be treated as a separate country. Any possession of the United States shall also be treated as separate country. For purposes of the preceding sentence, the term

'possession of the United States' means each of American Samoa, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

''(4) REGULATIONS.—The Secretary shall issue such regulations or other guidance as may be necessary or appropriate to carry out, or prevent avoidance of, the purposes of this subsection, including regulations or other guidance—

''(A) providing for the application of this subsection to entities, arrangements, and branches that are otherwise considered a resident of more than one country or no country,

''(B) providing for the application of this subsection to hybrid entities or hybrid transactions (as such terms are used for purposes of section 267A), pass-through entities, passive foreign investment companies, trusts, and other entities or arrangements not otherwise described in this subsection, and

''(C) providing for the assignment of any item (including foreign taxes and deductions) to taxable units, including in the case of amounts not otherwise taken into account in determining taxable income under this chapter.''.

(2) APPLICATION OF RECAPTURE OF OVERALL FOREIGN LOSS.—Section 904(f)(5)(E)(i) is amended by inserting ''applied separately with respect to each country (within the meaning of subsection (e)) as provided in subsection (e)'' before the period at the end.

(3) APPLICATION OF SEPARATE LIMITATION LOSSES WITH RESPECT TO GLOBAL INTANGIBLE LOW-TAXED INCOME.—Section 904(f)(5) is amended by adding at the end the following new subparagraph:

''(G) SPECIAL RULE WITH RESPECT TO GLOBAL INTANGIBLE LOW-TAXED INCOME.—The amount of the separate limitation losses for any taxable year shall reduce income described in subparagraph (d)(1)(A) for such taxable year only to the extent the aggregate amount of such losses exceeds the aggregate amount of the separate limitation incomes for such taxable year. For purposes of this subparagraph, separate limitation income shall exclude income described in subparagraph (d)(1)(A) for the taxable year.''.

(b) REPEAL OF SEPARATE APPLICATION TO FOREIGN BRANCH INCOME.—

(1) IN GENERAL.—Section 904(d)(1) is amended by striking subparagraph (B) and redesignating subparagraphs (C) and (D) as subparagraph (B) and (C).

(2) COORDINATION WITH DEDUCTION FOR FOREIGN-DERIVED INTANGIBLE INCOME.—Section 205(b)(3)(A) is amended—

(A) by striking subclause (VI) of clause (i) and inserting the following new subclause:

"(VI) the income of a United States person which is attributable to 1 or more branches (which would be referred to in clause (iv) of section 904(e)(2)(B) if such clause were applied without regard to any reference to a controlled foreign corporation) or pass-through entities (which would be referred to in clause (iii) of section 904(e)(2)(B) if such clause were applied without regard to any reference to a controlled foreign corporation) in 1 or more foreign countries, over", and

(B) by adding at the end the following flush sentence:

"For purposes of clause (i)(VI), the amount of income attributable to a branch or pass-through entity shall be determined under rules established by the Secretary.".

(3) CONFORMING AMENDMENTS.—

(A) Section 904(d)(2)(A)(ii) is amended by striking ", foreign branch income,".

(B) Section 904(d)(2) is amended by striking subparagraph (J).

(c) MODIFICATION OF FOREIGN TAX CREDIT CARRYBACK AND CARRYFORWARD.—

(1) CARRYOVER LIMITED TO 5 TAXABLE YEARS.—

(A) IN GENERAL.—Section 904(c) is amended by striking "10 succeeding taxable years" and inserting "5 succeeding taxable years".

(B) CONFORMING AMENDMENT.—Section 6511(d)(3)(A) is amended by striking "10 years" and inserting "5 years".

(2) REPEAL OF CARRYBACK.—Section 904(c) is amended—

(A) by striking "in the first preceding taxable year, and",

(B) by striking ''preceding or'' each place it appears, and

(C) by striking ''CARRYBACK AND'' in the heading thereof.

(3) CARRYOVER APPLICABLE TO TAX ON GLOBAL INTANGIBLE LOW-TAXED INCOME.—Section 904(c) is amended by striking the last sentence.

(4) APPLICATION TO LIMITATION ON FOREIGN OIL AND GAS TAXES.—Section 907(f)(1) is amended—

(A) by striking ''in the first preceding taxable year and'', and

(B) by striking ''first 10'' and inserting ''first 5''.

(d) TREATMENT OF CERTAIN TAX-EXEMPT DIVIDENDS.—

(1) CERTAIN TAX-EXEMPT DIVIDENDS TAKEN INTO ACCOUNT IN APPLYING LIMITATIONS ON FOREIGN TAX CREDITS.—Section 904(b) is amended by striking paragraph (4).

(2) CERTAIN TAX-EXEMPT DIVIDENDS NOT TAKEN INTO ACCOUNT IN ALLOCATING INTEREST EXPENSE.—Section 864(e)(3) is amended by striking ''or 245(a)'' and inserting '', 245(a), or 245A''.

(e) RULES FOR ALLOCATION OF CERTAIN DEDUCTIONS TO FOREIGN SOURCE GLOBAL INTANGIBLE LOW-TAXED INCOME FOR PURPOSES OF FOREIGN TAX CREDIT LIMITATION.—Section 904(b), as amended by the preceding provisions of this Act, is amended by adding at the end the following new paragraph:

"(4) DEDUCTIONS TREATED AS ALLOCABLE TO FOREIGN SOURCE GLOBAL INTANGIBLE LOW-TAXED INCOME.—In the case of a domestic corporation and solely for purposes of the application of subsection (a) with respect to amounts described in subsection (d)(1)(A), the taxpayer's taxable income from sources without the United States shall be determined by—

"(A) allocating any deduction allowed under section 250 to such income, and

"(B) by treating any expense of such domestic corporation as not allocable to such income.".

(f) TREATMENT OF CERTAIN ASSET DISPOSITIONS.—Section 904(b), as amended by the preceding provisions of this Act, is amended by adding at the end the following new paragraph:

"(5) TREATMENT OF CERTAIN ASSET DISPOSITIONS.—

"(A) IN GENERAL.—Except as otherwise provided by the Secretary, in the case of any covered asset disposition, the principles of section 338(h)(16) shall apply in determining the source and character of any item for purposes of this part.

"(B) COVERED ASSET DISPOSITION.—For purposes of this paragraph, the term 'covered asset disposition' means any transaction which—

"(i) is treated as a disposition of assets for purposes of subchapter N of this chapter, and

"(ii) is treated as a disposition of stock of a corporation (or is disregarded) for purposes of the tax laws of the relevant foreign country or possession of the United States.

"(C) REGULATIONS.—The Secretary shall issue such regulations or other guidance as is necessary or appropriate to carry out, or to the prevent the avoidance of, the purposes of this paragraph.".

(g) REDETERMINATION OF FOREIGN TAXES AND RELATED CLAIMS.—

(1) IN GENERAL.—Section 905(c)(1) is amended by striking ''or'' at the end of subparagraph (B) and by inserting after subparagraph (C) the following new subparagraphs:

''(D) the taxpayer makes a timely change in its choice to claim a credit or deduction for taxes paid or accrued, or

''(E) there is any other change in the amount, or treatment, of taxes, which affects the taxpayer's tax liability under this chapter.''.

(2) MODIFICATION TO TIME FOR CLAIMING CREDIT OR DEDUCTION.—Section 901(a) is amended by striking the second sentence and inserting the following: ''The choice to claim a credit for such amounts may be made at any time before the expiration of the period prescribed by section 6511(d)(3)(A), and the choice to claim a deduction in lieu of a credit may be made at any time before the expiration of the period prescribed by section 6511(a), for making a claim for refund or credit of the tax imposed by this chapter for such taxable year, or such later period prescribed by section 6511(c) if the period is extended by agreement.''.

(3) MODIFICATION TO SPECIAL PERIOD OF LIMITATION.—Section 6511(d)(3)(A) is amended—

(A) by inserting ''change in the liability for'' before ''any taxes paid or accrued'',

(B) by striking ''actually paid'' and inserting ''paid (or deemed paid under section 960)'', and

(C) by inserting ''CHANGE IN THE LIABILITY FOR'' before ''FOREIGN TAXES'' in the heading thereof.

(h) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 2021.

(2) MODIFICATION OF FOREIGN TAX CREDIT CARRYBACK AND CARRYFORWARD.—Except as otherwise provided in paragraph (3), the amendments made by subsection (c) shall apply to taxes paid or accrued in taxable years beginning after December 31, 2021.

(3) CERTAIN MODIFICATIONS.—The amendment made by subsection (c)(4)(B) shall apply to taxable years of foreign corporations beginning after December 31, 2017, and to taxable years of United States shareholders in which or with which such taxable years of foreign corporations end.

(4) REDETERMINATION OF FOREIGN TAXES AND RELATED CLAIMS.—The amendments made by subsection (g) shall take effect on the date which is 60 days after the date of the enactment of this Act.

(i) REGULATIONS.—The Secretary shall prescribe rules providing for the application of subsection (e) of section 904 of the Internal Revenue Code of 1986, as added by this section, to any amounts carried over under subsection (c) of such section from a taxable year with respect to which such subsection (e) did not apply to a taxable year with respect to which such subsection (e) does apply.

SEC. 138125. FOREIGN OIL AND GAS EXTRACTION INCOME AND FOREIGN OIL RELATED INCOME TO INCLUDE OIL SHALE AND TAR SANDS.

(a) IN GENERAL.—Paragraphs (1)(A) and (2)(A) of section 907(c) are each amended by inserting ''(or oil shale or tar sands)'' after ''oil or gas wells''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2021, and to taxable years of United States shareholders in which or with which such taxable years of foreign corporations end.

SEC. 138126. MODIFICATIONS TO INCLUSION OF GLOBAL INTANGIBLE LOW-TAXED INCOME.

(a) COUNTRY-BY-COUNTRY APPLICATION OF SECTION BASED ON CFC TAXABLE UNITS.—Section 951A is amended by adding at the end the following new subsection:

"(g) COUNTRY-BY-COUNTRY APPLICATION OF SECTION BASED ON CFC TAXABLE UNITS.—

"(1) IN GENERAL.—If any CFC taxable unit of a United States shareholder is a tax resident of a country which is different from the country with respect to which any other CFC taxable unit of such United States shareholder is a tax resident—

"(A) such shareholder's global intangible low-taxed income for purposes of subsection (a) shall be the sum of the amounts of global intangible low-taxed income determined separately with respect to each country with respect to which any CFC taxable unit of such shareholder is a tax resident, and

"(B) for purposes of determining such separate amounts of global intangible low-taxed income—

"(i) any reference in subsection (b), (c), or (d) to a controlled foreign corporation of such shareholder shall be treated as

reference to a CFC taxable unit of such shareholder, and

"(ii) net CFC tested income, net deemed tangible income return, qualified business asset investment, interest expense described in subsection (b)(2)(B), and such other items and amounts as the Secretary may provide, shall be determined separately with respect to each such country by determining such amounts with respect to each CFC taxable unit of such shareholder which is a tax resident of such country.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) CFC TAXABLE UNIT.—The term 'CFC taxable unit' means any taxable unit described clause (ii), (iii), or (iv) of section 904(e)(2)(B) (determined without regard to the references to the taxpayer in clauses (iii) and (iv) of such section).

"(B) APPLICATION OF OTHER DEFINITIONS.—Terms used in this subsection which are also used in section 904(e) shall have the same meaning as when used in such section.

"(3) SPECIAL RULES.—For purposes of this subsection—

"(A) APPLICATION OF CERTAIN RULES.—Except as otherwise provided by the Secretary, rules similar to the rules of section 904(e) shall apply.

"(B) ALLOCATION OF GLOBAL INTANGIBLE LOW-TAXED INCOME TO CONTROLLED FOREIGN CORPORATIONS.—Except as otherwise provided by the Secretary, subsection (f)(2) shall be applied separately with respect to each CFC taxable unit.".

(b) REGULATORY AUTHORITY.—

(1) IN GENERAL.—Section 951A, as amended by subsection (a), is amended by adding at the end the following new subsection:

"(h) REGULATIONS.—The Secretary shall issue such regulations or other guidance as may be necessary or appropriate to carry out, or prevent the avoidance of, the purposes of this section, including regulations or guidance which provide for—

"(1) the treatment of property if such property is transferred, or held, temporarily,

"(2) the treatment of property if the avoidance of the purposes of this section is a factor in the transfer or holding of such property, and

"(3) appropriate adjustments to the basis of stock and other ownership interests, and to earnings and profits, to reflect tested losses.".

(2) CONFORMING AMENDMENT.—Section 951A(d) is amended by striking paragraph (4).

(3) ADDITIONAL REGULATORY AUTHORITY.—Section 951A(h), as added by paragraph (1), is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting a comma, and by adding at the end the following new paragraphs:

"(4) rules similar to the rules provided under the regulations or guidance issued under section 904(e)(5),

"(5) appropriate basis adjustments, and

"(6) appropriate adjustment to made, and appropriate tax attributes and records to be maintained, separately with respect to CFC taxable units.".

(c) CARRYOVER OF NET CFC TESTED LOSS.—

(1) IN GENERAL.—Section 951A(c) is amended by adding at the end the following new paragraph:

"(3) CARRYOVER OF NET CFC TESTED LOSS.—

"(A) IN GENERAL.—If the amount described in paragraph (1)(B) with respect to any United States shareholder for any taxable year of such United States shareholder (determined after the application of this paragraph) exceeds the amount described in paragraph (1)(A) with respect to such shareholder of such taxable year, the amount otherwise described in paragraph (1)(B) with respect to such shareholder for the succeeding taxable year shall be increased by the amount of such excess.

"(B) PROPER ADJUSTMENT IN ALLOCATIONS OF GLOBAL INTANGIBLE LOW-TAXED INCOME TO CONTROLLED FOREIGN CORPORATIONS.—Proper adjustments shall be made in the application of subsection (f)(2)(B) to take into account any decrease in global intangible low-taxed income by reason of the application of subparagraph (A).".

(2) COORDINATION WITH COUNTRY-BY-COUNTRY APPLICATION.—Section 951A(g)(1)(B)(ii), as added by subsection (a), is amended by inserting "any increase determined under subsection

(c)(3)(A),'' after ''interest expense described in subsection (b)(2)(B),''.

(3) APPLICATION OF RULES WITH RESPECT TO OWNERSHIP CHANGES.—Section 382(d) is amended by adding at the end the following new paragraph:

''(4) APPLICATION TO CARRYOVER OF NET CFC TESTED LOSS.—The term 'pre-change loss' shall include any excess carried over under section 951A(c)(3) under rules similar to the rules of paragraph (1).''.

(d) REDUCTION IN NET DEEMED TANGIBLE INCOME RETURN FOR PURPOSES OF DETERMINING GLOBAL INTANGIBLE LOW-TAXED INCOME.—

(1) IN GENERAL.—Section 951A(b)(2)(A) is amended by striking ''10 percent'' and inserting ''5 percent''.

(2) APPLICATION TO ASSETS LOCATED IN POSSESSIONS OF THE UNITED STATES.—Section 951A(b) is amended by adding at the end the following new paragraph:

''(3) APPLICATION TO ASSETS LOCATED IN POSSESSIONS OF THE UNITED STATES.—In the case of any specified tangible property located in a possession of the United States, paragraph (2)(A) and

subsection (d) shall be applied by substituting '10 percent' for '5 percent' in paragraph (2)(A).''.

(e) INCLUSION OF FOREIGN OIL AND GAS EXTRACTION INCOME IN DETERMINING TESTED INCOME AND LOSS.—Section 951A(c)(2)(A) is amended by inserting ''and'' at the end of subclause (III), by striking ''and'' at the end of subclause (IV) and inserting ''over'', and by striking subclause (V).

(f) COORDINATION WITH OTHER PROVISIONS.—Section 951A(f)(1) is amended by adding at the end the following new subparagraph:

''(C) TREATMENT OF CERTAIN REFERENCES.—Except as otherwise provided by the Secretary, references to section 951 or section 951(a) in sections 959, 961, 962 and such other sections as the Secretary may identify shall include references to section 951A or section 951A(a), respectively.''.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2021, and to taxable years of United States shareholders

in which or with which such taxable years of foreign corporations end.

(2) CERTAIN RELATED MODIFICATIONS.—The amendments made by subsections (b)(1), (b)(2), and (f) shall apply to taxable years of foreign corporations beginning after December 31, 2017, and to taxable years of United States shareholders in which or with which such taxable years of foreign corporations end.

SEC. 138127. MODIFICATIONS TO DETERMINATION OF DEEMED PAID CREDIT FOR TAXES PROPERLY ATTRIBUTABLE TO TESTED INCOME.

(a) INCREASE IN DEEMED PAID CREDIT.—Section 960(d)(1) is amended by striking ''80 percent'' and inserting ''95 percent (100 percent in the case of tested foreign income taxes paid or accrued to a possession of the United States)''.

(b) INCLUSION OF TAXES PROPERLY ATTRIBUTABLE TO TESTED LOSS.—Section 960(d)(3) is amended to read as follows:

''(3) TESTED FOREIGN INCOME TAXES.—For purposes of paragraph (1), the term 'tested foreign income taxes' means, with respect to any domestic corporation which is a United States shareholder of a controlled foreign corporation, such shareholder's

pro rata share (as determined under section 951A(e)(1)) of—

"(A) the foreign income taxes (within the meaning of section 904(d)(2)(F)) which are properly attributable to amounts taken into account in determining tested income or tested loss under section 951A(b)(2), and

"(B) solely to the extent provided in regulations prescribed by the Secretary, the foreign income taxes (as so defined) paid or accrued by a foreign corporation (other than such controlled foreign corporation) which owns, directly or indirectly, 80 percent or more (by vote or value) of the stock in such domestic corporation but only if—

"(i) such foreign income taxes are properly attributable to amounts of such controlled foreign corporation taken into account in determining tested income or tested loss under section 951A(b)(2), and

"(ii) no credit is allowed, in whole or in part, for such foreign taxes in any foreign jurisdiction.".

(c) APPLICATION OF FOREIGN TAX CREDIT LIMITATION TO AMOUNTS INCLUDED UNDER SECTION 78.—

(1) Section 904(d)(2) is amended by redesignating subparagraph (K) as subparagraph (L) and by inserting after subparagraph (J) the following new subparagraph:

"(K) AMOUNTS INCLUDIBLE UNDER SECTION 78.—Any amount includible in gross income under section 78 shall be treated as income in the same separate category as the related foreign taxes deemed paid.".

(2) Section 904(d)(3)(G) is amended by striking the second sentence and inserting the following: "Any amount included in gross income under section 78 shall not be treated as a dividend.".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2021, and to taxable years of United States shareholders in which or with which such taxable years of foreign corporations end.

(2) APPLICATION OF FOREIGN TAX CREDIT LIMITATION TO AMOUNTS INCLUDED UNDER SECTION 78.—The amendments made by subsection (c)

shall apply to taxable years beginning after December 31, 2017.

SEC. 138128. DEDUCTION FOR FOREIGN SOURCE PORTION OF DIVIDENDS LIMITED TO CONTROLLED FOREIGN CORPORATIONS, ETC.

(a) IN GENERAL.—Section 245A is amended—

(1) in subsections (a), (c)(1), and (c)(2), by striking ''specified 10-percent owned foreign corporation'' each place it appears and inserting ''controlled foreign corporation'', and

(2) by striking subsection (b).

(b) MODIFICATIONS RELATED TO DETERMINATION OF STATUS AS A CONTROLLED FOREIGN CORPORATION.—

(1) Subpart F of part III of subchapter N of chapter 1 is amended by inserting after section 951A the following new section:

''SEC. 951B. AMOUNTS INCLUDED IN GROSS INCOME OF FOREIGN CONTROLLED UNITED STATES SHAREHOLDERS.

''(a) IN GENERAL.—In the case of any foreign controlled United States shareholder of a foreign controlled foreign corporation—

''(1) this subpart (other than sections 951A, 951(b), 957, and 965) shall be applied with respect

to such shareholder (separately from, and in addition to, the application of this subpart without regard to this section)—

"(A) by substituting 'foreign controlled United States shareholder' for 'United States shareholder' each place it appears therein, and

"(B) by substituting 'foreign controlled foreign corporation' for 'controlled foreign corporation' each place it appears therein, and

"(2) sections 951A and 965 shall be applied with respect to such shareholder —

"(A) by treating each reference to 'United States shareholder' in such sections as including a reference to such shareholder, and

"(B) by treating each reference to 'controlled foreign corporation' in such sections as including a reference to such foreign controlled foreign corporation.

"(b) FOREIGN CONTROLLED UNITED STATES SHAREHOLDER.—For purposes of this section, the term 'foreign controlled United States shareholder' means, with respect to any foreign corporation, any United States person which would be a United States shareholder with respect to such foreign corporation if—

"(1) section 951(b) were applied by substituting 'more than 50 percent' for '10 percent or more', and

"(2) section 958(b) were applied without regard to paragraph (4) thereof.

"(c) FOREIGN CONTROLLED FOREIGN CORPORATION.—For purposes of this section, the term 'foreign controlled foreign corporation' means a foreign corporation, other than a controlled foreign corporation, which would be a controlled foreign corporation if section 957(a) were applied—

"(1) by substituting 'foreign controlled United States shareholders' for 'United States shareholders', and

"(2) by substituting 'section 958(b) (other than paragraph (4) thereof)' for 'section 958(b)'.

"(d) REGULATIONS.—The Secretary shall prescribe such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this section, including regulations or other guidance—

"(1) to treat a foreign controlled United States shareholder or a foreign controlled foreign corporation as a United States shareholder or as a controlled foreign corporation, respectively, for purposes of provisions of this title other than this subpart, and

"(2) to prevent the avoidance of the purposes of this section.".

(2) Section 957(a) is amended to read as follows:

"(a) CONTROLLED FOREIGN CORPORATION.—For purposes of this title—

"(1) IN GENERAL.—The term 'controlled foreign corporation' means any foreign corporation if more than 50 percent of—

"(A) the total combined voting power of all classes of stock of such corporation entitled to vote, or

"(B) the total value of the stock of such corporation,

is owned (within the meaning of section 958(a)), or is considered as owned by applying the rules of ownership of section 958(b), by United States shareholders on any day during the taxable year of such foreign corporation.

"(2) ELECTION TO TREAT A FOREIGN CORPORATION AS A CONTROLLED FOREIGN CORPORATION FOR CERTAIN PURPOSES.—

"(A) IN GENERAL.—In the case of a foreign corporation with respect to which an election is in effect under this paragraph, such for-

eign corporation shall be treated as controlled foreign corporation with respect to all United States shareholders of such foreign corporation.

"(B) EXCEPTIONS.—Notwithstanding subparagraph (A), such foreign corporation shall not be treated as a controlled foreign corporation for purposes of section 951B(c) or for any other purpose if the Secretary determines that treatment of such foreign corporation as a controlled foreign corporation for such purpose would be inconsistent with the purposes of this subchapter.

"(C) ELECTION.—

"(i) BY WHOM.—An election under subparagraph (A) shall be effective only if made by the foreign corporation and by all United States shareholders of such foreign corporation (determined as of the time of such election by such foreign corporation).

"(ii) WITH RESPECT TO WHOM.—Any election under this paragraph, once effective, shall apply to such foreign corporation and to all United States shareholders of such foreign corporation (including any person who becomes a United States

shareholder of such foreign corporation after such election takes effect).

"(iii) TIME, MANNER, ETC.—The election under this paragraph shall be made at such time and in such manner as the Secretary may provide and, once effective, may be revoked only with the consent of the Secretary.

"(D) REGULATIONS.—The Secretary shall issue such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations or other guidance for the application of this paragraph to an acquisition of assets described in section 381(a) from any corporation with respect to which an election under this paragraph applies.".

(3) Section 958(b) is amended—

(A) by inserting after paragraph (3) the following:

"(4) Subparagraphs (A), (B), and (C) of section 318(a)(3) shall not be applied so as to consider a United States person as owning stock which is owned by a person who is not a United States person.", and

(B) by striking ''Paragraph (1)'' in the last sentence and inserting ''Paragraphs (1) and (4)''.

(4) The table of sections for subpart F of part III of subchapter N of chapter 1 is amended by inserting after the item relating to section 951A the following new item:

''Sec. 951B. Amounts included in gross income of foreign controlled United States shareholders.''.

(c) CERTAIN OTHER MODIFICATIONS.—

(1) Section 245A(b)(1) is amended by striking ''with respect to such corporation''.

(2) Section 245A(e)(4) is amended by striking ''an amount received'' and all that follows through ''for which the controlled foreign corporation received a deduction'' and inserting ''any dividend received from a controlled foreign corporation for which such controlled foreign corporation received a deduction''.

(3) Section 245A(e)(1) is amended—

(A) by striking ''any dividend'' and inserting ''any hybrid dividend'', and

(B) by striking ''if the dividend is a hybrid dividend''.

(4) Section 245A(g) is amended to read as follows:

"(g) REGULATIONS.—The Secretary shall prescribe such regulations or other guidance as may be necessary or appropriate to carry out the provisions of this section, including regulations or other guidance for—

"(1) the treatment of United States shareholders owning stock of a controlled foreign corporation through a partnership, and

"(2) the denial of all or a portion of the deduction under this section with respect to dividends received from foreign corporations in situations in which—

"(A) any portion of the dividend is out of earnings and profits arising from dispositions to related parties which—

"(i) are not made in the ordinary course of a trade or business, and

"(ii) are made on or after January 1, 2018, and during a taxable year to which section 951A did not apply, or

"(B) a transfer or issuance of stock on or after January 1, 2018, results in a reduction in the United States shareholder's pro rata share of a controlled foreign corporation's subpart F income or tested income (as defined in section 951A).".

(5) Section 246(b)(1) is amended to read as follows:

''(1) GENERAL RULE.—Except as provided in paragraph (2), the aggregate amount of the deductions allowed by section 243(a)(1) and subsection (a) and (b) of section 245 shall not exceed the percentage determined under paragraph (3) of the taxable income computed without regard to the deductions allowed by section 172, section 243(a)(1), subsections (a) and (b) of section 245, and section 250, without regard to any adjustment under section 1059, and without regard to any capital loss carryback to the taxable year under section 1212(a)(1).''.

(6) Section 246(c)(1) is amended by striking ''section 243'' and all that follows through ''245A'' and inserting ''section 243, 245, or 245A''.

(7) For purposes of section 78 of the Internal Revenue Code of 1986, as in effect on the day before the enactment of Public Law 115-97, with respect to taxable years of foreign corporations beginning before January 1, 2018, and ending after December 31, 2017, any reference to section 245 of such Code shall be treated as including a reference to section 245A of such Code (as added by such Public Law).

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to distributions made after the date of the enactment of this Act.

(2) MODIFICATIONS RELATED TO DETERMINATION OF STATUS AS A CONTROLLED FOREIGN CORPORATION.—The amendments made by subsection (b) shall apply to—

(A) the last taxable year of foreign corporations beginning before January 1, 2018, and each subsequent taxable year of such foreign corporations, and

(B) taxable years of United States persons in which or with which such taxable years of foreign corporations end.

(3) CERTAIN OTHER MODIFICATIONS.—The amendments made by subsection (c) shall apply to distributions made after December 31, 2017.

SEC. 138129. LIMITATION ON FOREIGN BASE COMPANY SALES AND SERVICES INCOME.

(a) FOREIGN BASE COMPANY SALES INCOME.—Section 954(d)(2) is amended to read as follows:

"(2) LIMITATION.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'related person' shall not

include any person unless such person is a taxable unit (within the meaning of section 904(e)) which is a tax resident of the United States.

''(B) REGULATIONS.—The Secretary shall issue such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations or other guidance providing for the proper application of subparagraph (A) in the case of a series of transactions in which a person described in subparagraph (A) is a party.''.

(b) FOREIGN BASE COMPANY SERVICES INCOME.—Section 954(e)(1)(A) is amended by striking ''subsection (d)(3)'' and inserting ''subsection (d)''.

(c) CERTAIN OTHER MODIFICATIONS.—

(1)(A) Section 951(a)(1) is amended—

(i) by striking ''the last day'' in the matter preceding subparagraph (A) and inserting ''any day'',

(ii) by striking ''his'' each place it appears and inserting ''such shareholder's'', and

(iii) by inserting ''if such shareholder owns (within the meaning of section 958(a)) stock of such foreign corporation as of the close of the last relevant day of such foreign corporation's

1 taxable year,'' before ''the amount'' in subpara-
2 graph (B).
3 (B) Section 951(a) is amended by striking
4 paragraph (2) and inserting the following new para-
5 graphs:
6 ''(2) PRO RATA SHARE OF SUBPART F IN-
7 COME.—In the case of any United States share-
8 holder with respect to a foreign corporation, the pro
9 rata share referred to in paragraph (1)(A) is the
10 sum of—
11 ''(A) if such shareholder owns (within the
12 meaning of section 958(a)) stock of such for-
13 eign corporation as of the close of the last rel-
14 evant day of such foreign corporation's taxable
15 year, such shareholder's general pro rata share
16 determined under paragraph (3), plus
17 ''(B) if such shareholder owns (within the
18 meaning of section 958(a)) stock of such for-
19 eign corporation during such taxable year but
20 does not own (within the meaning of section
21 958(a)) such stock as of the close of such last
22 relevant day, such shareholder's nontaxed cur-
23 rent dividend share determined under para-
24 graph (4).
25 ''(3) GENERAL PRO RATA SHARE.—

"(A) IN GENERAL.—In the case of any United States shareholder with respect to a foreign corporation, the general pro rata share determined under this paragraph is the excess (if any) of—

"(i) the pro rata current earnings percentage of the amount which bears the same ratio to such corporation's subpart F income for the taxable year (reduced by the aggregate nontaxed current dividend shares determined under paragraph (4) with respect to such shareholder or any other United States shareholder) as the part of such year during which such corporation is a controlled foreign corporation bears to the entire year, over

"(ii) the lesser of—

"(I) the amount of any pre-holding period dividends with respect to stock of such foreign corporation which such shareholder owns (within the meaning of section 958(a)) as of the close of the last relevant day of such foreign corporation's taxable year, or

"(II) the amount which bears the same ratio to the subpart F income of such corporation for the taxable year (reduced by the aggregate nontaxed current dividend shares determined under paragraph (4) with respect to such shareholder or any other United States shareholder) as the part of such year during which such shareholder did not own (within the meaning of section 958(a)) such stock bears to the entire year.

"(B) PRO RATA CURRENT EARNINGS PERCENTAGE.—For purposes of subparagraph (A)(i), the term 'pro rata current earnings percentage' means, in the case of any United States shareholder with respect to a foreign corporation for any taxable year of such foreign corporation, the ratio (expressed as a percentage) of—

"(i) the amount which would have been distributed with respect to the stock which such shareholder owns (within the meaning of section 958(a)) in such corporation if on the last relevant day of such

taxable year it had distributed its earnings and profits for such taxable year (computed as of the close of such taxable year without diminution by reason of any distributions made during such taxable year), divided by

"(ii) such corporation's earnings and profits for such taxable year (as so computed).

"(C) PRE-HOLDING PERIOD DIVIDENDS.—For purposes of subparagraph (A)(ii)(I), the term 'pre-holding period dividends' means, in the case of any United States shareholder with respect to a foreign corporation for any taxable year of such foreign corporation, dividends which are—

"(i) made out of such corporation's earnings and profits for the taxable year (other than nontaxed current dividends as defined in paragraph (4)(C)), and

"(ii) received—

"(I) by any other United States person with respect to stock of such foreign corporation which such shareholder owns (within the meaning of

section 958(a)) as of the close of the last relevant day of such foreign corporation's taxable year, and

"(II) while such foreign corporation was a controlled foreign corporation and before such shareholder owned (within the meaning of section 958(a)) such stock.

"(4) NONTAXED CURRENT DIVIDEND SHARE.—

"(A) IN GENERAL.—In the case of any United States shareholder with respect to a foreign corporation, the nontaxed current dividend share determined under this paragraph is the nontaxed current dividend percentage of the subpart F income of such foreign corporation for the taxable year.

"(B) NONTAXED CURRENT DIVIDEND PERCENTAGE.—For purposes of this paragraph, the term 'nontaxed current dividend percentage' means, in the case of any United States shareholder with respect to a foreign corporation for any taxable year of such foreign corporation, the ratio (expressed as a percentage) of—

"(i) the amount of nontaxed current dividends with respect to such taxable year

received with respect to the stock of such foreign corporation which such shareholder owns (within the meaning of section 958(a)) at the time of the dividend on a day in which such corporation is a controlled foreign corporation, divided by

"(ii) such foreign corporation's earnings and profits for such taxable year (computed as of the close of such taxable year without diminution by reason of any distributions made during such taxable year).

"(C) NONTAXED CURRENT DIVIDENDS.—For purposes of this paragraph, the term 'nontaxed current dividends' means the portion of any amount received with respect to stock to the extent such amount (without regard to amounts included in the gross income of a United States shareholder for the taxable year by reason of this subpart)—

"(i) would result in a dividend out of the corporation's earnings and profits for the taxable year (including a dividend under section 1248 attributable to earnings and profits for the taxable year), and

"(ii) either—

"(I) would give rise to a deduction under section 245A(a), or

"(II) in the case of a dividend paid directly or indirectly to a controlled foreign corporation with respect to stock owned by the shareholder within the meaning of section 958(a)(2), would not result in subpart F income with respect to such controlled foreign corporation by reason of subsection (b)(4), (c)(3), or (c)(6) of section 954.

Any amount treated as the foreign-source portion of a dividend under section 245A(g) shall be treated as nontaxed current dividends for purposes of this paragraph.

"(5) LAST RELEVANT DAY OF TAXABLE YEAR OF A CONTROLLED FOREIGN CORPORATION.—For purposes of this subsection, the term 'last relevant day' means, with respect to any taxable year of a foreign corporation, the last day of such taxable year on which such corporation is a controlled foreign corporation.

"(6) REGULATIONS.—The Secretary may prescribe such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this subsection, including regulations or other guidance—

"(A) to treat a partnership as an aggregate of its partners,

"(B) to provide rules allowing a foreign corporation to close its taxable year upon a change in ownership, and

"(C) to treat a distribution followed by an issuance of stock to a shareholder not subject to tax under this chapter in the same manner as an acquisition of stock.".

(C) Section 951A(e)(1) is amended by striking "determined under the rules of section 951(a)(2) in the same manner as such section applies to subpart F income" and inserting "determined under rules similar to the rules of section 951(a)(2)".

(D) Section 951A(e)(2) is amended to read as follows:

"(2) TREATMENT AS UNITED STATES SHAREHOLDER.—A person shall be treated as a United States shareholder of a controlled foreign corpora-

tion for any taxable year of such person if such person—

"(A) is a United States shareholder of such foreign corporation on any day in such taxable year, and

"(B) owns (within the meaning of section 958(a)) stock in such foreign corporation on any day in such taxable year which is part of a taxable year of such foreign corporation with respect to which such foreign corporation is a controlled foreign corporation.".

(E) Section 953(c)(5)(A)(i) is amended—

(i) in subclause (I), by adding "and" at the end,

(ii) in subclause (II)—

(I) by striking "on the last day of the taxable year" and inserting "during the taxable year", and

(II) by striking "and" at the end and inserting "or", and

(iii) by striking subclause (III).

(2) Section 78 is amended by striking ", (b),".

(d) CERTAIN RELATED PROSPECTIVE MODIFICATIONS.—Section 961(c) is amended—

(1) by striking ''BASIS ADJUSTMENTS IN'' in the heading of such subsection and inserting ''APPLICATION OF RULES TO'', and

(2) by striking ''then adjustments similar to'' and all that follows in such subsection and inserting ''then rules similar to the rules of subsections (a) and (b) shall apply to—

''(1) such stock,

''(2) stock in any other controlled foreign corporation by reason of which the United States shareholder is considered under section 958(a)(2) as owning the stock described in paragraph (1), and

''(3) property by reason of which the United States shareholder is considered as owning stock described in paragraph (1) or (2).

The preceding sentence shall not apply with respect to any stock or property to which subsection (a) or (b) applies.''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2021, and to taxable years of United States shareholders in which or with which such taxable years of foreign corporations end.

(2) CERTAIN OTHER MODIFICATIONS.—

(A) The amendments made by subsection (c)(1) shall apply to distributions made after December 31, 2017.

(B) The amendment made by subsection (c)(2) apply to taxable years of foreign corporations beginning after December 31, 2017, and to taxable years of United States shareholders in which or with which such taxable years of foreign corporations end.

Subpart D—Inbound International Provisions

SEC. 138131. MODIFICATIONS TO BASE EROSION AND ANTI-ABUSE TAX.

(a) MODIFICATIONS TO BASE EROSION MINIMUM TAX AMOUNT.—

(1) MODIFICATION OF RATES.—Section 59A(b)(1)(A) is amended by striking ''10 percent (5 percent in the case of taxable years beginning in calendar year 2018)'' and inserting ''the applicable percentage''.

(2) BASE EROSION MINIMUM TAX AMOUNT DETERMINED WITHOUT REGARD TO CREDITS.—Section 59A(b)(1)(B) is amended to read as follows:

"(B) an amount equal to the regular tax liability (as defined in section 26(b)) of the taxpayer for the taxable year.".

(3) APPLICABLE PERCENTAGE.—Section 59A(b)(2) is amended to read as follows:

"(2) APPLICABLE PERCENTAGE.—For purposes of this subsection, the term applicable percentage means—

"(A) in the case of any taxable year beginning after December 31, 2021, and before January 1, 2024, 10 percent,

"(B) in the case of any taxable year beginning after December 31, 2023, and before January 1, 2026, 12.5 percent, and

"(C) in the case of any taxable year beginning after December 31, 2025, 15 percent.".

(4) TAXPAYERS SUBJECT TO RULES FOR BANKS AND SECURITIES DEALERS.—Section 59A(b)(3)(B) is amended to read as follows:

"(B) TAXPAYER DESCRIBED.—A taxpayer is described in this subparagraph if such taxpayer is—

"(i) a bank (as defined in section 585(a)(2)),

"(ii) a securities dealer registered under section 15(a) of the Securities Exchange Act of 1934, or

"(iii) a member of an affiliated group (as defined in section 1504(a)(1), determined without regard to section 1504(b)(3)) which includes any person described in clause (i) or (ii).".

(5) GENERAL BUSINESS CREDIT ALLOWED AGAINST BASE EROSION AND ANTI-ABUSE TAX.—Section 38(c)(1) is amended by striking "the tax imposed by section 55" and inserting "the taxes imposed by sections 55 and 59A".

(6) CONFORMING AMENDMENTS.—

(A) Section 59A(b)(3)(A) is amended by striking "paragraphs (1)(A) and (2)(A) shall each" and inserting "paragraph (2) shall".

(B) Section 59A(b) is amended by striking paragraph (4).

(b) MODIFICATION OF RULES FOR DETERMINING MODIFIED TAXABLE INCOME.—

(1) IN GENERAL.—Section 59A(c) is amended to read as follows:

"(c) MODIFIED TAXABLE INCOME.—For purposes of this section—

"(1) IN GENERAL.—The term 'modified taxable income' means the taxable income of the taxpayer computed under this chapter for the taxable year with the following adjustments:

"(A) BASE EROSION TAX BENEFITS.—Any base erosion tax benefit shall be determined without regard to any base erosion payment described in paragraphs (1) through (4) of subsection (d), including for purposes of determining the adjusted basis of property described in subsection (d)(2).

"(B) BASE EROSION BASIS ADJUSTMENTS WITH RESPECT TO COST OF GOODS SOLD.—Cost of goods sold shall be determined without regard to any base erosion payment described in subparagraph (A) or (B) of subsection (d)(5).

"(C) NET OPERATING LOSSES.—The net operating loss deduction for the taxable year under section 172 shall be applied—

"(i) by substituting 'modified taxable income' for 'taxable income' in subsection (a)(2)(B)(ii)(I) thereof,

"(ii) by determining any net operating loss arising in any taxable year beginning

after December 31, 2021, without regard to any deduction which is a base erosion tax benefit (determined with respect to each such taxable year), and

"(iii) by making appropriate adjustments in the application of subsection (b)(2) thereof to take into account clause (i) of this subparagraph as though such clause applied with respect to taxable years beginning after December 31, 2021 (but by applying section 172(e) for purposes of determining the amount of modified taxable income).

"(D) APPLICATION OF CERTAIN OTHER ADJUSTMENTS.—Except as otherwise provided by the Secretary, rules similar to the rules of subsections (g) and (h) of section 59 shall apply.

"(2) BASE EROSION TAX BENEFIT.—The term 'base erosion tax benefit' means—

"(A) any deduction allowed under this chapter for the taxable year with respect to any base erosion payment described in subsection (d)(1),

"(B) in the case of a base erosion payment described in subsection (d)(2), any deduction allowed under this chapter for the taxable year for depreciation (or amortization in lieu of depreciation) with respect to the property acquired with such payment,

"(C) in the case of a base erosion payment described in subsection (d)(3)—

"(i) any reduction under section 803(a)(1)(B) in the gross amount of premiums and other consideration on insurance and annuity contracts for premiums and other consideration arising out of indemnity insurance, and

"(ii) any deduction under section 832(b)(4)(A) from the amount of gross premiums written on insurance contracts during the taxable year for premiums paid for reinsurance, and

"(D) in the case of a base erosion payment described in subsection (d)(4), any reduction in gross receipts with respect to such payment in computing gross income of the taxpayer for the taxable year for purposes of this chapter.".

(2) CERTAIN PAYMENTS WITH RESPECT TO INVENTORY TREATED AS BASE EROSION PAYMENTS.—Section 59A(d) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

''(5) CERTAIN PAYMENTS WITH RESPECT TO INVENTORY.—

''(A) INDIRECT COSTS INCLUDED IN INVENTORY UNDER SECTION 263A.—Such term shall also include any amount paid or accrued by the taxpayer to a foreign person which is a related party of the taxpayer if such amount is described in paragraph (2)(B) of section 263A(a) and required to be included in inventory costs of the taxpayer under paragraph (1)(A) of such section.

''(B) CERTAIN INDIRECT COSTS OF FOREIGN RELATED PARTIES.—Such term shall also include so much of any amount paid or accrued by the taxpayer to a foreign person which is a related party of the taxpayer in connection with the acquisition by the taxpayer from such foreign person of property which is inventory in the hands of the taxpayer as exceeds the sum of—

"(i) the direct costs of such property in the hands of such foreign person, plus

"(ii) so much of the costs described in section 263A(a)(2)(B) with respect to such property in the hands of such foreign person as the taxpayer demonstrates to the satisfaction of the Secretary are attributable to amounts—

"(I) paid or accrued by such foreign person to a United States person or a person which is not a related party of the taxpayer, or

"(II) otherwise subject to the tax imposed by this subtitle.

"(C) APPLICATION TO TIERED RELATED-PARTY TRANSACTIONS.—In the case of direct costs otherwise described in clause (i) of subparagraph (B) which are paid or incurred by the foreign person referred to in such clause to another foreign person which is a related party of the taxpayer, such costs shall be taken into account under such clause only to the extent that the taxpayer demonstrates to the satisfaction of the Secretary that such costs are attributable to amounts paid or accrued (directly or

indirectly) to a United States person or a person which is not a related party of the taxpayer.

"(D) SAFE HARBOR WITH RESPECT INDIRECT COSTS OF FOREIGN RELATED PARTIES.—In the case of a taxpayer which elects the application of this subparagraph (at such time, in such manner, and with respect to such inventory property, as the Secretary may provide), the amount described in subparagraph (B)(ii) with respect to such property shall be treated for purposes of this section as being equal to 20 percent of the amount paid or incurred by the taxpayer to the related party of the taxpayer in connection with the acquisition of such property.".

(3) EXPANSION AND CONSOLIDATION OF RULES TO EXEMPT CERTAIN PAYMENTS FROM TREATMENT AS BASE EROSION PAYMENTS.—

(A) IN GENERAL.—Section 59A is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) CERTAIN PAYMENT NOT TREATED AS BASE EROSION PAYMENTS.—

"(1) EXCEPTION FOR PAYMENTS ON WHICH TAX IS IMPOSED.—An amount shall not be treated as a base erosion payment if tax is imposed by this subtitle with respect to such amount. The amount not treated as a base erosion payment by reason of the preceding sentence shall be determined under rules similar to the rules of section 163(j)(5) (as in effect before the date of the enactment of Public Law 115-97).

"(2) EXCEPTION FOR CERTAIN PAYMENTS SUBJECT TO SUFFICIENT FOREIGN TAX.—

"(A) IN GENERAL.—An amount shall not be treated as a base erosion payment if the taxpayer establishes to the satisfaction of the Secretary that such amount was subject to an effective rate of foreign income tax (as defined in section 904(d)(2)(F)) which is not less than the applicable percentage in effect under subsection (b)(2) for the taxable year in which such amount is paid or accrued. Except as otherwise provided by the Secretary under subparagraph (B), the effective rate of foreign income tax with respect to any amount may be established on the basis of applicable financial statements (as defined in section 451(b)(3)).

"(B) REGULATIONS.—The Secretary shall issue such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations or other guidance providing procedures for determining the effective rate of foreign income tax to which any amount is subject. Such procedures may require that any transaction or series of transactions among multiple parties be recharacterized as one or more transactions directly among any 2 or more of such parties where the Secretary determines that such recharacterization is appropriate to carry out, or prevent avoidance of, the purposes of this section.

"(3) EXCEPTION FOR CERTAIN AMOUNTS WITH RESPECT TO SERVICES.—Subsections (d)(1) and (d)(5)(A) shall not apply to so much of any amount paid or accrued by a taxpayer for services as does not exceed the total services cost of such services. The preceding sentence shall not apply unless such services meet the requirements for eligibility for use of the services cost method under section 482 (determined without regard to the requirement that the

services not contribute significantly to fundamental risks of business success or failure).''.

(B) CONFORMING AMENDMENT.—Section 59A(d), as amended by paragraph (2), is amended by striking paragraph (6).

(c) REPEAL OF EXEMPTION FROM BASE EROSION AND ANTI-ABUSE TAX FOR TAXPAYERS WITH LOW BASE EROSION PERCENTAGE.—Section 59A(e)(1)(C) is amended by inserting ''in the case of any taxable year beginning before January 1, 2024,'' before ''the base erosion percentage''.

(d) OTHER MODIFICATIONS.—

(1) Section 59A(h)(2)(B) is amended by striking ''section 6038B(b)(2)'' and inserting ''section 6038A(b)(2)''.

(2) Section 59A(j)(2), as redesignated by subsection (b), is amended by striking ''subsection (g)(3)'' and inserting ''subsection (h)(3)''.

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

Subpart E—Other Business Tax Provisions

SEC. 138141. CREDIT FOR CLINICAL TESTING OF ORPHAN DRUGS LIMITED TO FIRST USE OR INDICATION.

(a) IN GENERAL.—Section 45C(b)(2)(B) is amended to read as follows:

"(B) TESTING MUST BE RELATED TO FIRST USE OR INDICATION FOR RARE DISEASE OR CONDITION.—Human clinical testing may be taken into account under subparagraph (A) only to the extent such testing is related to the first use or indication with respect to which a drug for a rare disease or condition is designated under section 526 of the Federal Food, Drug, and Cosmetic Act.".

(b) ELIGIBLE TESTING MUST BE CONDUCTED BEFORE APPROVAL FOR ANY USE OR INDICATION.—Section 45C(b)(2)(A)(ii)(II) is amended to read as follows:

"(II) before the first date on which an application (with respect to any use or indication with respect to any disease or condition) with respect to such drug is approved under section 505(c) of such Act or, if the drug is a biological product, before the first date on which a license (with respect

to any use or indication with respect to any disease or condition) for such drug is issued under section 351(a) of the Public Health Service Act, and''.

(c) ELIGIBILITY OF BIOLOGICAL PRODUCTS.—

(1) IN GENERAL.—Section 45C(b)(2)(A)(i) is amended by inserting ''or, if the drug is a biological product, section 351(a)(3) of the Public Health Service Act'' before the comma at the end.

(2) CONFORMING AMENDMENT.—Section 45C(b)(2)(A)(ii)(I) is amended by striking ''such Act'' and inserting ''the Federal Food, Drug, and Cosmetic Act''.

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

SEC. 138142. MODIFICATIONS TO TREATMENT OF CERTAIN LOSSES.

(a) LOSSES FROM CERTAIN CAPITAL ASSETS WHICH BECOME WORTHLESS.—

(1) WHEN TREATED AS LOSS.—Section 165(g)(1) is amended by striking ''on the last day of the taxable year'' and inserting ''at the time of the identifiable event establishing worthlessness''.

(2) TREATMENT OF PARTNERSHIP INDEBTEDNESS.—Section 165(g)(2)(C) is amended by inserting ", by a partnership," after "by a corporation".

(3) TREATMENT OF PARTNERSHIP INTEREST.—Section 165 is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) WORTHLESS PARTNERSHIP INTEREST.—If any interest in a partnership becomes worthless during the taxable year, the loss resulting therefrom shall, for purposes of this subtitle, be treated as a loss from the sale or exchange of the interest in the partnership, as provided in section 741, at the time of the identifiable event establishing worthlessness.".

(b) DEFERRAL OF LOSSES IN CERTAIN CONTROLLED GROUP CORPORATE LIQUIDATIONS.—Section 267 is amended by adding at the end the following new subsection:

"(h) DEFERRAL OF LOSSES IN CERTAIN CONTROLLED GROUP LIQUIDATIONS.—

"(1) IN GENERAL.—In the case of two corporations described in subsection (b)(3), no loss shall be recognized on the stock or securities of the liquidating corporation in a complete liquidation to which section 331 applies until the other corporation re-

ceiving property distributed in such liquidation with respect to such stock or in exchange for such securities has disposed of substantially all property such other corporation received in such liquidation to one or more persons who are not related to such other corporation (within the meaning of subsection (b)(3) or section 707(b)(1)).

''(2) REGULATIONS.—The Secretary shall issue such regulations or other guidance as the Secretary determines is necessary or appropriate to carry out the purposes of this subsection, including to apply the principles of this subsection to liquidating corporation stock or securities owned by a corporation indirectly through 1 or more partnerships.''.

(c) CROSS REFERENCE.—Section 331(c) is amended—

(1) by striking ''CROSS REFERENCE'' and all that follows through ''For general rule'' and inserting the following: ''CROSS REFERENCE.—

''(1) For general rule'', and

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

''(2) For losses in controlled group liquidations, see section 267(h).''.

(d) EFFECTIVE DATE.—

(1) SUBSECTION (a).—The amendments made by this section shall apply to losses arising in taxable years beginning after December 31, 2021.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to liquidations on or after the date of the enactment of this Act.

SEC. 138143. ADJUSTED BASIS LIMITATION FOR DIVISIVE REORGANIZATION.

(a) IN GENERAL.—Section 361 is amended by adding at the end the following new subsections:

''(d) ADJUSTED BASIS LIMITATION FOR DIVISIVE REORGANIZATIONS.—

''(1) IN GENERAL.—Except as provided paragraph (2), in the case of a reorganization described in section 368(a)(1)(D) with respect to which stock or securities of the controlled corporation (within the meaning of section 355) are distributed by the distributing corporation (within the meaning of such section) in a transaction which qualifies under such section, subsection (b)(3) and subsection (c)(3) shall not apply to so much of the money and other property transferred to creditors as equals an amount equal to the excess (if any) of—

''(A) the sum of—

"(i) the total amount of the liabilities assumed (within the meaning of section 357(c)) by the controlled corporation,

"(ii) in the case of subsection (b)(3), the total amount of money and the fair market value of other property (including stock described in section 354(a)(2)(C)) transferred to the creditors, and

"(iii) in the case of subsection (c)(3), the total principal amount of securities of the controlled corporation which is qualified property (as defined in subsection (c)(2)(B)) transferred to the creditors, over

"(B) the total adjusted bases of the assets transferred by the distributing corporation to the controlled corporation.

"(2) EXCEPTION REGARDING CERTAIN STOCK OR RIGHTS TO ACQUIRE STOCK.—Paragraph (1) shall not apply to any stock (or right to acquire stock) described in subsection (c)(2)(B).

"(3) REGULATIONS.—The Secretary shall issue such regulations as may be necessary or appropriate to prevent avoidance of tax through abuse of subsection (b)(3), subsection (c)(3), or this subsection,

including to determine whether a disposition of property or any other transaction is in connection with the reorganization or pursuant to the plan of reorganization.

''(e) CROSS-REFERENCES.—For provisions providing for the inclusion of income or recognition of gain in certain distributions, see subsections (d), (e), (f), (g), and (h) of section 355.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 361(b)(3) is amended—

(A) in the first sentence, by inserting '', and except as provided in subsection (d)'' after ''paragraph (1)'', and

(B) by striking the second and third sentences.

(2) Section 361(c) is amended—

(A) in paragraph (3), by inserting '', and except as provided in subsection (d)'' after ''this subsection'', and

(B) by striking paragraph (5).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to reorganizations occurring on or after the date of the enactment of this Act.

SEC. 138144. RENTS FROM PRISON FACILITIES NOT TREATED AS QUALIFIED INCOME FOR PURPOSES OF REIT INCOME TESTS.

(a) IN GENERAL.—Section 856(d)(2) is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding at the end the following new subparagraph:

''(D) any amount received or accrued, directly or indirectly, with respect to any real or personal property which is primarily used in connection with any correctional, detention, or penal facility.''.

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

SEC. 138145. MODIFICATIONS TO EXEMPTION FOR PORTFOLIO INTEREST.

(a) IN GENERAL.—Section 871(h)(3)(B)(i) is amended to read as follows:

''(i) in the case of an obligation issued by a corporation—

''(I) any person who owns 10 percent or more of the total combined voting power of all classes of stock of such corporation entitled to vote, or

"(II) any person who owns 10 percent or more of the total value of the stock of such corporation, and".

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

SEC. 138146. CERTAIN PARTNERSHIP INTEREST DERIVATIVES.

(a) IN GENERAL.—Section 871(m) is amended by adding at the end the following new paragraphs:

"(8) SPECIFIED PARTNERSHIP INTEREST INCOME EQUIVALENT PAYMENTS.—

"(A) IN GENERAL.—For purposes of this subsection, any payment made pursuant to a sale-repurchase transaction, or a specified notional principal contract, that is determined by reference to any income or gain in respect of an interest in a specified partnership (or any other payment the Secretary determines to be substantially similar) shall be treated as a dividend equivalent.

"(B) SPECIFIED PARTNERSHIP.—For purposes of this paragraph, the term 'specified partnership' means—

"(i) any publicly-traded partnership (as defined in subsection (b) of section 7704) which is not treated as a corporation under such section, or

"(ii) any other partnership as the Secretary may by regulation prescribe.

"(C) EXCEPTIONS.—

"(i) EXCEPTED CONTRACTS.—Subparagraph (A) shall not apply to any contract or transaction the Secretary determines does not have the potential for tax avoidance.

"(ii) CERTAIN INCOME.—Under such regulations as the Secretary shall prescribe, there shall not be taken into account under subparagraph (A) any payment the income or gain from which would (but for this paragraph) be—

"(I) exempt from taxes under this subtitle, or

"(II) treated as income from sources without the United States if paid to a nonresident alien individual.

"(D) TREATMENT OF DEFINITIONS AND SPECIAL RULES WITH RESPECT TO PARTNER-

SHIPS.—For purposes of this paragraph, rules similar to the rules and definitions in paragraphs (3), (4), (5), (6) and (7) shall apply to an interest in a specified partnership in a manner similar to an underlying security, and to income or gain in respect of an interest in a specified partnership in a manner similar to a dividend.

"(9) OTHER RULES RELATING TO TREATMENT OF DIVIDEND EQUIVALENTS.—

"(A) IN GENERAL.—A dividend equivalent amount under this subsection shall be treated as a dividend paid by a domestic corporation.

"(B) RATE OF TAX FOR PUBLICLY TRADED PARTNERSHIP INCOME PAYMENTS.—In the case of a payment treated as a dividend equivalent pursuant to paragraph (8), the rate of tax imposed on any nonresident alien individual or foreign corporation with respect to such payment shall not be less than the rate that would be imposed had such individual or foreign corporation, as the case may be, received a dividend from a domestic corporation in which such individual or foreign corporation owned less than 1 percent (by vote or value) of the stock.".

(b) WITHHOLDING OF TAX ON NONRESIDENT ALIENS.—Section 1441 is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) DEEMED DIVIDEND EQUIVALENT PAYMENTS IN CASE OF CERTAIN PUBLICLY TRADED PARTNERSHIPS.—The Secretary may prescribe regulations, under rules similar to the rules of section 1446(f), to determine the manner in which the amount of income and gain is determined for purposes of this section in the case of amounts treated as a dividend equivalent under section 871(m)(8).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made on or after the date that is 180 days after the date of the enactment of this Act.

SEC. 138147. ADJUSTMENTS TO EARNINGS AND PROFITS OF CONTROLLED FOREIGN CORPORATIONS.

(a) IN GENERAL.—Section 312(n) is amended by adding at the end the following new paragraph:

"(9) SPECIAL RULES FOR CONTROLLED FOREIGN CORPORATIONS.—Earnings and profits of any controlled foreign corporation shall be determined without regard to paragraphs (4), (5), and (6).".

(b) CONFORMING AMENDMENT.—Section 952(c) is amended by striking paragraph (3).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2021, and to taxable years of United States shareholders in which or with which such taxable years of foreign corporations end.

SEC. 138148. CERTAIN DIVIDENDS FROM CONTROLLED FOREIGN CORPORATIONS TO UNITED STATES SHAREHOLDERS TREATED AS EXTRAORDINARY DIVIDENDS.

(a) IN GENERAL.—Section 1059 is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) TREATMENT OF CERTAIN DIVIDENDS FROM CONTROLLED FOREIGN CORPORATIONS TO UNITED STATES SHAREHOLDERS.—

''(1) IN GENERAL.—Except as otherwise provided by the Secretary, any disqualified CFC dividend shall be treated as an extraordinary dividend to which paragraph (1) and (2) of subsection (a) applies without regard to the period the taxpayer held the stock with respect to which such dividend is paid.

''(2) DISQUALIFIED CFC DIVIDEND.— For purposes of this subsection, the term 'disqualified CFC dividend' means any dividend paid by a controlled

foreign corporation to a taxpayer which is a United States shareholder of such foreign corporation if—

"(A) such dividend is attributable to earnings and profits which—

"(i) were earned by such controlled foreign corporation during a disqualified period, or

"(ii) are attributable to gain on property which accrued during a disqualified period.

"(3) DISQUALIFIED PERIOD.—For purposes of this subsection, the term 'disqualified period' means, with respect to any dividend paid with respect to any stock of a controlled foreign corporation, any period during which—

"(A) such foreign corporation was not a controlled foreign corporation, or

"(B) such stock was not owned by a United States shareholder.".

(b) REGULATIONS.—Section 1059(h), as redesignated by subsection (a), is amended—

(1) by striking "regulations" both places it appears and inserting "regulations or other guidance", and

(2) by striking ''and'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) providing for the coordination of subsection (g) with the other provisions of this chapter, including section 1248.''.

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

SEC. 138149. MODIFICATION OF RULES FOR PARTNERSHIP INTERESTS HELD IN CONNECTION WITH THE PERFORMANCE OF SERVICES.

(a) IN GENERAL.—Section 1061 is amended by striking subsections (a) and (b) and inserting the following new subsections:

''(a) IN GENERAL.—If one or more applicable partnership interests are held by a taxpayer at any time during the taxable year, the taxpayer's net applicable partnership gain for such taxable year shall be treated as short-term capital gain.

''(b) NET APPLICABLE PARTNERSHIP GAIN.—For purposes of this section—

''(1) IN GENERAL.—The term 'net applicable partnership gain' means—

"(A) the taxpayer's net long-term capital gain determined by only taking into account gains and losses with respect to one or more applicable partnership interests described in subsection (a), and

"(B) any other amounts which are—

"(i) includible in the gross income of the taxpayer with respect to one or more such applicable partnership interests, and

"(ii) treated as capital gain or subject to tax at the rate applicable to capital gain.

"(2) HOLDING PERIOD EXCEPTION.—

"(A) IN GENERAL.—Net applicable partnership gain shall be determined without regard to any amount which is realized after the date that is 5 years after the latest of:

"(i) The date on which the taxpayer acquired substantially all of the applicable partnership interest with respect to which the amount is realized.

"(ii) The date on which the partnership in which such applicable partnership interest is held acquired substantially all of the assets held by such partnership.

"(iii) If the partnership described in clause (i) owns, directly or indirectly, interests in one or more other partnerships, the dates determined by applying rules similar to the rules in clauses (i) and (ii) in the case of each such other partnership.

"(B) SHORTER HOLDING PERIOD IN CERTAIN CIRCUMSTANCES.—Subparagraph (A) shall be applied by substituting '3 years' for '5 years' in the case of—

"(i) a taxpayer (other than a trust or estate) with an adjusted gross income (determined without regard to sections 911, 931 and 933) of less than $400,000, and

"(ii) any income with respect to any applicable partnership interest that is attributable to a real property trade or business within the meaning of section 469(c)(7)(C).

"(iii) The Secretary is directed to provide guidance regarding determination of the amount described in subsection (a) as applied in paragraph (1) hereof, and any necessary and appropriate reporting by any

partnership to carry out the purposes of this section. —

''(3) SECTION 83 TO NOT APPLY.—This section shall be applied without regard to section 83 and any election in effect under section 83(b).

''(4) SPECIAL RULE.—To the extent provided by the Secretary, subsection (a) shall not apply to income or gain attributable to any asset not held for portfolio investment on behalf of third party investors.''.

(b) MODIFICATIONS RELATED TO DEFINITION OF APPLICABLE PARTNERSHIP INTEREST.—Section 1061(c) is amended—

(1) in paragraph (1), by striking ''to such other entity'' and inserting ''with respect to a trade or business that is not an applicable trade or business'',

(2) in paragraph (3), by striking ''an interest in a partnership to the extent of the partnership's proportionate interest in any of the foregoing'' and inserting ''except as otherwise provided by the Secretary, an interest in a partnership if such partnership has a direct or indirect interest in any of the foregoing'', and

(3) in paragraph (4)—

(A) by striking ''The term'' and inserting ''Except as otherwise provided by the Secretary, the term'', and

(B) in subparagraph (A), by striking ''corporation'' and inserting ''C corporation''.

(c) RECOGNITION OF GAIN ON TRANSFERS OF APPLICABLE PARTNERSHIP INTERESTS TO UNRELATED PARTIES.—Section 1061(d) is amended to read as follows:

''(d) TRANSFER OF APPLICABLE PARTNERSHIP INTEREST.—If a taxpayer transfers any applicable partnership interest, gain shall be recognized notwithstanding any other provision of this subtitle.''.

(d) REGULATIONS.—Section 1061(e) is amended by striking the period at the end and inserting the following: '', including regulations or other guidance to—

''(1) to prevent the avoidance of the purposes of this section, including through the distribution of property by a partnership and through carry waivers, and

''(2) to provide for the application of this section to financial instruments, contracts or interests in entities other than partnerships to the extent necessary or appropriate to carry out the purposes of this section.''.

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

SEC. 138150. LIMITATION ON CERTAIN SPECIAL RULES FOR SECTION 1202 GAINS.

(a) IN GENERAL.—Section 1202(a) is amended by adding at the end the following new paragraph:

"(5) LIMITATION ON CERTAIN SPECIAL RULES.—In the case of the sale or exchange of qualified small business stock after September 13, 2021, paragraphs (3) and (4) shall not apply to any taxpayer if—

"(A) the adjusted gross income of such taxpayer (determined without regard to this section and sections 911, 931, and 933) equals or exceeds $400,000, or

"(B) such taxpayer is a trust or estate.".

(b) EFFECTIVE DATE.—Except as provided in subsection (c), the amendment made by this section shall apply to sales and exchanges on or after September 13, 2021.

(c) BINDING CONTRACT EXCEPTION.—The amendment made by this section shall not apply to any sale or exchange which is made pursuant to written binding con-

tract which was in effect on September 12, 2021, and is not modified in any material respect thereafter.

SEC. 138151. CONSTRUCTIVE SALES.

(a) APPLICATION TO APPRECIATED DIGITAL ASSETS.—

(1) IN GENERAL.—Section 1259(b)(1) is amended by inserting ''digital asset,'' after ''debt instrument,''.

(2) DIGITAL ASSET.—Section 1259(d) is amended by adding at the end the following new paragraph:

''(3) DIGITAL ASSET.—Except as otherwise provided by the Secretary, the term 'digital asset' means any digital representation of value which is recorded on a cryptographically secured distributed ledger or any similar technology as specified by the Secretary.''.

(b) TREATMENT OF CERTAIN CONTRACTS.—Section 1259(c)(1)(D) is amended by inserting ''or enters into a contract to acquire'' after ''acquires''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply to constructive sales (determined after the application of the amendment

made by subsection (b)) after the date of the enactment of this Act.

(2) TREATMENT OF CERTAIN CONTRACTS.—The amendment made by subsection (b) shall apply to contracts entered into after the date of the enactment of this Act.

SEC. 138152. RULES RELATING TO COMMON CONTROL.

(a) CLARIFICATION OF TRADE OR BUSINESS.—Section 52(b) is amended by adding at the end the following new sentence: ''For purposes of this subsection, the term 'trade or business' includes any activity treated as a trade or business under paragraph (5) or (6) of section 469(c).''

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

SEC. 138153. WASH SALES BY RELATED PARTIES; WASH SALES OF SPECIFIED ASSETS.

(a) APPLICATION OF WASH SALE RULES TO RELATED PARTIES.—Section 1091(a) is amended by striking ''the taxpayer has acquired'' and inserting ''the taxpayer (or a related party) has acquired''.

(b) MODIFICATION OF BASIS ADJUSTMENT RULE TO PREVENT TRANSFER OF LOSSES TO RELATED PARTIES.—Section 1091(d) is amended to read as follows:

"(d) ADJUSTMENT TO BASIS IN CASE OF WASH SALE.—If the taxpayer (or the taxpayer's spouse) acquires substantially identical specified assets during the period which—

"(1) begins 30 days before the disposition with respect to which a deduction was disallowed under subsection (a), and

"(2) ends with the close of the taxpayer's first taxable year which begins after such disposition,

the basis of such specified assets shall be increased by the amount of the deduction so disallowed (reduced by any amount of such deduction taken into account under this subsection to increase the basis of specified assets previously acquired)."

(c) RELATED PARTY.—Section 1091 is amended by adding at the end the following new subsection:

"(g) RELATED PARTY.—For purposes of this section—

"(1) IN GENERAL.—The term 'related party' means—

"(A) the taxpayer's spouse,

"(B) any dependent of the taxpayer and any other taxpayer with respect to whom the taxpayer is a dependent,

"(C) any individual, corporation, partnership, trust, or estate which controls, or is controlled by, (within the meaning of section 954(d)(3)) the taxpayer or any individual described in subparagraph (A) or (B) with respect to the taxpayer (or any combination thereof),

"(D) any individual retirement plan, Archer MSA (as defined in section 220(d)), or health savings account (as defined in section 223(d)), of the taxpayer or of any individual described in subparagraph (A) or (B) with respect to the taxpayer,

"(E) any account under a qualified tuition program described in section 529 or a Coverdell education savings account (as defined in section 530(b)) if the taxpayer, or any individual described in subparagraph (A) or (B) with respect to the taxpayer, is the designated beneficiary of such account or has the right to make any decision with respect to the investment of any amount in such account, and

"(F) any account under—

"(i) a plan described in section 401(a),

"(ii) an annuity plan described in section 403(a),

"(iii) an annuity contract described in section 403(b), or

"(iv) an eligible deferred compensation plan described in section 457(b) and maintained by an employer described in section 457(e)(1)(A),

if the taxpayer or any individual described in subparagraph (A) or (B) with respect to the taxpayer has the right to make any decision with respect to the investment of any amount in such account.

"(2) RULES FOR DETERMINING STATUS.—

"(A) RELATIONSHIPS DETERMINED AT TIME OF ACQUISITION.—Determinations under paragraph (1) shall be made as of the time of the purchase or exchange referred to in subsection (a) except that determinations under subparagraphs (A) and (B) of paragraph (1) shall be made for the taxable year which includes such purchase or exchange.

"(B) DETERMINATION OF MARITAL STATUS.—

"(i) IN GENERAL.—Except as provided in clause (ii), marital status shall be determined under section 7703.

"(ii) SPECIAL RULE FOR MARRIED INDIVIDUALS FILING SEPARATELY AND LIVING APART.—A husband and wife who—

"(I) file separate returns for any taxable year, and

"(II) live apart at all times during such taxable year,

shall not be treated as married individuals.

"(3) REGULATIONS.—The Secretary shall issue such regulations or other guidance as may be necessary to prevent the avoidance of the purposes of this subsection, including regulations which treat persons as related parties if such persons are formed or availed of to avoid the purposes of this subsection.".

(d) WASH SALE RULES TO APPLY WITH RESPECT TO SPECIFIED ASSETS.—

(1) SPECIFIED ASSETS.—Section 1091, as amended by the preceding provisions of this section, is amended by adding at the end the following new subsection:

"(h) SPECIFIED ASSET.—For purposes of this section, the term 'specified asset' means any of the following:

"(1) Any security described in subparagraph (A), (B), (C), (D), or (E) of section 475(c)(2).

"(2) Any foreign currency.

"(3) Any commodity described in subparagraph (A), (B), or (C) of section 475(e)(2).

"(4) Any digital representation of value which is recorded on a cryptographically secured distributed ledger or any similar technology as specified by the Secretary.

Such term shall, except as provided in regulations, include contracts or options to acquire or sell any specified assets.".

(2) CONFORMING AMENDMENTS.—Section 1091 is amended—

(A) by striking the last sentence of subsection (a),

(B) by striking "stock or securities" each place it appears and inserting "specified assets", and

(C) by striking "shares of" each place it appears in subsections (a), (b), and (c).

(e) EXCEPTION FOR BUSINESS NEEDS AND HEDGING TRANSACTIONS.—Section 1091, as amended by the

preceding provisions of this section, is amended by adding at the end the following new subsection:

"(i) EXCEPTION FOR BUSINESS NEEDS AND HEDGING TRANSACTIONS.—Except as provided in regulations prescribed by the Secretary, subsection (a) shall not apply in the case of any sale or other disposition—

"(1) of a foreign currency or commodity described in subsection (h), and

"(2) which—

"(A) is directly related to the business needs of a trade or business of the taxpayer (other than the trade or business of trading foreign currencies or commodities described in subsection (h)), or

"(B) is part of a hedging transaction (as defined in section 1221(b)(2)).".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and other dispositions after December 31, 2021.

PART 2—TAX INCREASES FOR HIGH-INCOME INDIVIDUALS

SEC. 138201. INCREASE IN TOP MARGINAL INDIVIDUAL INCOME TAX RATE.

(a) RE-ESTABLISHMENT OF 39.6 PERCENT RATE BRACKET.—

(1) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—The table contained in section 1(j)(2)(A) is amended by striking the last two rows and inserting the following: "

"Over $400,000 but not over $450,000.	$91,379, plus 35% of the excess over $400,000
Over $450,000	$108,879, plus 39.6% of the excess over $450,000.".

(2) HEADS OF HOUSEHOLDS.—The table contained in section 1(j)(2)(B) is amended by striking the last two rows and inserting the following: "

"Over $200,000 but not over $425,000.	$44,298, plus 35% of the excess over $200,000
Over $425,000	$123,048, plus 39.6% of the excess over $425,000.".

(3) UNMARRIED INDIVIDUALS OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS.—The table contained in section 1(j)(2)(C) is amended by striking the last two rows and inserting the following: "

"Over $200,000 but not over $400,000.	$45,689.50, plus 35% of the excess over $200,000
Over $400,000	$115,689.50, plus 39.6% of the excess over $400,000.".

(4) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—The table contained in section 1(j)(2)(D) is amended by striking the last two rows and inserting the following: "

"Over $200,000 but not over $225,000.	$45,689.50, plus 35% of the excess over $200,000
Over $225,000	$54,439.50, plus 39.6% of the excess over $225,000.".

(5) ESTATES AND TRUSTS.—The table contained in section 1(j)(2)(E) is amended by striking the last row and inserting the following: "

"Over $12,500	$3,011.50, plus 39.6% of the excess over $12,500.".

(b) APPLICATION OF ADJUSTMENTS.—Section 1(j)(3) is amended to read as follows:

"(3) ADJUSTMENTS.—For taxable years beginning after December 31, 2021, the Secretary shall prescribe tables which shall apply in lieu of the tables contained in paragraph (2) in the same manner as under paragraphs (1) and (2) of subsection (f) (applied without regard to clauses (i) and (ii) of subsection (f)(2)(A), except that in prescribing such tables—

"(A) except as provided in subparagraph (B), subsection (f)(3) shall be applied by substituting 'calendar year 2017' for 'calendar year 2016' in subparagraph (A)(ii) thereof,

"(B) in the case of adjustments to the dollar amounts at which the 39.6 percent rate bracket begins (other than such dollar amount in paragraph (2)(E))—

"(i) no adjustment shall be made for taxable years beginning after December 31, 2021, and before January 1, 2023, and

"(ii) in the case of any taxable year beginning after December 31, 2022, subsection (f)(3) shall be applied by substituting 'calendar year 2021' for 'calendar year 2016',

"(C) subsection (f)(7)(B) shall apply to any unmarried individual other than a surviving spouse, and

"(D) subsection (f)(8) shall not apply.".

(c) MODIFICATION TO 39.6 PERCENT RATE BRACKET FOR HIGH-INCOME TAXPAYERS AFTER 2025.—Section 1(i)(3) is amended to read as follows:

"(3) MODIFICATIONS TO 39.6 PERCENT RATE BRACKET.—In the case of taxable years beginning after December 31, 2025—

"(A) IN GENERAL.—The rate of tax under subsections (a), (b), (c), and (d) on a taxpayer's taxable income in excess of the 39.6 percent rate bracket threshold shall be taxed at a rate of 39.6 percent.

"(B) 39.6 PERCENT RATE BRACKET THRESHOLD.—For purposes of this paragraph, the term '39.6 percent rate bracket threshold' means—

"(i) in the case any taxpayer described in subsection (a), $450,000,

"(ii) in the case of any taxpayer described in subsection (b), $425,000,

"(iii) in the case of any taxpayer described in subsection (c), $400,000, and

"(iv) in the case of any taxpayer described in subsection (d), $225,000.

"(C) INFLATION ADJUSTMENT.—For purposes of this paragraph, with respect to taxable years beginning in calendar years after 2025, each of the dollar amounts in subparagraph (B) shall be adjusted in the same manner as under paragraph (1)(C)(i), except that subsection (f)(3)(A)(ii) shall be applied by substituting '2021' for '2016'.".

(d) CONFORMING AMENDMENTS.—

(1) Section 1(j)(1) is amended by striking "December 31, 2017" and inserting "December 31, 2021".

(2) The heading of section 1(j) is amended by striking "2018" and inserting "2022".

(3) The heading of section 1(i) is amended by striking "RATE REDUCTIONS" and inserting "MODIFICATIONS"

(4) Section 15(f) is amended by striking ''rate reductions'' and inserting ''modifications''.

(e) SECTION 15 NOT TO APPLY.—For rules providing that section 15 of the Internal Revenue Code of 1986 does not apply to the amendments made by this section, see sections 1(j)(6) and 15(f) of the Internal Revenue Code of 1986.

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

SEC. 138202. INCREASE IN CAPITAL GAINS RATE FOR CERTAIN HIGH INCOME INDIVIDUALS.

(a) IN GENERAL.—Section 1(h)(1)(D) is amended by striking ''20 percent'' and inserting ''25 percent''.

(b) RE-ALIGNMENT OF 25 PERCENT CAPITAL GAINS RATE THRESHOLD WITH 39.6 PERCENT INCOME TAX RATE THRESHOLD.—Section 1(j)(5) is amended—

(1) by striking subparagraphs (A) and (B) and inserting the following new subparagraphs:

''(A) IN GENERAL.—Section 1(h)(1) shall be applied by substituting 'below the maximum zero rate amount' for 'which would (without regard to this paragraph) be taxed at a rate below 25 percent' in subparagraph (B)(i).

"(B) MAXIMUM ZERO RATE AMOUNT DEFINED.—For purposes of applying section 1(h) with the modifications described in subparagraph (A), the maximum zero rate amount shall be—

"(i) in the case of a joint return or surviving spouse, $77,200,

"(ii) in the case of an individual who is a head of household (as defined in section 2(b)), $51,700,

"(iii) in the case of any other individual (other than an estate or trust), an amount equal to ½ of the amount in effect for the taxable year under subclause (I), and

"(iv) in the case of an estate or trust, $2,600.", and

(2) by striking "each of the dollar amounts in clauses (i) and (ii)" in subparagraph (C) and inserting "each dollar amount in clause (i), (ii), or (iv)".

(c) CONFORMING AMENDMENTS.—

(1) Section 55(b)(3) is amended by striking subparagraph (D) and redesignating subparagraph (E) as subparagraph (D).

(2) The following provisions are each amended by striking "20 percent" and inserting "25 percent":

(A) Section 531.

(B) Section 541.

(C) Section 1445(e)(1).

(D) Section 1445(e)(6).

(E) The second sentence of section 7518(g)(6)(A).

(3) Section 53511(f)(2) of title 46, United States Code, is amended to read as follows:

"(2) MAXIMUM TAX RATE.—For that portion of a nonqualified withdrawal made from the capital gain account during a taxable year to which section 1(h) of such Code (26 U.S.C. 1(h)) applies, the tax rate used under paragraph (1)(B) may not exceed 25 percent.".

(d) SECTION 15 NOT TO APPLY.—The amendments made by this section shall not be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by

this section shall apply to taxable years ending after September 13, 2021.

(2) RE-ALIGNMENT OF 25 PERCENT CAPITAL GAINS RATE THRESHOLD WITH 39.6 PERCENT INCOME TAX RATE THRESHOLD.—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2021.

(3) WITHHOLDING UNDER SECTIONS 1445 AND 1446.—The amendments made by subparagraphs (C) and (D) of subsection (c)(2) shall apply to dispositions after the date of the enactment of this Act.

(f) TRANSITIONAL RULES FOR TAXABLE YEARS WHICH INCLUDE SEPTEMBER 13, 2021.—

(1) IN GENERAL.—For purposes of applying section 1(h) of the Internal Revenue Code of 1986 with respect to any taxable year which includes September 13, 2021, the amount determined under subparagraph (D) of section 1(h)(1) of such Code shall be the sum of—

(A) 20 percent of the lesser of—

(i) the amount on which a tax is determined under such subparagraph (D) (without regard to this subsection), or

(ii) the amount (if any) of net capital gain determined by taking into account

only dividends, gains, and losses for the portion of the taxable year on or before September 13, 2021 (determined without regard to collectibles gain or loss, gain described in section 1(h)(6)(A)(i) of such Code, and section 1202 gain), plus—

(B) 25 percent of the excess (if any) of the amount described in subparagraph (A)(i) over the amount described in subparagraph (A)(ii).

(2) SPECIAL RULE FOR BINDING CONTRACTS ENTERED INTO PRIOR TO SEPTEMBER 13, 2021.—For purposes of paragraph (1), a gain recognized in the taxable year that includes September 13, 2021, shall be treated as being with respect to the portion of such taxable year on or before such date if such gain arises from a transaction which occurs pursuant to a written binding contract entered into on or before such date (and which is not modified thereafter in any material respect).

(3) ALTERNATIVE MINIMUM TAX.—Rules similar to the rules of paragraph (1) shall apply for purposes of applying section 55(b)(3) of such Code.

(4) APPLICATION TO PASS-THRU ENTITIES.—In applying this subsection with respect to any pass-thru entity, the determination of when dividends,

gains, and losses are properly taken into account shall be made at the entity level.

(5) DEFINITIONS OF CERTAIN TERMS.—Terms used in this subsection which are also used in section 1(h) of such Code shall have the respective meanings that such terms have in such section.

SEC. 138203. APPLICATION OF NET INVESTMENT INCOME TAX TO TRADE OR BUSINESS INCOME OF CERTAIN HIGH INCOME INDIVIDUALS.

(a) IN GENERAL.—Section 1411 is amended by adding at the end the following new subsection:

''(f) APPLICATION TO CERTAIN HIGH INCOME INDIVIDUALS.—

''(1) IN GENERAL.—In the case of any individual whose modified adjusted gross income for the taxable year exceeds the high income threshold amount, subsection (a)(1) shall be applied by substituting 'the greater of specified net income or net investment income' for 'net investment income' in subparagraph (A) thereof.

''(2) PHASE-IN OF INCREASE.—The increase in the tax imposed under subsection (a)(1) by reason of the application of paragraph (1) of this subsection shall not exceed the amount which bears the same

ratio to the amount of such increase (determined without regard to this paragraph) as—

"(A) the excess described in paragraph (1), bears to

"(B) $100,000 (½ such amount in the case of a married taxpayer (as defined in section 7703) filing a separate return).

"(3) HIGH INCOME THRESHOLD AMOUNT.—For purposes of this subsection, the term 'high income threshold amount' means—

"(A) except as provided in subparagraph (B) or (C), $400,000,

"(B) in the case of a taxpayer making a joint return under section 6013 or a surviving spouse (as defined in section 2(a)), $500,000, and

"(C) in the case of a married taxpayer (as defined in section 7703) filing a separate return, ½ of the dollar amount determined under subparagraph (B).

"(4) SPECIFIED NET INCOME.—For purposes of this section, the term 'specified net income' means net investment income determined—

"(A) without regard to the phrase 'other than such income which is derived in the ordi-

nary course of a trade or business not described in paragraph (2),' in subsection (c)(1)(A)(i),

"(B) without regard to the phrase 'described in paragraph (2)' in subsection (c)(1)(A)(ii),

"(C) without regard to the phrase 'other than property held in a trade or business not described in paragraph (2)' in subsection (c)(1)(A)(iii),

"(D) without regard to paragraphs (2), (3), and (4) of subsection (c), and

"(E) by treating paragraphs (5) and (6) of section 469(c) as applying for purposes of subsection (c) of this section.".

(b) APPLICATION TO TRUSTS AND ESTATES.—Section 1411(a)(2)(A) is amended by striking "undistributed net investment income" and inserting "the greater of undistributed specified net income or undistributed net investment income".

(c) CLARIFICATIONS WITH RESPECT TO DETERMINATION OF NET INVESTMENT INCOME.—

(1) WAGES SUBJECT TO FICA NOT TAKEN INTO ACCOUNT.—Section 1411(c)(6) is amended by inserting "or wages received with respect to employ-

ment on which a tax is imposed under section 3101(b)'' before the period at the end.

(2) NET OPERATING LOSSES NOT TAKEN INTO ACCOUNT.—Section 1411(c)(1)(B) is amended by inserting ''(other than section 172)'' after ''this subtitle''.

(3) INCLUSION OF CERTAIN FOREIGN INCOME.—

(A) IN GENERAL.—Section 1411(c)(1)(A) is amended by striking ''and'' at the end of clause (ii), by striking ''over'' at the end of clause (iii) and inserting ''and'', and by adding at the end the following new clause:

''(iv) any amount includible in gross income under section 951, 951A, 1293, or 1296, over''.

(B) PROPER TREATMENT OF CERTAIN PREVIOUSLY TAXED INCOME.—Section 1411(c) is amended by adding at the end the following new paragraph:

''(7) CERTAIN PREVIOUSLY TAXED INCOME.—The Secretary shall issue regulations or other guidance providing for the treatment of distributions of amounts previously included in gross income for pur-

poses of chapter 1 but not previously subject to tax under this section.''.

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

(e) TRANSITION RULE.—The regulations or other guidance issued by the Secretary under section 1411(c)(7) of the Internal Revenue Code of 1986 (as added by this section) shall include provisions which provide for the proper coordination and application of clauses (i) and (iv) of section 1411(c)(1)(A) with respect to—

(1) taxable years beginning on or before December 31, 2021, and

(2) taxable years beginning after such date.

SEC. 138204. LIMITATION ON DEDUCTION OF QUALIFIED BUSINESS INCOME FOR CERTAIN HIGH INCOME INDIVIDUALS.

(a) IN GENERAL.—Section 199A(a) is amended by striking ''or'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting '', or'', and by adding at the end the following new paragraph:

''(3) the following amount:

''(A) $500,000 in the case of a joint return or surviving spouse (as defined in section 2(a)),

"(B) $400,000 in the case of any taxpayer not described in subparagraph (A), (C), or (D),

"(C) $250,000 in the case of a married individual filing a separate return, or

"(D) $10,000 in the case of an estate or trust.".

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

SEC. 138205. LIMITATIONS ON EXCESS BUSINESS LOSSES OF NONCORPORATE TAXPAYERS.

(a) LIMITATION MADE PERMANENT.—

(1) IN GENERAL.—Section 461(l)(1) is amended to read as follows:

"(1) LIMITATION.—In the case of any taxpayer other than a corporation, any excess business loss of the taxpayer for the taxable year shall not be allowed.".

(2) CONFORMING AMENDMENT.—Section 461 is amended by striking subsection (j).

(b) MODIFICATION OF CARRYOVER OF DISALLOWED LOSSES.—Section 461(l)(2) is amended to read as follows:

"(2) DISALLOWED LOSS CARRYOVER.—Any loss which is disallowed under paragraph (1) for any taxable year shall be treated (solely for purposes of this

chapter) as a deduction described in paragraph (3)(A)(i) for the next taxable year.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2020.

SEC. 138206. SURCHARGE ON HIGH INCOME INDIVIDUALS, ESTATES, AND TRUSTS.

(a) IN GENERAL.—Part I of subchapter A of chapter 1 is amended by inserting after section 1 the following new section:

''SEC. 1A. SURCHARGE ON HIGH INCOME INDIVIDUALS, ESTATES, AND TRUSTS.

''(a) GENERAL RULE.—In the case of a taxpayer other than a corporation, there is hereby imposed (in addition to any other tax imposed by this subtitle) a tax equal to 3 percent of so much of the modified adjusted gross income of the taxpayer as exceeds—

''(1) $5,000,000, in the case of any taxpayer not described in paragraph (2) or (3),

''(2) $2,500,000, in the case of a married individual filing a separate return, and

''(3) $100,000, in the case of an estate or trust.

''(b) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this section, the term 'modified adjusted gross income' means adjusted gross income reduced by any de-

1 duction (not taken into account in determining adjusted
2 gross income) allowed for investment interest (as defined
3 in section 163(d)). In the case of an estate or trust, ad-
4 justed gross income shall be determined as provided in sec-
5 tion 67(e).

6 ''(c) SPECIAL RULES.—

7 ''(1) NONRESIDENT ALIEN.—In the case of a
8 nonresident alien individual, only amounts taken
9 into account in connection with the tax imposed
10 under section 871(b) shall be taken into account
11 under this section.

12 ''(2) CITIZENS AND RESIDENTS LIVING
13 ABROAD.—The dollar amount applicable to any tax-
14 payer under paragraph (1), (2), or (3) of subsection
15 (a) (as the case may be) shall be decreased (but not
16 below zero) by the excess (if any) of—

17 ''(A) the amounts excluded from the tax-
18 payer's gross income under section 911, over

19 ''(B) the amounts of any deductions or ex-
20 clusions disallowed under section 911(d)(6)
21 with respect to the amounts described in sub-
22 paragraph (A).

23 ''(3) CHARITABLE TRUSTS.—Subsection (a)
24 shall not apply to a trust all the unexpired interests

in which are devoted to one or more of the purposes described in section 170(c)(2)(B).

"(4) NOT TREATED AS TAX IMPOSED BY THIS CHAPTER FOR CERTAIN PURPOSES.—The tax imposed under this section shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.".

(b) CLERICAL AMENDMENT.—The table of sections for part I of subchapter A of chapter 1 is amended by inserting after the item relating to section 1 the following new item:

"Sec. 1A. Surcharge on high income individuals.".

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

SEC. 138207. TERMINATION OF TEMPORARY INCREASE IN UNIFIED CREDIT.

(a) IN GENERAL.—Section 2010(c)(3) of the Internal Revenue Code of 1986 is amended by striking subparagraph (C).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to estates of decedents dying and gifts made after December 31, 2021.

SEC. 138208. INCREASE IN LIMITATION ON ESTATE TAX VALUATION REDUCTION FOR CERTAIN REAL PROPERTY USED IN FARMING OR OTHER TRADES OR BUSINESSES.

(a) IN GENERAL.—Section 2032A(a)(2) of the Internal Revenue Code of 1986 is amended by striking ''$750,000'' and inserting ''$11,700,000''.

(b) INFLATION ADJUSTMENT.—Section 2032A(a)(3) of such Code is amended—

(1) by striking ''$750,000'' both places it appears and inserting ''$11,700,000'',

(2) by striking ''1998'' in the matter preceding subparagraph (A) and inserting ''2021'', and

(3) by striking ''1997'' in subparagraph (B) and inserting ''2020''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying after December 31, 2021.

SEC. 138209. CERTAIN TAX RULES APPLICABLE TO GRANTOR TRUSTS.

(a) APPLICATION OF TRANSFER TAXES.—

(1) IN GENERAL.—Subtitle B of the Internal Revenue Code of 1986 is amended by adding at the end the following new chapter:

"CHAPTER 16—SPECIAL RULES FOR GRANTOR TRUSTS

''Sec. 2901. Application of transfer taxes.

"SEC. 2901. APPLICATION OF TRANSFER TAXES.

''(a) IN GENERAL.—In the case of any portion of a trust with respect to which the grantor is the deemed owner—

''(1) the value of the gross estate of the deceased deemed owner of such portion shall include all assets attributable to that portion at the time of the death of such owner,

''(2) any distribution (other than to the deemed owner or the deemed owner's spouse) from such portion to one or more beneficiaries during the life of the deemed owner of such portion (other than in discharge of an obligation of the deemed owner) shall be treated as a transfer by gift for purposes of chapter 12,

''(3) if at any time during the life of the deemed owner of such portion, such owner ceases to be treated as the owner of such portion under subpart E of part 1 of subchapter J of chapter 1, all assets attributable to such portion at such time shall be treated for purposes of chapter 12 as a transfer by gift made by the deemed owner, and

"(4) proper adjustment shall be made with respect to amounts so included in the gross estate, or treated as transferred by gift, pursuant to paragraph (1), (2), or (3), as the case may be, to account for amounts treated previously as taxable gifts under chapter 12 with respect to previous transfers to the trust by the deemed owner.

"(b) EXCEPTIONS.—This section shall not apply to any trust that is includible in the gross estate of the deemed owner (without regard to subsection (a)(1)).

"(c) DEEMED OWNER DEFINED.—For purposes of this chapter, the term 'deemed owner' means any person who is treated as the owner of a portion of a trust under subpart E of part 1 of subchapter J of chapter 1.".

(2) CROSS-REFERENCE.—Section 2511 of such Code is amended by adding at the end the following new subsection:

"(c) CROSS-REFERENCE.—For treatment of transfers to grantor trusts, see section 2901.".

(3) CLERICAL AMENDMENT.—The table of chapters for subtitle B of such Code is amended by adding at the end the following new item:

"CHAPTER 16. SPECIAL RULES FOR GRANTOR TRUSTS".

(b) CERTAIN SALES TO GRANTOR TRUST.—

(1) IN GENERAL.—Part IV of subchapter O of chapter 1 of such Code is amended by redesignating

1 section 1062 as section 1063 and inserting after sec-
2 tion 1061 the following new section:

3 **"SEC. 1062. CERTAIN SALES BETWEEN GRANTOR TRUST**
4 **AND DEEMED OWNER.**

5 "(a) IN GENERAL.—In the case of any transfer of
6 property between a trust and the a person who is the
7 deemed owner of the trust (or portion thereof), such treat-
8 ment of the person as the owner of the trust shall be dis-
9 regarded in determining whether the transfer is a sale or
10 exchange for purposes of this chapter.

11 "(b) EXCEPTION.—Subsection (a) shall not apply to
12 any trust that is fully revocable by the deemed owner.

13 "(c) DEEMED OWNER.—For purposes of this section,
14 the term 'deemed owner' means any person who is treated
15 as the owner of a portion of a trust under subpart E of
16 part 1 of subchapter J.".

17 (2) RELATED TAXPAYERS.—Section 267(b) is
18 amended by striking "or" at the end of paragraph
19 (12), by striking the period at the end of paragraph
20 (13) and inserting "; or", and by adding at the end
21 the following new paragraph:

22 "(14) A grantor trust and the person treated as
23 the owner of the trust (or portion thereof) under
24 subpart E of part 1 of subchapter J of this chap-
25 ter.".

(3) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter O of chapter 1 of such Code is amended by striking the item relating to section 1062 and inserting the following new items:

"Sec. 1062. Certain sales to grantor trusts.
"Sec. 1063. Cross references.".

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

(1) to trusts created on or after the date of the enactment of this Act, and

(2) to any portion of a trust established before the date of the enactment of this Act which is attributable to a contribution made on or after such date.

SEC. 138210. VALUATION RULES FOR CERTAIN TRANSFERS OF NONBUSINESS ASSETS.

(a) IN GENERAL.—Section 2031 of the Internal Revenue Code of 1986 is amended by redesignating subsection (d) as subsection (f) and by inserting after subsection (c) the following new subsections:

"(d) VALUATION RULES FOR CERTAIN TRANSFERS OF NONBUSINESS ASSETS.—For purposes of this chapter and chapter 12—

"(1) IN GENERAL.—In the case of the transfer of any interest in an entity other than an interest

which is actively traded (within the meaning of section 1092)—

"(A) the value of any nonbusiness assets held by the entity with respect to such interest shall be determined as if the transferor had transferred such assets directly to the transferee (and no valuation discount shall be allowed with respect to such nonbusiness assets), and

"(B) such nonbusiness assets shall not be taken into account in determining the value of the interest in the entity.

"(2) NONBUSINESS ASSETS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'nonbusiness asset' means any passive asset which—

"(i) is held for the production or collection of income, and

"(ii) is not used in the active conduct of a trade or business.

"(B) PASSIVE ASSETS USED IN ACTIVE CONDUCT OF TRADE OR BUSINESS.—Except as provided in subparagraph (C), a passive asset shall not be treated for purposes of subpara-

graph (A) as used in the active conduct of a trade or business unless—

"(i) the asset is property described in paragraph (1) or (4) of section 1221(a) or is a hedge with respect to such property, or

"(ii) the asset is real property used in the active conduct of 1 or more real property trades or businesses (within the meaning of section 469(c)(7)(C)) in which the transferor materially participates and with respect to which the transferor meets the requirements of section 469(c)(7)(B)(ii).

For purposes of clause (ii), material participation shall be determined under the rules of section 469(h), except that section 469(h)(3) shall be applied without regard to the limitation to farming activity.

"(C) EXCEPTION FOR WORKING CAPITAL.—Any passive asset which is held as a part of the reasonably required working capital needs of a trade or business shall be treated as used in the active conduct of a trade or business.

"(3) PASSIVE ASSET.—For purposes of this subsection, the term 'passive asset' means any—

"(A) cash or cash equivalents,

"(B) except to the extent provided by the Secretary, stock in a corporation or any other equity, profits, or capital interest in a partnership,

"(C) evidence of indebtedness, option, forward or futures contract, notional principal contract, or derivative,

"(D) asset described in clause (iii), (iv), or (v) of section 351(e)(1)(B),

"(E) annuity,

"(F) real property,

"(G) asset (other than a patent, trademark, or copyright) which produces royalty income,

"(H) commodity,

"(I) collectible (within the meaning of section 408(m)),

"(J) personal property (as defined in section 1092(d)(1)) or position in personal property (within the meaning of section 1092(d)(2)), or

"(K) other asset specified in regulations prescribed by the Secretary.

"(4) LOOK-THRU RULES.—

"(A) IN GENERAL.—If a passive asset of an entity consists of a 10-percent interest in any other entity, this subsection shall be applied by disregarding the 10-percent interest and by treating the entity as holding directly its ratable share of the assets of the other entity. This subparagraph shall be applied successively to any 10-percent interest of such other entity in any other entity.

"(B) 10-PERCENT INTEREST.—The term '10-percent interest' means—

"(i) in the case of an interest in a corporation, ownership of at least 10 percent (by vote or value) of the stock in such corporation,

"(ii) in the case of an interest in a partnership, ownership of at least 10 percent of the capital or profits interest in the partnership, and

"(iii) in any other case, ownership of at least 10 percent of the beneficial interests in the entity.

For purposes of the preceding sentence, the rules prescribed by section 318(a) shall apply.

"(5) COORDINATION WITH SUBSECTION (b).—Subsection (b) shall apply after the application of this subsection.

"(6) REGULATIONS.—The Secretary shall issue such regulations or other guidance as the Secretary determines is necessary or appropriate to carry out this subsection, including regulations or other guidance to—

"(A) determine whether a passive asset is used in the active conduct of a trade or business, in addition to the instances described in paragraph (2)(B), and

"(B) determine whether a passive asset is held as a part of the reasonably required working capital needs of a trade or business under paragraph (2)(C).".

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

PART 3—MODIFICATIONS OF RULES RELATING TO RETIREMENT PLANS

Subpart A—Limitations on High-income Taxpayers With Large Retirement Account Balances

SEC. 138301. CONTRIBUTION LIMIT FOR INDIVIDUAL RETIREMENT PLANS OF HIGH-INCOME TAXPAYERS WITH LARGE ACCOUNT BALANCES.

(a) CONTRIBUTION LIMIT.—

(1) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 is amended by adding at the end the following:

"SEC. 409B. CONTRIBUTION LIMIT ON INDIVIDUAL RETIREMENT PLANS OF HIGH-INCOME TAXPAYERS WITH LARGE ACCOUNT BALANCES.

"(a) GENERAL RULE.—Notwithstanding any other provision of this title, in the case of an individual who is an applicable taxpayer for a taxable year, no annual additions which are allocable to such taxable year shall be made by, or on behalf of, such individual to any individual retirement plan to the extent such annual additions exceed the excess (if any) of—

"(1) the applicable dollar amount for such taxable year, over

"(2) the aggregate vested balances to the credit of the individual (whether as a participant, owner, or beneficiary) in all applicable retirement plans (deter-

mined as of the close of the calendar year preceding the calendar year in which such taxable year begins).

"(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ANNUAL ADDITION.—

"(A) IN GENERAL.—Except as provided in this paragraph, the term 'annual addition' means any contribution to an individual retirement plan.

"(B) CONTRIBUTIONS TO SEP AND SIMPLE PLANS.—In the case of any employer or employee contributions by, or on behalf of, an individual to a simplified employee pension under section 408(k) or a simple retirement account under section 408(p)—

"(i) such contributions shall not be treated as annual additions for purposes of applying the limitation under subsection (a), but

"(ii) the excess described in subsection (a) shall be reduced by the amount of such contributions in applying such limitation to other annual additions with respect to such individual.

"(C) ROLLOVER CONTRIBUTIONS DISREGARDED.—A rollover contribution under section 402(c), 402A(c)(3)(A), 403(a)(4), 403(b)(8), 408(d)(3)(A), 408A(e)(1), or 457(e)(16) shall not be treated as an annual addition.

"(D) ACCOUNTS ACQUIRED BY DEATH OR DIVORCE OR SEPARATION.—The acquisition of an individual retirement plan (or the transfer to or contribution of amounts to an individual retirement plan) by reason of—

"(i) the death of another individual, or

"(ii) divorce or separation (pursuant to section 408(d)(6)),

shall not be treated as an annual addition.

"(2) APPLICABLE DOLLAR AMOUNT.—The term 'applicable dollar amount' means $10,000,000.

"(3) APPLICABLE RETIREMENT PLAN.—The term 'applicable retirement plan' means—

"(A) a defined contribution plan to which section 401(a) or 403(a) applies,

"(B) an annuity contract under section 403(b),

"(C) an eligible deferred compensation plan described in section 457(b) which is maintained by an eligible employer described in section 457(e)(1)(A), or

"(D) an individual retirement plan.

"(4) APPLICABLE TAXPAYER.—

"(A) IN GENERAL.—The term 'applicable taxpayer' means, with respect to any taxable year, a taxpayer whose adjusted taxable income for such taxable year exceeds the amount determined under subparagraph (B).

"(B) DOLLAR LIMIT.—The amount determined under this subparagraph for any taxable year is—

"(i) $400,000 for an individual who is a taxpayer not described in clause (ii) or (iii),

"(ii) $425,000 in the case of an individual who is a head of household (as defined in section 2(b)), and

"(iii) $450,000 in the case of an individual who is a married individual filing a joint return or a surviving spouse (as defined in section 2(a)).

"(C) ADJUSTED TAXABLE INCOME.—The term 'adjusted taxable income' means taxable income determined without regard to—

"(i) any deduction for annual additions to individual retirement plans to which subsection (a) applies, and

"(ii) any increase in minimum required distributions by reason of section 4974(e).

"(5) ADJUSTMENTS FOR INFLATION.—

"(A) IN GENERAL.—In the case of any taxable year beginning after 2022, each of the dollar amounts under paragraph (2) and paragraph (4)(B) shall be increased by an amount equal to the product of—

"(i) such dollar amount, and

"(ii) the cost-of-living adjustment under section 1(f)(3) for the calendar year in which such taxable year begins, determined by substituting 'calendar year 2021' for 'calendar year 1992' in subparagraph (B) thereof.

"(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not—

"(i) in the case of the dollar amount under paragraph (2), a multiple of $250,000, such amount shall be rounded to the next lowest multiple of $250,000, and

"(ii) in the case of a dollar amount under paragraph (4), a multiple of $1,000, such amount shall be rounded to the next lowest multiple of $1,000.

"(c) REGULATIONS.—The Secretary shall prescribe such regulations and guidance as are necessary or appropriate to carry out the purposes of this section, including regulations or guidance that provide for the application of this section and section 4974(e) in the case of plans with a valuation date other than the last day of a calendar year.".

(2) CONFORMING AMENDMENTS.—

(A) The table of contents for subpart A of part I of subchapter D of chapter 1 is amended by adding after the item relating to section 409A the following new item:

"Sec. 409B. Contribution limit on individual retirement plans of high-income taxpayers with large account balances.".

(B) Section 408(r) is amended by adding at the end the following new paragraph:

"(3) For additional limitation on contributions to individual retirement plans with large account balances, see sections 402A(c)(3)(A) and 409B.".

(b) EXCISE TAX ON EXCESS ANNUAL ADDITIONS.—

(1) IN GENERAL.—Section 4973 is amended by adding at the end the following new subsection:

"(i) SPECIAL RULE FOR INDIVIDUAL RETIREMENT PLANS WITH EXCESS ANNUAL ADDITIONS.—For purposes of this section, in the case of individual retirement plans, the term 'excess contributions' with respect to any taxable year means the sum of—

"(1) the excess of the annual additions (within the meaning of section 409B(b)(1)) to such plans over the limitation under section 409B(a) for such taxable year, reduced by the amount of any excess contributions determined under subsections (b) and (f), and

"(2) the lesser of—

"(A) the amount determined under this subsection for the preceding taxable year with respect to such plans, reduced by the aggregate distributions from such plans for the taxable year (including distributions required under section 4974(e)) to the extent not contributed in a rollover contribution to another eligible retire-

ment plan in accordance with section 402(c), 402A(c)(3)(A), 403(a)(4), 403(b)(8), 457(e)(16), 408(d)(3), or 408A(d)(3), or

"(B) the amount (if any) by which the amount determined under section 409B(a)(2) for the taxable year exceeds the applicable dollar amount under section 409B(b)(2) for the taxable year.".

(2) CONFORMING AMENDMENTS.—Subsections (b) and (f) of section 4973 are each amended by inserting ", except as further provided in subsection (i)" after "For purposes of this section".

(c) REPORTING REQUIREMENTS.—Section 6057(a) is amended by adding at the end the following:

"(3) ADDITIONAL INFORMATION REGARDING HIGH ACCOUNT BALANCES.—

"(A) IN GENERAL.—If, as of the close of any plan year, 1 or more participants in an applicable retirement plan (as defined in section 409B(b)(3) without regard to subparagraph (D) thereof) have a vested account balance of at least $2,500,000, the plan administrator shall file a statement with the Secretary which includes—

"(i) the name and identifying number of each such participant (without regard to whether such participant has separated from employment), and

"(ii) the amount to which each such participant is entitled.

"(B) INCLUSION IN REGISTRATION STATEMENT.—If both subparagraph (A) and paragraph (1) apply to a plan, the plan administrator shall include the information required under subparagraph (A) in the registration statement under paragraph (1) rather than file a statement under subparagraph (A).

"(C) ADJUSTMENTS FOR INFLATION.—In the case of any plan year beginning after 2022, the $2,500,000 amount under subparagraph (A) shall be increased by an amount equal to the product of—

"(i) such dollar amount, and

"(ii) the cost-of-living adjustment under section 1(f)(3) for the calendar year in which such taxable year begins, determined by substituting 'calendar year 2021' for 'calendar year 1992' in subparagraph (B) thereof.

If the amount as adjusted under the preceding sentence is not a multiple of $250,000, such amount shall be rounded to the next lowest multiple of $250,000.''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 2021.

(2) PLAN REQUIREMENTS.—The amendments made by subsection (c) shall apply to plan years beginning after December 31, 2021.

SEC. 138302. INCREASE IN MINIMUM REQUIRED DISTRIBUTIONS FOR HIGH-INCOME TAXPAYERS WITH LARGE RETIREMENT ACCOUNT BALANCES.

(a) IN GENERAL.—Section 4974 is amended by adding at the end the following:

''(e) INCREASE IN MINIMUM REQUIRED DISTRIBUTIONS FOR HIGH-INCOME TAXPAYERS WITH LARGE AGGREGATE ACCOUNT BALANCES.—

''(1) IN GENERAL.—If this subsection applies to a payee who is an applicable taxpayer (as defined in section 409B(b)(4)) for a taxable year—

''(A) all qualified retirement plans and eligible deferred compensation plans of the payee which are applicable retirement plans taken into

account in computing the excess described in paragraph (3)(A) shall be treated as 1 plan solely for purposes of applying this section to the increase in minimum required distributions for such taxable year determined under subparagraph (B), and

''(B) the minimum required distributions under this section for all plans treated as 1 plan under subparagraph (A) with respect to such payee for such taxable year shall be increased by the excess (if any) of—

''(i) the sum of—

''(I) if paragraph (2) applies to such taxable year, the applicable Roth excess amount, plus

''(II) 50 percent of the excess determined under paragraph (3)(A), reduced by the applicable Roth excess amount, over

''(ii) the sum of the minimum required distributions (determined without regard to this subsection) for all such plans.

''(2) APPLICABLE ROTH EXCESS AMOUNT.—

"(A) APPLICATION.—For purposes of paragraph (1)(B)(i), this paragraph applies to a taxable year of a payee if the aggregate vested balances to the credit of the payee (whether as a participant, owner, or beneficiary) in all applicable retirement plans (determined as of the close of the calendar year preceding the calendar year in which the taxable year begins) exceed 200 percent of the applicable dollar amount for the calendar year in which the taxable year begins.

"(B) APPLICABLE ROTH EXCESS AMOUNT.—The applicable Roth excess amount for any taxable year to which this paragraph applies is an amount equal to the lesser of—

"(i) the excess determined under subparagraph (A), or

"(ii) the aggregate balances to the credit of the payee (whether as a participant, owner, or beneficiary) in all Roth IRAs and designated Roth accounts (within the meaning of section 402A) as of the time described in subparagraph (A).

"(3) APPLICATION.—This subsection shall apply to a payee for a taxable year—

"(A) if the aggregate vested balances to the credit of the payee (whether as a participant, owner, or beneficiary) in all applicable retirement plans (determined as of the close of the calendar year preceding the calendar year in which the taxable year begins) exceed the applicable dollar amount for the calendar year in which the taxable year begins, and

"(B) without regard to whether amounts with respect to the payee are otherwise required to be distributed under section 401(a)(9), 403(b)(10), 408(a)(6), 408(b)(3), or 457(d)(2).

"(4) COORDINATION AND ALLOCATION.—

"(A) MINIMUM DISTRIBUTION REQUIREMENTS.—If this subsection applies to a payee for any taxable year—

"(i) this section shall apply first to minimum required distributions determined without regard to this subsection and then to any increase in minimum required distributions by reason of this subsection, and

"(ii) nothing in this subsection shall be construed to affect the amount of any minimum required distribution determined

without regard to this subsection or the plan or plans from which it is required to be distributed from.

"(B) ALLOCATION OF INCREASE IN MINIMUM REQUIRED DISTRIBUTIONS.—

"(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), the taxpayer may, in such form and manner as the Secretary may prescribe, allocate any increase in minimum required distributions by reason of this subsection to applicable retirement plans treated as 1 plan under subparagraph (A) in such manner as the taxpayer chooses.

"(ii) ALLOCATION TO ROTH IRAS AND ACCOUNTS.—In the case of a taxable year to which paragraph (2) applies, the portion of any increase in minimum required distributions by reason of this subsection equal to the applicable Roth excess amount shall be allocated first to Roth IRAs and then to designated Roth accounts (within the meaning of section 402A) of the payee.

"(iii) SPECIAL RULES FOR EMPLOYEE STOCK OWNERSHIP PLANS.—If any payee

to which this subsection applies for any taxable year has account balances in 1 or more employee stock ownership plans (as defined in section 4975(e)(7)) any portion of which is invested in employer securities which are not readily tradable on an securities market, the increase in minimum required distributions by reason of this subsection shall be allocated—

"(I) first to all account balances (other than such portions) of the payee in all applicable retirement plans in the manner provided by this subparagraph (without regard to this clause), and

"(II) then to such portions in such manner as the taxpayer chooses.

The Secretary shall prescribe regulations which provide that if any such increase is allocated to any such portion of an account balance for the first taxable year of the payee beginning in 2022, the payee may elect to have such portion distributed over a period of years not greater than the period specified by the Secretary in such reg-

ulations (and any distributions made in accordance with such election shall be treated for purposes of this section as made in such first taxable year).

''(5) DISTRIBUTIONS NOT ELIGIBLE FOR ROLLOVERS.—For purposes of determining whether a distribution is an eligible rollover distribution, any distribution from an applicable retirement plan which is attributable to any increase in minimum required distributions by reason of this subsection shall be treated as a distribution required under section 401(a)(9), 403(b)(10), 408(a)(6), 408(b)(3), or 457(d)(2), whichever is applicable.

''(6) DEFINITIONS.—For purposes of this subsection, any term used in this subsection which is also used in section 409B shall have the same meaning as when such term is used in such section.''.

(b) SPECIAL RULES.—

(1) DISTRIBUTION RIGHTS.—

(A) QUALIFIED TRUSTS.—Section 401(a) is amended by inserting after paragraph (38) the following new paragraph:

''(39) IMMEDIATE DISTRIBUTION RIGHT.—A trust forming part of a defined contribution plan shall not constitute a qualified trust under this sec-

tion unless an employee who certifies to the plan that the employee is a taxpayer who is subject to the distribution requirements of section 4974(e) may elect to receive a distribution from the employee's account balance under the plan in such amount as the employee may elect, including any amounts attributable to a qualified cash or deferred arrangement (as defined in subsection (k)(2)).''.

(B) ANNUITY CONTRACTS.—

(i) CUSTODIAL ACCOUNTS.—Section 403(b)(7)(A) is amended by adding at the end the following new flush sentence:

''Notwithstanding clause (i), the custodial account shall permit an employee who certifies that the employee is a taxpayer who is subject to the distribution requirements of section 4974(e) to elect to receive a distribution from the employee's custodial account in such amount as the employee may elect.''.

(ii) ANNUITY CONTRACTS.—Section 403(b)(11) is amended by adding at the end the following new sentence: ''Notwithstanding subparagraphs (A), (B), (C), and (D), the annuity contract shall permit an employee who certifies that the employee is

a taxpayer who is subject to the distribution requirements of section 4974(e) to elect to receive a distribution of contributions made pursuant to a salary reduction agreement (within the meaning of section 402(g)(3)) from the employee's annuity contract in such amount as the employee may elect.''

(C) GOVERNMENTAL PLANS.—Section 457(d)(1) is amended by adding at the end the following new flush sentence:

''Notwithstanding subparagraph (A), an eligible deferred compensation plan of an employer described in subsection (e)(1)(A) shall permit an employee who certifies that the employee is a taxpayer who is subject to the distribution requirements of section 4974(e) to elect to receive a distribution from the plan in such amount as the employee may elect.''.

(2) EXCEPTION FROM 10 PERCENT ADDITIONAL TAX ON EARLY DISTRIBUTIONS.—Section 72(t)(2) is amended by adding at the end the following new subparagraph:

''(I) DISTRIBUTIONS OF EXCESS BALANCES.—Distributions from an applicable retirement plan (within the meaning of section

409B)) to the extent such distributions for the taxable year do not exceed the amount required to be distributed from such plan under section 4974(e).''.

(3) WITHHOLDING.—Section 3405(b) is amended by adding at the end the following new paragraph:

''(3) ADDITIONAL WITHHOLDING FOR REQUIRED DISTRIBUTIONS FROM HIGH BALANCE RETIREMENT ACCOUNTS.—

''(A) IN GENERAL.—For purposes of this section, a distribution pursuant to section 401(a)(39), the last sentence of section 403(b)(7)(A), the last sentence of section 403(b)(11), and the last sentence of section 457(d)(1) shall be treated as a nonperiodic distribution, except that in applying this subsection to such distribution—

''(i) paragraph (1) shall be applied by substituting '35 percent' for '10 percent', and

''(ii) no election may be made under paragraph (2) with respect to such distribution.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any qualified distribution from a designated Roth account (within the meaning of section 402A).".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 2021.

(2) PLAN REQUIREMENTS.—The amendments made by subsection (b) shall apply to plan years beginning after December 31, 2021.

(d) PROVISIONS RELATING TO PLAN AMENDMENTS.—

(1) IN GENERAL.—If this subsection applies to any plan or contract amendment, such plan or contract shall be treated as being operated in accordance with the terms of the plan during the period described in paragraph (2)(B)(i).

(2) AMENDMENTS TO WHICH SUBSECTION APPLIES.—

(A) IN GENERAL.—This subsection shall apply to any amendment to any plan or annuity contract which is made—

(i) pursuant to any amendment made by this section or pursuant to any regula-

tion issued by the Secretary of the Treasury under this section or such amendments, and

(ii) on or before the last day of the first plan year beginning after December 31, 2022, or such later date as the Secretary of the Treasury may prescribe.

In the case of a governmental or collectively bargained plan to which subparagraph (B) or (C) of subsection (a)(4) applies, clause (ii) shall be applied by substituting the date which is 2 years after the date otherwise applied under such clause.

(B) CONDITIONS.—This subsection shall not apply to any amendment unless—

(i) during the period—

(I) beginning on the date the legislative or regulatory amendment described in paragraph (1)(A) takes effect (or in the case of a plan or contract amendment not required by such legislative or regulatory amendment, the effective date specified in such amendment), and

(II) ending on the date described in subparagraph (A)(ii) (or, if earlier, the date the plan or contract amendment is adopted),

the plan or contract is operated as if such plan or contract amendment were in effect; and

(ii) such plan or contract amendment applies retroactively for such period.

Subpart B—Other Provisions Relating to Individual Retirement Plans

SEC. 138311. TAX TREATMENT OF ROLLOVERS TO ROTH IRAS AND ACCOUNTS.

(a) ROLLOVERS AND CONVERSIONS LIMITED TO TAXABLE AMOUNTS.—

(1) ROTH IRAS.—

(A) IN GENERAL.—Paragraph (1) of section 408A(e) is amended by adding at the end the following new sentence: ''A qualified rollover contribution shall not include any rollover contribution from any eligible retirement plan described in subparagraph (B) (other than from a designated Roth account (within the meaning of section 402A)) if any portion of the distribution from which such contribution is made would

(without regard to such contribution) be treated as not includible in gross income.''

(B) CONVERSIONS.—Subparagraph (C) of section 408A(d)(3) is amended by adding at the end the following new sentence: ''This subparagraph shall not apply if any portion of the plan being converted would be treated as not includible in gross income if distributed at the time of the conversion.''

(2) DESIGNATED ROTH ACCOUNTS.—Section 402A(c)(4)(B) is amended by inserting '', determined after the application of the last sentence of paragraph (1) thereof'' after ''section 408A(e)''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to distributions, transfers, and contributions made after December 31, 2021.

(b) NO ROLLOVERS OR CONVERSIONS FOR HIGH-INCOME TAXPAYERS.—

(1) ROTH IRAS.—

(A) QUALIFIED ROLLOVER CONTRIBUTION.—Section 408A(e), as amended by subsection (a), is amended by adding at the end the following:

"(3) HIGH-INCOME TAXPAYERS MAY ONLY ROLLOVER FROM ROTH IRAS AND ACCOUNTS.—If—

"(A) a taxpayer is an applicable taxpayer (as defined in section 409B(b)(4)) for the taxable year in which a distribution is made, and

"(B) such distribution is contributed to a Roth IRA in a rollover contribution,

such contribution shall be treated as a qualified rollover contribution under paragraph (1) only if it is made from another Roth IRA or from a designated Roth account (within the meaning of section 402A).".

(B) ELIMINATION OF CONVERSIONS.—Paragraph (3) of section 408A(d), as amended by subsection (a), is amended by adding at the end the following:

"(G) PARAGRAPH NOT TO APPLY TO HIGH-INCOME TAXPAYERS.—If a taxpayer is an applicable taxpayer (as defined in section 409B(b)(4)) for any taxable year, this paragraph shall not apply to any distribution to which this paragraph otherwise applies (or to any conversion described in subparagraph (C)) which is made during such taxable year.".

(2) DESIGNATED ROTH ACCOUNTS.—Paragraph (4) of section 402A(c) is amended by adding at the end the following:

"(F) PARAGRAPH NOT TO APPLY TO HIGH-INCOME TAXPAYERS.—If a taxpayer is an applicable taxpayer (as defined in section 409B(b)(4)) for any taxable year, this paragraph shall not apply to any distribution to which this paragraph otherwise applies and which is made during such taxable year.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to distributions, transfers, and contributions made in taxable years beginning after December 31, 2031.

SEC. 138312. PROHIBITION OF IRA INVESTMENTS CONDITIONED ON ACCOUNT HOLDER'S STATUS.

(a) IN GENERAL.—Subsection (a) of section 408 is amended by adding at the end the following new paragraph:

"(7) No part of the trust funds will be invested in any security if the issuer of such security (or any other person specified by the Secretary) requires the individual on whose behalf the trust is maintained to make a representation to the issuer or such other person that such individual—

1 ''(A) has a specified minimum amount of
2 income or assets,
3 ''(B) has completed a specified minimum
4 level of education, or
5 ''(C) holds a specific license or creden-
6 tial.''.
7 (b) LOSS OF EXEMPTION OF ACCOUNT.—Paragraph
8 (2) of section 408(e) is amended—
9 (1) by striking '''' each place it appears in sub-
10 paragraph (A) and inserting ''maintained'',
11 (2) by redesignating subparagraph (B) as sub-
12 paragraph (C),
13 (3) by inserting after subparagraph (A) the fol-
14 lowing new subparagraph:
15 ''(B) PROHIBITED INVESTMENT.—If, dur-
16 ing any taxable year of the individual for whose
17 benefit any individual retirement account is
18 maintained, the investment of any part of the
19 funds of such individual retirement account
20 does not comply with subsection (a)(7), such
21 account ceases to be an individual retirement
22 account as of the first day of such taxable year.
23 Rules similar to the rules of clauses (i) and (ii)
24 of subparagraph (A) shall apply for purposes of
25 this subparagraph.'',

(4) by striking ''WHERE EMPLOYEE ENGAGES IN PROHIBITED TRANSACTION'' in the heading and inserting ''IN CASE OF CERTAIN PROHIBITED TRANSACTIONS AND INVESTMENTS'',

(5) by striking ''IN GENERAL'' in the heading of subparagraph (A) and inserting ''EMPLOYEE ENGAGING IN PROHIBITED TRANSACTION'', and

(6) by striking ''(A)'' in subparagraph (C), as so redesignated, and inserting ''(A) or (B)''.

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 408(c) is amended by striking ''(1) through (6)'' and inserting ''(1) through (7)''.

(2) Paragraph (3) of section 4975(c) is amended—

(A) striking '''' and inserting ''maintained'',

(B) by striking ''transaction'' both places it appears and inserting ''transaction or investment'', and

(C) by striking ''section 408(e)(2)(A)'' and inserting ''subparagraph (A) or (B) of section 408(e)(2)''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2021.

(2) SPECIAL RULE FOR EXISTING INVESTMENTS.—If, on the date of the enactment of this Act, an individual retirement account holds an investment prohibited under section 408(a)(7) of the Internal Revenue Code of 1986 (as added by subsection (a)), the amendments made by this section shall apply to such investment for taxable years beginning after December 31, 2023.

SEC. 138313. STATUTE OF LIMITATIONS WITH RESPECT TO IRA NONCOMPLIANCE.

(a) IN GENERAL.—Subsection (c) of section 6501 is amended by adding at the end the following new paragraph:

''(13) NONCOMPLIANCE RELATING TO AN INDIVIDUAL RETIREMENT PLAN.—

''(A) MISREPORTING.—In the case of any substantial error (willful or otherwise) in the reporting on a return of any information relating to the valuation of investment assets with respect to an individual retirement plan, the time for assessment of any tax imposed by this title

with respect to such plan shall not expire before the date which is 6 years after the return containing such error was filed (whether or not such return was filed on or after the date prescribed).

"(B) PROHIBITED TRANSACTIONS.—The time for assessment of any tax imposed by section 4975 shall not expire before the date which is 6 years after the return was filed (whether or not such return was filed on or after the date prescribed).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxes with respect to which the 3-year period under section 6501(a) of the Internal Revenue Code of 1986 (without regard to the amendment made by this section) ends after December 31, 2021.

SEC. 138314. PROHIBITION OF INVESTMENT OF IRA ASSETS IN ENTITIES IN WHICH THE OWNER HAS A SUBSTANTIAL INTEREST.

(a) IN GENERAL.—Subsection (a) of section 408, as amended by the preceding provisions of this Act, is amended by adding at the end the following new paragraph:

"(8) No part of the trust funds will be invested in a corporation, partnership or other unincorporated enterprise, or trust or estate if—

"(A) in the case of an entity with respect to which interests described in clause (i), (ii), or (iii) are not readily tradable on an securities market, 10 percent or more of—

"(i) the combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of such corporation,

"(ii) the capital interest or profits interest of such partnership or enterprise, or

"(iii) the beneficial interest of such trust or estate,

is owned (directly or indirectly) or held by the individual on whose behalf the trust is maintained, or

"(B) the individual on whose behalf the trust is maintained is an officer or director (or an individual having powers or responsibilities similar to officers or directors) of such corporation, partnership, or other unincorporated enterprise.

For purposes of subparagraph (A), the constructive ownership rules of paragraphs (4) and (5) of section 4975(e) shall apply, and any asset or interest held

by the trust shall be treated as held by the individual described in such subparagraph.''.

(b) LOSS OF EXEMPTION OF ACCOUNT.—Subparagraph (B) of section 408(e)(2), as added by this Act, is amended by striking ''(a)(7)'' and inserting ''(a)(7) or (a)(8)''.

(c) CONFORMING AMENDMENT.—Paragraph (1) of section 408(c), as amended by the preceding provisions of this Act, is amended by striking ''(1) through (7)'' and inserting ''(1) through (8)''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to investments made in taxable years beginning after December 31, 2021.

(2) SPECIAL RULE FOR EXISTING INVESTMENTS.—If, on the date of the enactment of this Act, an individual retirement account holds an investment prohibited under section 408(a)(8) of the Internal Revenue Code of 1986 (as added by subsection (a)), the amendments made by this section shall apply to such investment for taxable years beginning after December 31, 2023.

SEC. 138315. IRA OWNERS TREATED AS DISQUALIFIED PERSONS FOR PURPOSES OF PROHIBITED TRANSACTION RULES.

(a) IN GENERAL.—Paragraph (2) of section 4975(e) is amended—

(1) by striking ''or'' at the end of subparagraph (H),

(2) by striking the period at the end of subparagraph (I) and inserting ''; or'',

(3) by inserting after subparagraph (I) the following new subparagraph:

''(J) the individual for whose benefit a plan described in subparagraph (B) or (C) of paragraph (1) is maintained.'',

(4) by striking ''or (E)'' both places it appears in subparagraphs (F) and (G) and inserting ''(E), or (J) (in the case of a plan described in subparagraph (B) or (C) of paragraph (1))'',

(5) by striking ''or (G)'' in subparagraph (I) and inserting ''(G), or (J) (in the case of a plan described in subparagraph (B) or (C) of paragraph (1))'', and

(6) by adding at the end the following: ''For purposes of subparagraphs (G) and (I), any asset or interest held by a plan described in subparagraph (B) or (C) of paragraph (1) shall be treated as

owned by the individual described in subparagraph (J) with respect to such plan.''.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 408(e)(2), as amended by the preceding provisions of this Act, is amended to read as follows:

''(A) EMPLOYEE ENGAGING IN PROHIBITED TRANSACTION.—If, during any taxable year of the individual for whose benefit any individual retirement account is maintained, that individual engages in any transaction prohibited by section 4975 with respect to such account, such account ceases to be an individual retirement account as of the first day of such taxable year. For purposes of this paragraph, the separate account for the benefit of any individual within an individual retirement account maintained by an employer or association of employees is treated as a separate individual retirement account.''.

(2) Subparagraph (B) of section 408(e)(2), as added by this Act, is amended by striking the last sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions occurring after December 31, 2021.

PART 4—FUNDING THE INTERNAL REVENUE SERVICE AND IMPROVING TAXPAYER COMPLIANCE

SEC. 138401. FUNDING OF THE INTERNAL REVENUE SERVICE.

In addition to amounts otherwise available, there are appropriated for fiscal year 2022, out of any money in the Treasury not otherwise appropriated:

(1) $78,935,000,000, to remain available until September 30, 2031, for necessary expenses for the Internal Revenue Service (IRS) for strengthening tax enforcement activities and increasing voluntary compliance, expanding audits and other enforcement activities, and modernizing information technology to effectively support enforcement activities, except that no use of these funds is intended to increase taxes on any taxpayer with taxable income below $400,000;

(2) $410,000,000, to remain available until September 30, 2031, for necessary expenses for the Treasury Inspector General for Tax Administration to provide oversight of the IRS, including ensuring

that taxpayer privacy is protected and that no undue burden is imposed on small businesses from IRS enforcement activities; and

(3) $157,000,000, to remain available until September 30, 2031, for the Tax Court for adjudicating tax disputes.

SEC. 138402. APPLICATION OF BACKUP WITHHOLDING WITH RESPECT TO THIRD PARTY NETWORK TRANSACTIONS.

(a) IN GENERAL.—Section 3406(b) is amended by adding at the end the following new paragraph:

"(8) OTHER REPORTABLE PAYMENTS INCLUDE PAYMENTS IN SETTLEMENT OF THIRD PARTY NETWORK TRANSACTIONS ONLY WHERE AGGREGATE FOR CALENDAR YEAR IS $600 OR MORE.—Any payment in settlement of a third party network transaction required to be shown on a return required under section 6050W which is made during any calendar year shall be treated as a reportable payment only if—

"(A) the aggregate amount of such payment and all previous such payments made by the third party settlement organization to the participating payee during such calendar year equals or exceeds $600, or

"(B) the third party settlement organization was required under section 6050W to file a return for the preceding calendar year with respect to payments to the participating payee.".

(b) CONFORMING AMENDMENT.—Section 6050W(e) is amended by inserting "equal or" before "exceed $600".

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

(d) TRANSITIONAL RULE FOR 2022.—In the case of payments made during calendar year 2022, section 3406(b)(8)(A) of the Internal Revenue Code of 1986 (as added by this section) shall be applied by inserting "and the aggregate number of third party network transactions settled by the third party settlement organization with respect to the participating payee during such calendar year exceeds 200" before the comma at the end.

SEC. 138403. LIMITATION ON DEDUCTION FOR QUALIFIED CONSERVATION CONTRIBUTIONS MADE BY PASS-THROUGH ENTITIES, ETC.

(a) IN GENERAL.—Section 170(h) is amended by adding at the end the following new paragraphs:

"(7) LIMITATION ON DEDUCTION FOR QUALIFIED CONSERVATION CONTRIBUTIONS MADE BY PASS-THROUGH ENTITIES.—

"(A) IN GENERAL.—A contribution by a partnership (whether directly or as a distributive share of a contribution of another partnership) shall not be treated as a qualified conservation contribution for purposes of this section if the amount of such contribution exceeds 2.5 times the sum of each partner's relevant basis in such partnership.

"(B) RELEVANT BASIS.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'relevant basis' means, with respect to any partner, the portion of such partner's modified basis in the partnership which is allocable (under rules similar to the rules of section 755) to the portion of the real property with respect to which the contribution described in subparagraph (A) is made.

"(ii) MODIFIED BASIS.—The term 'modified basis' means, with respect to any partner, such partner's adjusted basis in the partnership as determined—

"(I) immediately before the contribution described in subparagraph (A),

"(II) without regard to section 752, and

"(III) by the partnership after taking into account the adjustments described in subclauses (I) and (II) and such other adjustments as the Secretary may provide.

"(C) EXCEPTION FOR CONTRIBUTIONS OUTSIDE 3-YEAR HOLDING PERIOD.—Subparagraph (A) shall not apply to any contribution which is made at least 3 years after the latest of—

"(i) the last date on which the partnership that made such contribution acquired any portion of the real property with respect to which such contribution is made,

"(ii) the last date on which any partner in the partnership that made such contribution acquired any interest in such partnership, and

"(iii) if the interest in the partnership that made such contribution is held through one or more partnerships—

"(I) the last date on which any such partnership acquired any interest in any other such partnership, and

"(II) the last date on which any partner in any such partnership acquired any interest in such partnership.

"(D) EXCEPTION FOR FAMILY PARTNERSHIPS.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to any contribution made by any partnership if substantially all of the partnership interests in such partnership are held, directly or indirectly, by an individual and members of the family of such individual.

"(ii) MEMBERS OF THE FAMILY.—For purposes of this subparagraph, the term 'members of the family' means, with respect to any individual—

"(I) the spouse of such individual, and

"(II) any individual who bears a relationship to such individual which is described in subparagraphs (A) through (G) of section 152(d)(2).

"(E) APPLICATION TO OTHER PASS-THROUGH ENTITIES.—Except as may be otherwise provided by the Secretary, the rules of this paragraph shall apply to S corporations and other pass-through entities in the same manner as such rules apply to partnerships.

"(F) REGULATIONS.—The Secretary shall prescribe such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations or other guidance—

"(i) to require reporting, including reporting related to tiered partnerships and the modified basis of partners, and

"(ii) to prevent the avoidance of the purposes of this paragraph.

"(8) NOTICE OF CERTAIN FAILURES.—

"(A) IN GENERAL.—If a donor is found by the Secretary to have failed to meet the requirement that a qualified conservation contribution shall be granted and protected in perpetuity by

reason of defective language in the deed relating to property line adjustments or extinguishment clauses, the donor shall have 90 days from the written notice by the Secretary to correct such failure, unless the Secretary can demonstrate that the donor's failure to meet those requirements was intentional.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any reportable transaction or any contribution that is not treated as a qualified conservation contribution by reason of paragraph (7).".

(b) APPLICATION OF ACCURACY-RELATED PENALTIES.—

(1) IN GENERAL.—Section 6662(b) is amended by inserting after paragraph (9) the following new paragraph:

"(10) Any disallowance of a deduction by reason of section 170(h)(7).".

(2) TREATMENT AS GROSS VALUATION MISSTATEMENT.—Section 6662(h)(2) is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", and", and by adding at the end the following new subparagraph:

"(D) any disallowance of a deduction described in subsection (b)(10).".

(3) NO REASONABLE CAUSE EXCEPTION.—Section 6664(c)(2) is amended by inserting "or to any disallowance of a deduction described in section 6662(b)(10)" before the period at the end.

(4) APPROVAL OF ASSESSMENT NOT REQUIRED.—Section 6751(b)(2)(A) is amended by striking "subsection (b)(9)" and inserting "paragraph (9) or (10) of subsection (b)".

(c) APPLICATION OF STATUTE OF LIMITATIONS ON ASSESSMENT AND COLLECTION.—

(1) EXTENSION FOR CERTAIN ADJUSTMENTS MADE UNDER PRIOR LAW.—In the case of any disallowance of a deduction by reason of section 170(h)(7) of the Internal Revenue Code of 1986 (as added by this section) or any penalty imposed under section 6662 of such Code with respect to such disallowance, section 6229(d)(2) of such Code (as in effect before its repeal) shall be applied by substituting "2 years" for "1 year".

(2) EXTENSION FOR LISTED TRANSACTIONS.—Any contribution described in section 170(h)(7)(A) of the Internal Revenue Code of 1986 (as added by this section) shall be treated for purposes of sections

6501(c)(10) and 6235(c)(6) of such Code as a transaction specifically identified by the Secretary on December 23, 2016, as a tax avoidance transaction for purposes of section 6011 of such Code.

(d) APPLICATION TO CERTAIN TRANSACTIONS DISALLOWED UNDER OTHER PROVISIONS OF LAW.—In the case of any disallowance of a deduction under section 170 of the Internal Revenue Code of 1986 with respect to a transaction described in Internal Revenue Service Notice 2017–10 with respect to a taxable year ending before the date of the enactment of this Act, such disallowance shall be treated for purposes of section 6662(b)(10) of such Code (as added by this section) and subsection (c)(1) as being by reason of section 170(h)(7) of such Code (as added by this section).

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to contributions made after December 23, 2016, in taxable years ending after such date.

(2) NOTICE OF CERTAIN FAILURES.—So much of the amendment made by subsection (a) as relates to section 170(h)(8) of the Internal Revenue Code of 1986, as added by such subsection, shall apply to—

(A) returns filed after the date of the enactment of this Act, and

(B) returns filed on or before such date if the period specified in section 6501 for assessment of the taxes with respect to which such return relates has not expired as of such date.

(3) CERTIFIED HISTORIC STRUCTURES.—In the case of contributions the conservation purpose (as defined in section 170(h)(4) of the Internal Revenue Code of 1986) of which is the preservation of a certified historic structure (as defined in section 170(h)(4)(C) of such Code), the amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2018.

(4) NO INFERENCE.—No inference is intended as to the appropriate treatment of contributions made in taxable years ending on or before the date specified in paragraph (1) or (3), whichever is applicable, or as to any activity not described in section 170(h)(7) of the Internal Revenue Code of 1986, as added by this section.

SEC. 138404. MODIFICATION OF PROCEDURAL REQUIREMENTS RELATING TO ASSESSMENT OF PENALTIES.

(a) REPEAL OF APPROVAL REQUIREMENT.—Section 6751, as amended by the preceding provision of this Act, is amended by striking subsection (b).

(b) QUARTERLY CERTIFICATIONS OF COMPLIANCE WITH PROCEDURAL REQUIREMENTS.—Section 6751, as amended by subsection (a) of this section, is amended by inserting after subsection (a) the following new subsection:

''(b) QUARTERLY CERTIFICATIONS OF COMPLIANCE.—Each appropriate supervisor of employees of the Internal Revenue Service shall certify quarterly by letter to the Commissioner of Internal Revenue whether or not the requirements of subsection (a) have been met with respect to notices of penalty issued by such employees.''.

(c) EFFECTIVE DATES.—

(1) REPEAL OF APPROVAL REQUIREMENT.—The amendment made by subsection (a) shall take effect as if included in section 3306 of the Internal Revenue Service Restructuring and Reform Act of 1998.

(2) QUARTERLY CERTIFICATIONS OF COMPLIANCE WITH PROCEDURAL REQUIREMENTS.—The amendment made by subsection (b) shall apply to

notices of penalty issued after the date of the enactment of this Act.

PART 5—OTHER PROVISIONS

SEC. 138501. MODIFICATIONS TO LIMITATION ON DEDUCTION OF EXCESSIVE EMPLOYEE REMUNERATION.

(a) IN GENERAL.—Section 162(m) is amended by adding at the end the following new paragraph:

"(7) SPECIAL RULES RELATED TO LIMITATION ON DEDUCTION OF EXCESSIVE EMPLOYEE REMUNERATION.—

"(A) AGGREGATION RULE.—A rule similar to the rule of paragraph (6)(C)(ii) shall apply for purposes of paragraph (1).

"(B) REGULATIONS.—The Secretary shall prescribe such regulations or other guidance as may be necessary or appropriate to carry out the purposes of paragraph (1), including regulations or other guidance to prevent the avoidance of such purposes, including through the performance of services other than as an employee or by providing compensation through a pass-through or other entity.".

(b) ACCELERATION OF APPLICATION TO 5 HIGHEST COMPENSATED EMPLOYEES.—Section 162(m)(3)(C) is

amended by striking ''December 31, 2026'' and inserting ''December 31, 2021''.

(c) APPLICABLE EMPLOYEE REMUNERATION.—Section 162(m)(4)(A) is amended—

(1) by inserting ''(including performance-based compensation, commissions, post-termination compensation, and beneficiary payments)'' after ''remuneration for services'', and

(2) by inserting ''and whether or not such remuneration is paid directly by the publicly held corporation'' after ''whether or not during the taxable year''.

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

SEC. 138502. EXTENSION OF TAX TO FUND BLACK LUNG DISABILITY TRUST FUND.

(a) IN GENERAL.—Section 4121(e)(2)(A) is amended by striking ''December 31, 2021'' and inserting ''December 31, 2025''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales after December 31, 2021.

SEC. 138503. PROHIBITED TRANSACTIONS RELATING TO HOLDING DISC OR FSC IN INDIVIDUAL RETIREMENT ACCOUNT.

(a) IN GENERAL.—Section 4975(c)(1) is amended by striking ''or'' at the end of subparagraph (E), by striking the period at the end of subparagraph (F) and inserting ''; or'', and by adding at the end the following new subparagraph:

''(G) in the case of a DISC or FSC that receives any commission, or other payment, from an entity any stock or interest in which is owned by the individual for whose benefit an individual retirement account is maintained, holding of an interest in such DISC or FSC by the individual retirement account.''.

(b) SPECIAL RULES OF APPLICATION.—Section 4975(c) is amended by adding at the end the following new paragraph:

''(8) SPECIAL RULES OF APPLICATION FOR DISC AND FSC HOLDINGS.—

''(A) INDIRECT HOLDING OF DISC OR FSC.—For purposes of paragraph (1)(G), if an individual retirement account holds an interest in an entity that owns (directly or indirectly) an interest in a DISC or FSC, the account shall

be treated as holding an interest in such DISC or FSC.

"(B) CONSTRUCTIVE OWNERSHIP.—For purposes of determining ownership of stock (or any other interest) in an entity under paragraph (1)(G) and ownership of an interest in a DISC or FSC under subparagraph (A), the rules prescribed by section 318 for determining ownership shall apply, except that such section shall be applied by substituting '10 percent' for '50 percent' each place it appears.

"(C) DISC AND FSC.—For purposes of his subsection, the terms 'DISC' and 'FSC' shall have the respective meanings given such terms by section 992(a)(1)) and section 922(a) (as in effect before its repeal by the FSC Repeal and Extraterritorial Income Exclusion Act of 2000).".

(c) APPLICATION OF TAX TO TERMINATED INDIVIDUAL RETIREMENT ACCOUNTS.—Section 4975(c)(3) is amended by adding at the end the following: "The preceding sentence shall not apply in the case of a prohibited transaction described in paragraph (1)(G).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to stock and other interests acquired or held on or after December 31, 2021.

SEC. 138504. INCREASE IN TAX ON CERTAIN TOBACCO PRODUCTS AND IMPOSITION OF TAX ON NICOTINE.

(a) INCREASING TAX ON CIGARETTES.—

(1) SMALL CIGARETTES.—Section 5701(b)(1) is amended by striking ''$50.33'' and inserting ''$100.66''.

(2) LARGE CIGARETTES.—Section 5701(b)(2) is amended by striking ''$105.69'' and inserting ''$211.39''.

(b) TAX PARITY FOR SMALL CIGARS.—Section 5701(a)(1) is amended by striking ''$50.33'' and inserting ''$100.66''.

(c) TAX PARITY FOR LARGE CIGARS.—Section 5701(a)(2) is amended by striking ''52.75 percent'' and all that follows through the period and inserting ''$49.56 per pound and a proportionate tax at the like rate on all fractional parts of a pound but not less than 10.06 cents per cigar.''.

(d) TAX PARITY FOR SMOKELESS TOBACCO.—

(1) Section 5701(e) is amended—

(A) in paragraph (1), by striking "$1.51" and inserting "$26.84",

(B) in paragraph (2), by striking "50.33 cents" and inserting "$10.70", and

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

"(3) SMOKELESS TOBACCO SOLD IN DISCRETE SINGLE-USE UNITS.—On discrete single-use units, $100 per thousand.".

(2) Section 5702(m) is amended—

(A) in paragraph (1), by striking "or chewing tobacco" and inserting ", chewing tobacco, or discrete single-use unit",

(B) in paragraphs (2) and (3), by inserting "and that is not a discrete single-use unit" before the period at the end of each such paragraph, and

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

"(4) DISCRETE SINGLE-USE UNIT.—The term 'discrete single-use unit' means any product containing tobacco that—

"(A) is not intended to be smoked, and

"(B) is in the form of a lozenge, tablet, pill, pouch, dissolvable strip, or other discrete single-use or single-dose unit.".

(e) TAX PARITY FOR PIPE TOBACCO.—Section 5701(f) is amended by striking "$2.8311 cents" and inserting "$49.56".

(f) TAX PARITY FOR ROLL-YOUR-OWN TOBACCO.—Section 5701(g) is amended by striking "$24.78" and inserting "$49.56".

(g) TAX PARITY FOR ROLL-YOUR-OWN TOBACCO AND CERTAIN PROCESSED TOBACCO.—Section 5702(o) is amended by inserting ", and includes processed tobacco that is removed for delivery or delivered to a person other than a person with a permit provided under section 5713, but does not include removals of processed tobacco for exportation" after "wrappers thereof".

(h) IMPOSITION OF TAX ON NICOTINE FOR USE IN VAPING, ETC.—

(1) IN GENERAL.—Section 5701 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) NICOTINE.—On taxable nicotine, manufactured in or imported into the United States, there shall be imposed a tax equal to the dollar amount specified in section

1 5701(b)(1) per 1,810 milligrams of nicotine (and a pro-
2 portionate tax at the like rate on any fractional part there-
3 of).''.

4 (2) TAXABLE NICOTINE.—Section 5702 is
5 amended by adding at the end the following new
6 subsection:

7 ''(q) TAXABLE NICOTINE.—

8 ''(1) IN GENERAL.—Except as otherwise pro-
9 vided in this subsection, the term 'taxable nicotine'
10 means any nicotine which has been extracted, con-
11 centrated, or synthesized.

12 ''(2) EXCEPTION FOR PRODUCTS APPROVED BY
13 FOOD AND DRUG ADMINISTRATION.—Such term
14 shall not include any nicotine if the manufacturer or
15 importer thereof demonstrates to the satisfaction of
16 the Secretary of Health and Human Services that
17 such nicotine will be used in—

18 ''(A) a drug—

19 ''(i) that is approved under section
20 505 of the Federal Food, Drug, and Cos-
21 metic Act or licensed under section 351 of
22 the Public Health Service Act; or

23 ''(ii) for which an investigational use
24 exemption has been authorized under sec-
25 tion 505(i) of the Federal Food, Drug, and

Cosmetic Act or under section 351(a) of the Public Health Service Act; or

''(B) a combination product (as described in section 503(g) of the Federal Food, Drug, and Cosmetic Act), the constituent parts of which were approved or cleared under section 505, 510(k), or 515 of such Act.

''(3) COORDINATION WITH TAXATION OF OTHER TOBACCO PRODUCTS.—Tobacco products meeting the definition of cigars, cigarettes, smokeless tobacco, pipe tobacco, and roll-your-own tobacco in this section shall be classified and taxed as such despite any concentration of the nicotine inherent in those products or any addition of nicotine to those products during the manufacturing process.

''(4) REGULATIONS.—The Secretary shall prescribe such regulations or other guidance as is necessary or appropriate to carry out the purposes of this subsection, including regulations or other guidance for coordinating the taxation of tobacco products and taxable nicotine to protect revenue and prevent double taxation.''.

(3) TAXABLE NICOTINE TREATED AS A TOBACCO PRODUCT.—Section 5702(c) is amended by

striking ''and roll-your-own tobacco'' and inserting ''roll-your-own tobacco, and taxable nicotine''.

(4) MANUFACTURER OF TAXABLE NICOTINE.—Section 5702, as amended by paragraph (2), is amended by adding at the end the following new subsection:

''(r) MANUFACTURER OF TAXABLE NICOTINE.—

''(1) IN GENERAL.—Any person who extracts, concentrates, or synthesizes nicotine shall be treated as a manufacturer of taxable nicotine (and as manufacturing such taxable nicotine).

''(2) APPLICATION OF RULES RELATED TO MANUFACTURERS OF TOBACCO PRODUCTS.—Any reference to a manufacturer of tobacco products, or to manufacturing tobacco products, shall be treated as including a reference to a manufacturer of taxable nicotine, or to manufacturing taxable nicotine, respectively.''.

(j) REPEAL OF SPECIAL RULES FOR DETERMINING PRICE OF CIGARS.—Section 5702 is amended by striking subsection (l).

(k) FLOOR STOCKS TAXES.—

(1) IMPOSITION OF TAX.—On covered tobacco products, and cigarette papers and tubes, manufactured in or imported into the United States which

are removed before the tax increase date and held on such date for sale by any person, there is hereby imposed a tax in an amount equal to the excess of—

(A) the tax which would be imposed under section 5701 of the Internal Revenue Code of 1986 on the article if the article had been removed on such date, over

(B) the prior tax (if any) imposed under section 5701 of such Code on such article.

(2) COVERED TOBACCO PRODUCTS.—For purposes of this subsection, the term ''covered tobacco products'' means any tobacco product other than—

(A) cigars described in section 5701(a)(2) of the Internal Revenue Code of 1986,

(B) discrete single-use units (as defined in section 5702(m)(4) of such Code, as amended by this section), and

(C) taxable nicotine (as defined in section 5702(q) of such Code, as amended by this section).

(3) CREDIT AGAINST TAX.—Each person shall be allowed as a credit against the taxes imposed by paragraph (1) an amount equal to the lesser of $1,000 or the amount of such taxes. For purposes of the preceding sentence, all persons treated as a

single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986 shall be treated as 1 person for purposes of this paragraph.

(4) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—The person referred to in paragraph (1) shall be liable for the tax imposed by such paragraph.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary may provide.

(5) ARTICLES IN FOREIGN TRADE ZONES.—

(A) IN GENERAL.—Notwithstanding the Act of June 18, 1934 (commonly known as the Foreign Trade Zone Act, 48 Stat. 998, 19 U.S.C. 81a et seq.) or any other provision of law, any covered tobacco products, or cigarette papers and tubes, which are located in a foreign trade zone on the tax increase date, shall be subject to the tax imposed by paragraph (1) if—

(i) internal revenue taxes have been determined, or customs duties liquidated, with respect to such article before such

date pursuant to a request made under the 1st proviso of section 3(a) of such Act, or

(ii) such article is held on such date under the supervision of an officer of the United States Customs and Border Protection of the Department of Homeland Security pursuant to the 2d proviso of such section 3(a).

(6) TAX INCREASE DATE.—For purposes of this subsection, the term ''tax increase date'' means the first day of the first calendar quarter described in subsection (k)(1).

(7) CERTAIN OTHER DEFINITIONS.—Terms used in this subsection which are also used in section 5702 of the Internal Revenue Code of 1986 shall have the same meaning as when used in such section.

(l) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to articles removed in calendar quarters beginning after the date of the enactment of this Act.

(2) DELAYED EFFECTIVE DATE FOR CERTAIN PRODUCTS.—The amendments made by subsections

(c), (d)(1)(C), (d)(2), and (h) shall apply to articles removed in calendar quarters beginning after the date which is 180 days after the date of the enactment of this Act.

(m) TRANSITION RULE FOR PERMIT AND BOND REQUIREMENTS.—A person which is lawfully engaged in business as a manufacturer or importer of taxable nicotine (within the meaning of subchapter A of chapter 52 of the Internal Revenue Code of 1986, as amended by this section) on the date of the enactment of this Act, first becomes subject to the requirements of subchapter B of chapter 52 of such Code by reason of the amendments made by this section, and submits an application under such subchapter B to engage in such business not later than 90 days after the date of the enactment of this Act, shall not be denied the right to carry on such business by reason of such requirements before final action on such application.

SEC. 138505. CLARIFICATION OF RULES REGARDING TOBACCO DRAWBACK.

(a) IN GENERAL.—Section 5706 is amended by adding at the end the following: ''Exemption from tax under section 5704 is drawback, and no further drawback shall be allowed based on merchandise that has not been subject to tax.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to drawback claims made on or after December 18, 2018.

(c) NO INFERENCE.—Nothing contained in this subsection or the amendments made by this subsection shall be construed to create any inference with respect to any drawback claim made before December 18, 2018.

SEC. 138506. TERMINATION OF EMPLOYER CREDIT FOR PAID FAMILY AND MEDICAL LEAVE.

Section 45S(i) is amended by striking ''December 31, 2025'' and inserting ''December 31, 2023''.

SEC. 138507. CLARIFICATION OF TREATMENT OF DISC GAINS AND DISTRIBUTIONS OF CERTAIN FOREIGN SHAREHOLDERS.

(a) IN GENERAL.—Section 996(g) of the Internal Revenue Code of 1986 is amended by striking ''of such shareholder'' and inserting ''deemed to be had by such shareholder''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to gains and distributions after December 31, 2021.

(c) APPLICATION TO FOREIGN SALES CORPORATIONS.—In the case of any distribution after December 31, 2021, section 926(b)(1) of the Internal Revenue Code of 1986 (prior to its repeal by the FSC Repeal and

1 Extraterritorial Income Exclusion Act of 2000) shall be
2 applied by substituting ''deemed to be had by such share-
3 holder'' for ''of such shareholder''.

4 **SEC. 138508. ACCESS TO SELF-EMPLOYMENT INCOME IN-**
5 **FORMATION FOR PAID LEAVE ADMINISTRA-**
6 **TION.**

7 Section 6103(l) of the Internal Revenue Code of 1986
8 is amended by adding at the end the following new para-
9 graph:

10 ''(23) DISCLOSURE OF CERTAIN RETURN IN-
11 FORMATION TO CARRY OUT PAID FAMILY AND MED-
12 ICAL LEAVE BENEFIT PROGRAM.—

13 ''(A) IN GENERAL.—The Secretary shall,
14 upon written request, disclose to officers and
15 employees of the Department of the Treasury
16 return information with respect to a taxpayer
17 whose self-employment income is relevant in de-
18 termining eligibility for, or the correct amount
19 of, a paid family and medical leave benefit
20 under title XXII of the Social Security Act.
21 Such information shall be limited to—

22 ''(i) the taxpayer identity information
23 with respect to the taxpayer,

24 ''(ii) the self-employment income of
25 the taxpayer, and

"(iii) the taxable year to which such self-employment income relates.

"(B) RESTRICTION ON DISCLOSURE.—Return information disclosed under subparagraph (A) may be used by officers and employees of the Department of the Treasury solely for the purpose of administering the paid family and medical leave benefit program under title XXII of the Social Security Act.

"(C) SELF-EMPLOYMENT INCOME.—For purposes of this paragraph, the term 'self-employment income' has the meaning given such term in section 1402(b) for purposes of the taxes imposed by section 1401(b).".

SECTION 138509. TEMPORARY RULE TO ALLOW CERTAIN S CORPORATIONS TO REORGANIZE AS PARTNERSHIPS WITHOUT TAX.

(a) IN GENERAL.—A qualified liquidation of an eligible S corporation shall be treated for purposes of the Internal Revenue Code of 1986 in the same manner as if—

(1) such liquidation were a complete liquidation described in section 332(b) of such Code, and

(2) the domestic partnership referred to in subsection (c)(2) were a corporation which is an 80-per-

1 cent distributee (within the meaning of section
2 337(c) of such Code).
3 (b) ELIGIBLE S CORPORATION.—For purposes of
4 this section, the term ''eligible S corporation'' means any
5 corporation (including any predecessor corporation) that
6 was an S corporation on May 13, 1996, and at all times
7 thereafter through the date on which the qualified liquida-
8 tion is completed.
9 (c) QUALIFIED LIQUIDATION.—For purposes of this
10 section, the term ''qualified liquidation'' means one or
11 more transactions occurring during the 2-year period be-
12 ginning on December 31, 2021 if—
13 (1) such transactions constitute the complete
14 liquidation of an eligible S corporation, and
15 (2) substantially all of the assets and liabilities
16 of such eligible S corporation are, as a result of such
17 transactions, transferred to a domestic partnership.
18 (d) ELECTION.—This section shall apply to any
19 qualified liquidation only if the eligible S corporation elects
20 the application of this section in such manner as the Sec-
21 retary may require and not later than the due date for
22 filing the return of tax under chapter 1 of such Code for
23 the taxable year in which such liquidation is completed.
24 (e) APPLICATION OF RESTRICTION ON SUBSECTION
25 S CORPORATION ELECTIONS.—In the case of any quali-

fied liquidation to which this section applies, the domestic partnership referred to in subsection (c)(2) shall not fail to be treated as a successor corporation of the eligible S corporation for purposes of section 1362(g) of such Code.

(f) OTHER DEFINITIONS.—Terms used in this section which are also used in the Internal Revenue Code of 1986 shall have the same meaning as when used in such Code.

(g) REGULATIONS.—The Secretary shall prescribe such regulations or other guidance as may be necessary or appropriate to carry out this section.

SEC. 138510. TREATMENT OF CERTAIN QUALIFIED SOUND RECORDING PRODUCTIONS.

(a) ELECTION TO TREAT COSTS AS EXPENSES.—Section 181(a)(1) is amended by striking ''qualified film or television production, and any qualified live theatrical production,'' and inserting ''qualified film or television production, any qualified live theatrical production, and any qualified sound recording production''.

(b) DOLLAR LIMITATION.—Section 181(a)(2) is amended by adding at the end the following new subparagraph:

''(C) QUALIFIED SOUND RECORDING PRODUCTION.—Paragraph (1) shall not apply to so much of the aggregate cost of any qualified

sound recording production, or to so much of the aggregate, cumulative cost of all such qualified sound recording productions in the taxable year, as exceeds $150,000.''.

(c) NO OTHER DEDUCTION OR AMORTIZATION DEDUCTION ALLOWABLE.—Section 181(b) is amended by striking ''qualified film or television production or any qualified live theatrical production'' and inserting ''qualified film or television production, any qualified live theatrical production, or any qualified sound recording production''.

(d) ELECTION.—Section 181(c)(1) is amended by striking ''qualified film or television production or any qualified live theatrical production'' and inserting ''qualified film or television production, any qualified live theatrical production, or any qualified sound recording production''.

(e) QUALIFIED SOUND RECORDING PRODUCTION DEFINED.—Section 181 is amended by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and by inserting after subsection (e) the following new subsection:

''(f) QUALIFIED SOUND RECORDING PRODUCTION.—For purposes of this section, the term 'qualified sound recording production' means a sound recording (as defined

in section 101 of title 17, United States Code) produced and recorded in the United States.''.

(f) TERMINATION.—Section 181(h) (as redesignated by subsection (e)) is amended by striking ''qualified film or television production or any qualified live theatrical production'' and inserting ''qualified film or television production, any qualified live theatrical production, or any qualified sound recording production''.

(g) BONUS DEPRECIATION.—

(1) QUALIFIED SOUND RECORDING PRODUCTION AS QUALIFIED PROPERTY.—Section 168(k)(2)(A)(i) is amended—

(A) by striking ''or'' at the end of subclause (IV), by adding ''or'' at the end of subclause (V), and by inserting after subclause (V) the following:

''(VI) which is a qualified sound recording production (as defined in subsection (f) of section 181) for which a deduction would have been allowable under section 181 without regard to subsections (a)(2) and (h) of such section or this subsection,'', and

(B) in subclauses (IV) and (V) (as amended) by striking ''without regard to subsections

(a)(2) and (g)'' both places it appears and inserting ''without regard to subsections (a)(2) and (h)''.

(2) PRODUCTION PLACED IN SERVICE.—Section 168(k)(2)(H) is amended by striking ''and'' at the end of clause (i), by striking the period at the end of clause (ii) and inserting '', and'', and by adding after clause (ii) the following:

''(iii) a qualified sound recording production shall be considered to be placed in service at the time of initial release or broadcast.''.

(h) CONFORMING AMENDMENTS.—

(1) The heading for section 181 is amended to read as follows: ''**TREATMENT OF CERTAIN QUALIFIED PRODUCTIONS**.''.

(2) The table of sections for part VI of subchapter B of chapter 1 is amended by striking the item relating to section 181 and inserting the following new item:

''Sec. 181. Treatment of certain qualified productions.''.

(i) EFFECTIVE DATE.—The amendments made by this section shall apply to productions commencing in taxable years ending after the date of the enactment of this Act.

SECTION 138511. PAYMENT TO CERTAIN INDIVIDUALS WHO DYE FUEL.

(a) IN GENERAL.—Subchapter B of chapter 65 is amended by adding at the end the following new subsection:

"SEC. 6433. DYED FUEL.

"(a) IN GENERAL.—If a person establishes to the satisfaction of the Secretary that such person meets the requirements of subsection (b) with respect to diesel fuel or kerosene, then the Secretary shall pay to such person an amount (without interest) equal to the tax described in subsection (b)(2)(A) with respect to such diesel fuel or kerosene.

"(b) REQUIREMENTS.—

"(1) IN GENERAL.—A person meets the requirements of this subsection with respect to diesel fuel or kerosene if such person removes from a terminal eligible indelibly dyed diesel fuel or kerosene.

"(2) ELIGIBLE INDELIBLY DYED DIESEL FUEL OR KEROSENE DEFINED.—The term 'eligible indelibly dyed diesel fuel or kerosene' means diesel fuel or kerosene—

"(A) with respect to which a tax under section 4081 was previously paid (and not credited or refunded), and

"(B) which is exempt from taxation under section 4082(a).

"(c) CROSS REFERENCE.—For civil penalty for excessive claims under this section, see section 6675.".

(b) CONFORMING AMENDMENTS.—

(1) Section 6206 is amended—

(A) by striking "or 6427" each place it appears and inserting "6427, or 6433", and

(B) by striking "6420 and 6421" and inserting "6420, 6421, and 6433".

(2) Section 6430 is amended—

(A) by striking "or" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting "or", and by adding at the end the following new paragraph:

"(4) which are removed as eligible indelibly dyed diesel fuel or kerosene under section 6433.".

(3) Section 6675 is amended—

(A) in subsection (a), by striking "or 6427 (relating to fuels not used for taxable purposes)" and inserting "6427 (relating to fuels not used for taxable purposes), or 6433 (relating to eligible indelibly dyed fuel)", and

(B) in subsection (b)(1), by striking "6421, or 6427," and inserting "6421, 6427, or 6433".

(4) The table of sections for subchapter B of chapter 65 is amended by adding at the end the following new item:

"Sec. 6433. Dyed fuel.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to eligible indelibly dyed diesel fuel or kerosene removed on or after the date that is 180 days after the date of the enactment of this section.

SEC. 138512. EXTENSION OF CREDIT FOR PORTION OF EMPLOYER SOCIAL SECURITY TAXES PAID WITH RESPECT TO EMPLOYEE TIPS TO BEAUTY SERVICE ESTABLISHMENTS.

(a) EXTENSION OF TIP CREDIT TO BEAUTY SERVICE BUSINESS.—

(1) IN GENERAL.—Section 45B(b)(2) is amended to read as follows:

"(2) APPLICATION ONLY TO CERTAIN LINES OF BUSINESS.—In applying paragraph (1), there shall be taken into account only tips received from customers or clients in connection with the following services:

"(A) The providing, delivering, or serving of food or beverages for consumption, if the tip-

ping of employees delivering or serving food or beverages by customers is customary.

"(B) The providing of beauty services to a customer or client if the tipping of employees providing such services is customary.".

(2) BEAUTY SERVICE DEFINED.—Section 45B is amended by adding at the end the following new subsection:

"(e) BEAUTY SERVICE.—For purposes of this section, the term 'beauty service' means any of the following:

"(1) Barbering and hair care.

"(2) Nail care.

"(3) Esthetics.

"(4) Body and spa treatments.".

(b) CREDIT DETERMINED WITH RESPECT TO MINIMUM WAGE IN EFFECT.—Section 45B(b)(1)(B) is amended—

(1) by striking "as in effect on January 1, 2007, and", and

(2) by inserting ", and in the case of food or beverage establishments, as in effect on January 1, 2007" after "without regard to section 3(m) of such Act".

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

SEC. 138513. ENHANCEMENT OF WORK OPPORTUNITY CREDIT DURING COVID–19 RECOVERY PERIOD.

(a) IN GENERAL.—Section 51 is amended by adding at the end the following new subsection:

''(l) ADJUSTMENT TO CREDIT DURING COVID–19 RECOVERY PERIOD.—In the case of individuals (other than any individual who is a qualified summer youth employee) hired after the date of the enactment of this subsection and before January 1, 2023—

''(1) INCREASED AMOUNT OF CREDIT.—Subsection (a) shall be applied by substituting '50 percent' for '40 percent'.

''(2) AVAILABILITY OF CREDIT IN SECOND YEAR OF EMPLOYMENT.—

''(A) IN GENERAL.—Subsection (a) shall be applied by inserting 'or qualified second-year wages' after 'wages'.

''(B) QUALIFIED SECOND-YEAR WAGES.—For the purposes of this paragraph, the term 'qualified second-year wages' means qualified wages which are attributable to service rendered

during the 1-year period beginning on the day after the last day of the 1-year period with respect to the recipient determined under subsection (b)(2).

''(3) INCREASE IN LIMITATION ON WAGES TAKEN INTO ACCOUNT.—Subsection (b)(3) shall be applied by substituting '$10,000' for '$6,000'.

''(4) ELIGIBILITY OF REHIRES.—

''(A) IN GENERAL.—Subsection (i)(2) shall not apply.

''(B) REGULATIONS.—The Secretary shall issue such regulations as the Secretary determines appropriate to ensure a reasonable application of subparagraph (A), including prohibiting attempts to claim the benefit of this section through the termination and rehiring of an employee.''.

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

SEC. 138514. ALLOWANCE OF DEDUCTION FOR CERTAIN EXPENSES OF THE TRADE OR BUSINESS OF BEING AN EMPLOYEE.

(a) ABOVE-THE-LINE DEDUCTION FOR UNION DUES.—Section 62(a)(2) is amended by adding at the end the following new subparagraph:

"(F) UNION DUES.—The deductions allowed by section 162 which are both—

"(A) not in excess of $250, and

"(B) attributable to a trade or business consisting of the performance of services by the taxpayer as an employee if such deductions are for dues paid to a labor organization described in section 501(c)(5) and with respect to which such taxpayer remained a member through the end of the taxable year.".

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

SECTION 138515. COVER OVER OF CERTAIN DISTILLED SPIRITS TAXES.

(a) REPEAL OF LIMITATION ON COVER OVER OF DISTILLED SPIRITS TAXES TO PUERTO RICO AND VIRGIN ISLANDS.—

(1) IN GENERAL.—Section 7652 is amended by striking subsection (f) and by redesignating sub-

sections (g) and (h) as subsections (f) and (g), respectively.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to distilled spirits brought into the United States after December 31, 2021.

(b) REQUIRED TRANSFER TO PUERTO RICO CONSERVATION TRUST FUND OF PORTION OF PUERTO RICO RUM COVER OVER.—

(1) IN GENERAL.—Section 7652(a) is amended by adding at the end the following new paragraph:

"(4) REQUIRED TRANSFER TO PUERTO RICO CONSERVATION TRUST FUND OF PORTION OF RUM TAXES COVERED OVER.—

"(A) IN GENERAL.—From any taxes collected on rum transported to the United States that are covered into the treasury of Puerto Rico under paragraph (3) at a rate equal to or greater than $10.50 per proof gallon, Puerto Rico shall transfer to the Puerto Rico Conservation Trust Fund an amount per proof gallon equal to or greater than ⅙ of the difference between $10.50 and the rate, not to exceed $13.25, at which such taxes are covered into such treasury. Puerto Rico's obligations under

this paragraph shall not modify or impair payment priorities established under Puerto Rico law and in effect on May 21, 2021.

"(B) PUERTO RICO CONSERVATION TRUST FUND.—For purposes of this section, the term 'Puerto Rico Conservation Trust Fund' means the fund established pursuant to a Memorandum of Understanding between the United States Department of the Interior and the Commonwealth of Puerto Rico, dated December 24, 1968.".

(2) COVER OVER DETERMINED WITHOUT REGARD TO CERTAIN RATE REDUCTIONS.—Section 7652(h), as amended by subsections (a) and (c), is amended by inserting "(a)(4)," after "(a)(3),".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to distilled spirits brought into the United States after December 31, 2021.

(c) COVER OVER DETERMINED WITHOUT REGARD TO CERTAIN RATE REDUCTIONS.—

(1) IN GENERAL.—Section 7652, as amended by subsection (a), is amended by inserting after subsection (g) the following new subsection:

"(h) COVER OVER DETERMINED WITHOUT REGARD TO CERTAIN RATE REDUCTIONS.—For purposes of subsections (a)(3), (b)(3), and (e)(1), refunds under section 5001(c)(4) shall not be taken into account as a refund, and the amount of taxes imposed and collected under section 5001(a)(1) shall be determined without regard to section 5001(c).".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in section 13807 of Public Law 116–260.

(3) CONFORMING AMENDMENTS.—

(A) 7652(E).—

(i) IN GENERAL.—Section 7652(e) is amended by striking paragraph (5).

(ii) EFFECTIVE DATE.—The amendment made by this subparagraph shall take effect as if included in section 13807 of Public Law 115–97.

(B) 7652(I).—

(i) IN GENERAL.—Section 7652 is amended by striking subsection (i).

(ii) EFFECTIVE DATE.—The amendment made by this subparagraph shall take effect as if included in section 107 of Public Law 116–260.

SEC. 138516. RESEARCH AND EXPERIMENTAL EXPENDITURES.

(a) IN GENERAL.—Section 13206 of Public Law 115–97 is amended—

(1) in subsection (b)(3), by striking ''2021'' and inserting ''2025'', and

(2) in subsection (e), by striking ''2021'' and inserting ''2025''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 138517. PAYROLL CREDIT FOR COMPENSATION OF LOCAL NEWS JOURNALISTS.

(a) IN GENERAL.—In the case of an eligible local newspaper publisher, there shall be allowed as a credit against applicable employment taxes for each calendar quarter an amount equal to the applicable percentage of wages paid by such publisher to local news journalists for such calendar quarter.

(b) LIMITATIONS AND REFUNDABILITY.—

(1) WAGES TAKEN INTO ACCOUNT.—The amount of wages paid with respect to any individual which may be taken into account under subsection (a) during any calendar quarter by the eligible local newspaper publisher shall not exceed $12,500.

(2) CREDIT LIMITED TO EMPLOYMENT TAXES.—The credit allowed by subsection (a) with respect to any calendar quarter shall not exceed the applicable employment taxes (reduced by any credits allowed under sections 3131, 3132, 3134, and 6432 of the Internal Revenue Code of 1986) on the wages paid with respect to the employment of all the employees of the eligible local newspaper publisher for such calendar quarter.

(3) REFUNDABILITY OF EXCESS CREDIT.—

(A) IN GENERAL.—If the amount of the credit under subsection (a) exceeds the limitation of paragraph (2) for any calendar quarter, such excess shall be treated as an overpayment that shall be refunded under sections 6402(a) and 6413(b) of the Internal Revenue Code of 1986.

(B) TREATMENT OF PAYMENTS.—For purposes of section 1324 of title 31, United States Code, any amounts due to the employer under this paragraph shall be treated in the same manner as a refund due from a credit provision referred to in subsection (b)(2) of such section.

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

(1) APPLICABLE PERCENTAGE.—The term ''applicable percentage'' means—

(A) in the case of each of the first 4 calendar quarters to which this section applies, 50 percent, and

(B) in the case of each calendar quarter thereafter, 30 percent.

(2) APPLICABLE EMPLOYMENT TAXES.—The term ''applicable employment taxes'' means the taxes imposed under section 3111(b) of the Internal Revenue Code of 1986.

(3) ELIGIBLE LOCAL NEWSPAPER PUBLISHER.—The term ''eligible local newspaper publisher'' means, with respect to any calendar quarter, any employer if substantially all of the gross receipts of such employer for such calendar quarter are derived in the trade or business of publishing a local newspaper.

(4) LOCAL NEWSPAPER.—The term ''local newspaper'' means any print or digital publication if—

(A) the primary content of such publication is original content derived from primary sources and relating to news and current events,

(B) such publication primarily serves the needs of a regional or local community,

(C) the publisher of such publication employs at least one local news journalist who resides in such regional or local community, and

(D) the publisher of such publication employs no more than 750 employees during the calendar quarter with respect to which a credit is allowed under this section.

(5) LOCAL NEWS JOURNALIST.—The term ''local news journalist'' means, with respect to any eligible local newspaper publisher for any calendar quarter, an individual who provides at least 100 hours of service during such calendar quarter to such eligible local newspaper publisher, during which time such individual regularly gathers, collects, photographs, records, writes, or reports news or information that concerns local events or other matters of local public interest.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury or the Secretary's delegate.

(7) WAGES.—The term ''wages'' means wages (as defined in section 3121(a) of the Internal Revenue Code of 1986).

(8) OTHER TERMS.—Any term used in this section which is also used in chapter 21 or chapter 22 of the Internal Revenue Code of 1986 shall have the same meaning as when used in such chapter.

(d) AGGREGATION RULE.—

(1) IN GENERAL.—All persons treated as a single employer under subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986, or subsection (m) or (o) of section 414 of such Code, shall be treated as one employer for purposes of this section.

(2) EXCEPTION.—Paragraph (1) shall not apply unless such persons are involved in the production of the same print or digital publication.

(e) CERTAIN RULES TO APPLY.—For purposes of this section, rules similar to the rules of sections 51(i)(1) and 280C(a) of the Internal Revenue Code of 1986 shall apply.

(f) CERTAIN GOVERNMENTAL EMPLOYERS.—This credit shall not apply to the Government of the United States, the government of any State or political subdivision thereof, or any agency or instrumentality of any of the foregoing.

(g) ELECTION TO HAVE SECTION NOT APPLY.—This section shall not apply with respect to any eligible

local newspaper publisher for any calendar quarter if such person elects (at such time and in such manner as the Secretary may prescribe) not to have this section apply.

(h) SPECIAL RULES.—

(1) EMPLOYEE NOT TAKEN INTO ACCOUNT MORE THAN ONCE.—An employee shall not be included for purposes of this section for any period with respect to any employer if such employer is allowed a credit under section 51 of the Internal Revenue Code of 1986 with respect to such employee for such period.

(2) DENIAL OF DOUBLE BENEFIT.—Any wages taken into account in determining the credit allowed under this section shall not be taken into account for purposes of determining the credits allowed under section 41, 45A, 45P, 45S, 51, 1396, 3131, 3132, 3134, and 6432 of such Code.

(3) THIRD-PARTY PAYORS.—Any credit allowed under this section shall be treated as a credit described in section 3511(d)(2) of such Code.

(i) TREATMENT OF DEPOSITS.—The Secretary shall waive any penalty under section 6656 of the Internal Revenue Code of 1986 for any failure to make a deposit of any applicable employment taxes if the Secretary deter-

mines that such failure was due to the reasonable anticipation of the credit allowed under this section.

(j) REGULATIONS AND GUIDANCE.—The Secretary shall issue such forms, instructions, regulations, and guidance as are necessary to implement the purposes of this section, including with respect to the application of the credit under subsection (a) to third-party payors (including professional employer organizations, certified professional employer organizations, or agents under section 3504 of the Internal Revenue Code of 1986), including regulations or guidance allowing such payors to submit documentation necessary to substantiate the eligible employer status of employers that use such payors.

(k) APPLICATION.—This section shall only apply to calendar quarters during the first 5 calendar years beginning after the date of the enactment of this Act.

SECTION 138518. TREATMENT OF FINANCIAL GUARANTY INSURANCE COMPANIES AS QUALIFYING INSURANCE CORPORATIONS UNDER PASSIVE FOREIGN INVESTMENT COMPANY RULES.

(a) IN GENERAL.—Section 1297(f)(3) is amended by adding at the end the following new subparagraph:

"(C) SPECIAL RULES FOR FINANCIAL GUARANTY INSURANCE COMPANIES.—

"(i) IN GENERAL.—Notwithstanding subparagraphs (A)(ii) and (B), the applicable insurance liabilities of a financial guaranty insurance company shall include its unearned premium reserves if—

"(I) such company is prohibited under generally accepted accounting principles from reporting on its applicable financial statements reserves for losses and loss adjustment expenses with respect to a financial guaranty insurance or reinsurance contract except to the extent that losses and loss adjustment expenses are expected to exceed the unearned premium reserves on the contract,

"(II) the applicable financial statement of such company reports financial guaranty exposure of at least 15-to-1 or State or local bond exposure of at least 9-to-1 (8-to-1 in the case of a taxable year of such company which ends on or before December 31, 2018), and

1 "(III) such company includes in
2 its insurance liabilities only its un-
3 earned premium reserves relating to
4 insurance written or assumed that is
5 within the single risk limits set forth
6 in subsection (D) of section 4 of the
7 Financial Guaranty Insurance Guide-
8 line (modified by using total share-
9 holder's equity as reported on the ap-
10 plicable financial statement of the
11 company rather than aggregate of the
12 surplus to policyholders and contin-
13 gency reserves).
14 "(ii) APPLICATION OF ALTERNATIVE
15 FACTS AND CIRCUMSTANCES TEST.—A fi-
16 nancial guaranty insurance company shall
17 be treated as satisfying the requirements
18 of paragraph (2)(B).
19 "(iii) FINANCIAL GUARANTY INSUR-
20 ANCE COMPANY.—For purposes of this
21 subparagraph, the term 'financial guaranty
22 insurance company' means any insurance
23 company the sole business of which is writ-
24 ing or reinsuring financial guaranty insur-
25 ance (as defined in subsection (A) of sec-

tion 1 of the Financial Guaranty Insurance Guideline) which is permitted under subsection (B) of section 4 of such Guideline.

"(iv) FINANCIAL GUARANTY EXPOSURE.—For purposes of this subparagraph, the term 'financial guaranty exposure' means the ratio of—

"(I) the net debt service outstanding insured or reinsured by the company that is within the single risk limits set forth in the Financial Guaranty Insurance Guideline (as reported on such company's applicable financial statement), to

"(II) the company's total assets (as so reported).

"(v) STATE OR LOCAL BOND EXPOSURE.—For purposes of this subparagraph, the term 'State or local bond exposure' means the ratio of—

"(I) the net unpaid principal of State or local bonds (as defined in section 103(c)(1)) insured or reinsured by the company that is within the single risk limits set forth in the

Financial Guaranty Insurance Guideline (as reported on such company's applicable financial statement), to

"(II) the company's total assets (as so reported)."

"(vi) FINANCIAL GUARANTY INSURANCE GUIDELINE.—For purposes of this subparagraph—

"(I) IN GENERAL.—The term 'Financial Guaranty Insurance Guideline' means the October 2008 model regulation that was adopted by the National Association of Insurance Commissioners on December 4, 2007.

"(II) DETERMINATIONS MADE BY SECRETARY.—The determination of whether any provision of the Financial Guaranty Insurance Guideline has been satisfied shall be made by the Secretary.".

(b) REPORTING OF CERTAIN ITEMS.—Section 1297(f)(4) is amended by adding at the end the following new subparagraph:

"(C) CLARIFICATION THAT CERTAIN ITEMS ON APPLICABLE FINANCIAL STATEMENT BE

SEPARATELY REPORTED WITH RESPECT TO CORPORATION.—An amount described in paragraph (1)(B) or clause (i)(II), (i)(III), (iv)(I), (iv)(II), (v)(I), or (v)(II) of paragraph (3)(C) shall be treated as reported on an applicable financial statement for purposes of this section if—

"(i) such amount is separately reported on such statement with respect to the corporation referred to in paragraph (1), or

"(ii) such amount is separately determined for purposes of calculating an amount which is reported on such statement.

"(D) AUTHORITY OF SECRETARY TO REQUIRE REPORTING.—

"(i) IN GENERAL.—Each United States person who owns an interest in a specified non-publicly traded foreign corporation and who takes the position that such corporation is not a passive foreign investment company shall report to the Secretary such information with respect to

such corporation as the Secretary may require.

"(ii) SPECIFIED NON-PUBLICLY TRADED FOREIGN CORPORATION.—For purposes of this subparagraph, the term 'specified non-publicly traded foreign corporation' means any foreign corporation—

"(I) which would be a passive foreign investment company if subsection (b)(2)(B) did not apply, and

"(II) no interest in which is traded on an established securities market.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect as if included in section 14501 of Public Law 115–97.

(2) REPORTING.—The amendment made by subsection (b) shall apply to reports made after the date of the enactment of this Act.

SEC. 138519. CREDIT FOR QUALIFIED ACCESS TECHNOLOGY FOR THE BLIND.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 is amended by inserting after section 36G the following new section:

"SEC. 36H. CREDIT FOR QUALIFIED ACCESS TECHNOLOGY FOR THE BLIND.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this subtitle an amount equal to amounts paid or incurred during the taxable year, not compensated for by insurance or otherwise, by the taxpayer for qualified access technology for use by a qualified blind individual who is the taxpayer, the taxpayer's spouse, or any dependent (as defined in section 152) of the taxpayer.

"(b) LIMITATION.—The aggregate amount of the credit allowed under subsection (a) with respect to any qualified blind individual shall not exceed $2,000 in any 3-consecutive-taxable-year period.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED BLIND INDIVIDUAL.—The term 'qualified blind individual' means an individual who is blind within the meaning of section 63(f)(4).

"(2) QUALIFIED ACCESS TECHNOLOGY DEFINED.—The term 'qualified access technology' means hardware, software, or other information

technology the primary function of which is to convert or adapt information which is visually represented into forms or formats useable by blind individuals.

"(d) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under subsection (a) for any expense for which a deduction or credit is allowed under any other provision of this chapter.

"(e) INFLATION ADJUSTMENT.—

"(1) IN GENERAL.—In the case of a taxable year beginning after 2022, the $2,000 amount in subsection (b) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2021' for 'calendar year 2016' in subparagraph (A)(ii) thereof.

"(2) ROUNDING.—If the amount as adjusted under subparagraph (A) is not a multiple of $100, such amount shall be rounded to the next lowest multiple of $100.

"(f) TERMINATION.—This section shall not apply with respect to amounts paid or incurred in taxable years beginning after December 31, 2026.".

(b) CONFORMING AMENDMENTS.—

(1) Section 6211(b)(4)(A), as amended by the preceding provisions of this Act, is amended by inserting ", 36H" after "36G".

(2) Section 1324(b)(2) of title 31, United States Code, is amended by inserting ", 36H" after ", 36G".

(3) The table of sections for subpart C of part IV of subchapter A is amended by inserting after the item relating to section 36G the following new item:

"Sec. 36H. Credit for qualified access technology for the blind."

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

SEC. 138520. MODIFICATION OF REIT CONSTRUCTIVE OWNERSHIP RULES.

(a) IN GENERAL.—Section 856(d)(5) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by adding at the end the following:

"(C) except as otherwise provided by the Secretary, stock, assets, and net profits con-

structively owned by a partnership, estate, trust, or corporation by reason of the application of section 318(a)(3) (after application of subparagraphs (A) and (B)) shall not be considered as owned by it for purposes of again applying such section in order to make another person the constructive owner of such stock, assets, or net profits.

Subparagraph (C) shall not prevent any person from being the constructive owner of stock, assets, or net profits of any person as the result of any other application of section 318(a) (as modified by this paragraph).''.

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

(c) NO INFERENCE.—Nothing in this section or the amendments made by this section shall be construed to create any inference with respect to the proper application of section 318 of the Internal Revenue Code of 1986 to cases other than cases to which such amendments apply.

Subtitle J—Drug Pricing

PART 1—LOWERING PRICES THROUGH FAIR DRUG PRICE NEGOTIATION

SEC. 139001. PROVIDING FOR LOWER PRICES FOR CERTAIN HIGH-PRICED SINGLE SOURCE DRUGS.

(a) PROGRAM TO LOWER PRICES FOR CERTAIN HIGH-PRICED SINGLE SOURCE DRUGS.—Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding at the end the following new part:

"PART E—FAIR PRICE NEGOTIATION PROGRAM TO LOWER PRICES FOR CERTAIN HIGH-PRICED SINGLE SOURCE DRUGS

"SEC. 1191. ESTABLISHMENT OF PROGRAM.

''(a) IN GENERAL.—The Secretary shall establish a Fair Price Negotiation Program (in this part referred to as the 'program'). Under the program, with respect to each price applicability period, the Secretary shall—

''(1) publish a list of selected drugs in accordance with section 1192;

''(2) enter into agreements with manufacturers of selected drugs with respect to such period, in accordance with section 1193;

''(3) negotiate and, if applicable, renegotiate maximum fair prices for such selected drugs, in accordance with section 1194; and

"(4) carry out the administrative duties described in section 1196.

"(b) DEFINITIONS RELATING TO TIMING.—For purposes of this part:

"(1) INITIAL PRICE APPLICABILITY YEAR.—The term 'initial price applicability year' means a plan year (beginning with plan year 2025) or, if agreed to in an agreement under section 1193 by the Secretary and manufacturer involved, a period of more than one plan year (beginning on or after January 1, 2025).

"(2) PRICE APPLICABILITY PERIOD.—The term 'price applicability period' means, with respect to a drug, the period beginning with the initial price applicability year with respect to which such drug is a selected drug and ending with the last plan year during which the drug is a selected drug.

"(3) SELECTED DRUG PUBLICATION DATE.—The term 'selected drug publication date' means, with respect to each initial price applicability year, April 15 of the plan year that begins 2 years prior to such year.

"(4) VOLUNTARY NEGOTIATION PERIOD.—The term 'voluntary negotiation period' means, with re-

1 spect to an initial price applicability year with re-
2 spect to a selected drug, the period—
3 "(A) beginning on the sooner of—
4 "(i) the date on which the manufac-
5 turer of the drug and the Secretary enter
6 into an agreement under section 1193 with
7 respect to such drug; or
8 "(ii) June 15 following the selected
9 drug publication date with respect to such
10 selected drug; and
11 "(B) ending on March 31 of the year that
12 begins one year prior to the initial price appli-
13 cability year.
14 "(c) OTHER DEFINITIONS.—For purposes of this
15 part:
16 "(1) FAIR PRICE ELIGIBLE INDIVIDUAL.—The
17 term 'fair price eligible individual' means, with re-
18 spect to a selected drug—
19 "(A) in the case such drug is furnished or
20 dispensed to the individual at a pharmacy or by
21 a mail order service—
22 "(i) an individual who is enrolled
23 under a prescription drug plan under part
24 D of title XVIII or an MA–PD plan under
25 part C of such title if coverage is provided

1 under such plan for such selected drug;
2 and
3 ''(ii) an individual who is enrolled
4 under a group health plan or health insur-
5 ance coverage offered in the group or indi-
6 vidual market (as such terms are defined
7 in section 2791 of the Public Health Serv-
8 ice Act) with respect to which there is in
9 effect an agreement with the Secretary
10 under section 1197 with respect to such se-
11 lected drug as so furnished or dispensed;
12 and
13 ''(B) in the case such drug is furnished or
14 administered to the individual by a hospital,
15 physician, or other provider of services or sup-
16 plier—
17 ''(i) an individual who is entitled to
18 benefits under part A of title XVIII or en-
19 rolled under part B of such title if such se-
20 lected drug is covered under the respective
21 part; and
22 ''(ii) an individual who is enrolled
23 under a group health plan or health insur-
24 ance coverage offered in the group or indi-
25 vidual market (as such terms are defined

in section 2791 of the Public Health Service Act) with respect to which there is in effect an agreement with the Secretary under section 1197 with respect to such selected drug as so furnished or administered.

"(2) MAXIMUM FAIR PRICE.—The term 'maximum fair price' means, with respect to a plan year during a price applicability period and with respect to a selected drug (as defined in section 1192(c)) with respect to such period, the price published pursuant to section 1195 in the Federal Register for such drug and year.

"(3) AVERAGE INTERNATIONAL MARKET PRICE DEFINED.—

"(A) IN GENERAL.—The terms 'average international market price' and 'AIM price' mean, with respect to a drug, the average price (which shall be the net average price, if practicable, and volume-weighted, if practicable) for a unit (as defined in paragraph (4)) of the drug for sales of such drug (calculated across different dosage forms and strengths of the drug and not based on the specific formulation or package size or package type), as computed (as

of the date of publication of such drug as a selected drug under section 1192(a)) in all countries described in clause (ii) of subparagraph (B) that are applicable countries (as described in clause (i) of such subparagraph) with respect to such drug.

"(B) APPLICABLE COUNTRIES.—

"(i) IN GENERAL.—For purposes of subparagraph (A), a country described in clause (ii) is an applicable country described in this clause with respect to a drug if there is available an average price for any unit for the drug for sales of such drug in such country.

"(ii) COUNTRIES DESCRIBED.—For purposes of this paragraph, the following are countries described in this clause:

"(I) Australia.

"(II) Canada.

"(III) France.

"(IV) Germany.

"(V) Japan.

"(VI) The United Kingdom.

"(4) UNIT.—The term 'unit' means, with respect to a drug, the lowest identifiable quantity

(such as a capsule or tablet, milligram of molecules, or grams) of the drug that is dispensed.

"SEC. 1192. SELECTION OF NEGOTIATION-ELIGIBLE DRUGS AS SELECTED DRUGS.

"(a) IN GENERAL.—Not later than the selected drug publication date with respect to an initial price applicability year, subject to subsection (h), the Secretary shall select and publish in the Federal Register a list of—

"(1)(A) with respect to an initial price applicability year during 2025, at least 25 negotiation-eligible drugs described in subparagraphs (A) and (B), but not subparagraph (C), of subsection (d)(1) (or, with respect to an initial price applicability year during such period beginning after 2025, the maximum number (if such number is less than 25) of such negotiation-eligible drugs for the year) with respect to such year; and

"(B) with respect to an initial price applicability year during 2026 or a subsequent year, at least 50 negotiation-eligible drugs described in subparagraphs (A) and (B), but not subparagraph (C), of subsection (d)(1) (or, with respect to an initial price applicability year during such period, the maximum number (if such number is less than 50) of

such negotiation-eligible drugs for the year) with respect to such year;

"(2) all negotiation-eligible drugs described in subparagraph (C) of such subsection with respect to such year; and

"(3) all new-entrant negotiation-eligible drugs (as defined in subsection (g)(1)) with respect to such year.

Each drug published on the list pursuant to the previous sentence shall be subject to the negotiation process under section 1194 for the voluntary negotiation period with respect to such initial price applicability year (and the renegotiation process under such section as applicable for any subsequent year during the applicable price applicability period). In applying this subsection, any negotiation-eligible drug that is selected under this subsection for an initial price applicability year shall not count toward the required minimum amount of drugs to be selected under paragraph (1) for any subsequent year, including such a drug so selected that is subject to renegotiation under section 1194.

"(b) SELECTION OF DRUGS.—In carrying out subsection (a)(1) the Secretary shall select for inclusion on the published list described in subsection (a) with respect to a price applicability period, the negotiation-eligible

drugs that the Secretary projects will result in the greatest savings to the Federal Government or fair price eligible individuals during the price applicability period. In making this projection of savings for drugs for which there is an AIM price for a price applicability period, the savings shall be projected across different dosage forms and strengths of the drugs and not based on the specific formulation or package size or package type of the drugs, taking into consideration both the volume of drugs for which payment is made, to the extent such data is available, and the amount by which the net price for the drugs exceeds the AIM price for the drugs.

''(c) SELECTED DRUG.—For purposes of this part, each drug included on the list published under subsection (a) with respect to an initial price applicability year shall be referred to as a 'selected drug' with respect to such year and each subsequent plan year beginning before the first plan year beginning after the date on which the Secretary determines two or more drug products—

''(1) are approved or licensed (as applicable)—

''(A) under section 505(j) of the Federal Food, Drug, and Cosmetic Act using such drug as the listed drug; or

1 "(B) under section 351(k) of the Public
2 Health Service Act using such drug as the ref-
3 erence product; and
4 "(2) continue to be marketed.
5 "(d) NEGOTIATION-ELIGIBLE DRUG.—
6 "(1) IN GENERAL.—For purposes of this part,
7 the term 'negotiation-eligible drug' means, with re-
8 spect to the selected drug publication date with re-
9 spect to an initial price applicability year, a quali-
10 fying single source drug, as defined in subsection
11 (e), that meets any of the following criteria:
12 "(A) COVERED PART D DRUGS.—The drug
13 is among the 125 covered part D drugs (as de-
14 fined in section 1860D–2(e)) for which there
15 was an estimated greatest net spending under
16 parts C and D of title XVIII, as determined by
17 the Secretary, during the most recent plan year
18 prior to such drug publication date for which
19 data are available.
20 "(B) OTHER DRUGS.—The drug is among
21 the 125 drugs for which there was an estimated
22 greatest net spending in the United States (in-
23 cluding the 50 States, the District of Columbia,
24 and the territories of the United States), as de-
25 termined by the Secretary, during the most re-

cent plan year prior to such drug publication date for which data are available.

"(C) INSULIN.—The drug is a qualifying single source drug described in subsection (e)(3).

"(2) CLARIFICATION.—In determining whether a qualifying single source drug satisfies any of the criteria described in paragraph (1), the Secretary shall, to the extent practicable, use data that is aggregated across dosage forms and strengths of the drug and not based on the specific formulation or package size or package type of the drug.

"(3) PUBLICATION.—Not later than the selected drug publication date with respect to an initial price applicability year, the Secretary shall publish in the Federal Register a list of negotiation-eligible drugs with respect to such selected drug publication date.

"(e) QUALIFYING SINGLE SOURCE DRUG.—For purposes of this part, the term 'qualifying single source drug' means any of the following:

"(1) DRUG PRODUCTS.—A drug that—

"(A) is approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act and

1 continues to be marketed pursuant to such ap-
2 proval; and
3 ''(B) is not the listed drug for any drug
4 that is approved and continues to be marketed
5 under section 505(j) of such Act.
6 ''(2) BIOLOGICAL PRODUCTS.—A biological
7 product that—
8 ''(A) is licensed under section 351(a) of
9 the Public Health Service Act, including any
10 product that has been deemed to be licensed
11 under section 351 of such Act pursuant to sec-
12 tion 7002(e)(4) of the Biologics Price Competi-
13 tion and Innovation Act of 2009, and continues
14 to be marketed under section 351 of such Act;
15 and
16 ''(B) is not the reference product for any
17 biological product that is licensed and continues
18 to be marketed under section 351(k) of such
19 Act.
20 ''(3) INSULIN PRODUCT.—Notwithstanding
21 paragraphs (1) and (2), any insulin product that is
22 approved under subsection (c) or (j) of section 505
23 of the Federal Food, Drug, and Cosmetic Act or li-
24 censed under subsection (a) or (k) of section 351 of
25 the Public Health Service Act and continues to be

1 marketed under such section 505 or 351, including
2 any insulin product that has been deemed to be li-
3 censed under section 351(a) of the Public Health
4 Service Act pursuant to section 7002(e)(4) of the
5 Biologics Price Competition and Innovation Act of
6 2009 and continues to be marketed pursuant to such
7 licensure.

8 For purposes of applying paragraphs (1) and (2), a drug
9 or biological product that is marketed by the same sponsor
10 or manufacturer (or an affiliate thereof or a cross-licensed
11 producer or distributor) as the listed drug or reference
12 product described in such respective paragraph shall not
13 be taken into consideration.

14 ''(f) INFORMATION ON INTERNATIONAL DRUG
15 PRICES.—For purposes of determining which negotiation-
16 eligible drugs to select under subsection (a) and, in the
17 case of such drugs that are selected drugs, to determine
18 the maximum fair price for such a drug and whether such
19 maximum fair price should be renegotiated under section
20 1194, the Secretary shall use data relating to the AIM
21 price with respect to such drug as available or provided
22 to the Secretary and shall on an ongoing basis request
23 from manufacturers of selected drugs information on the
24 AIM price of such a drug.

1 "(g) NEW-ENTRANT NEGOTIATION-ELIGIBLE
2 DRUGS.—
3 "(1) IN GENERAL.—For purposes of this part,
4 the term 'new-entrant negotiation-eligible drug'
5 means, with respect to the selected drug publication
6 date with respect to an initial price applicability
7 year, a qualifying single source drug—
8 "(A) that is first approved or licensed, as
9 described in paragraph (1), (2), or (3) of sub-
10 section (e), as applicable, during the year pre-
11 ceding such selected drug publication date; and
12 "(B) that the Secretary determines under
13 paragraph (2) is likely to be included as a nego-
14 tiation-eligible drug with respect to the subse-
15 quent selected drug publication date.
16 "(2) DETERMINATION.—In the case of a quali-
17 fying single source drug that meets the criteria de-
18 scribed in subparagraph (A) of paragraph (1), with
19 respect to an initial price applicability year, if the
20 wholesale acquisition cost at which such drug is first
21 marketed in the United States is equal to or greater
22 than the median household income (as determined
23 according to the most recent data collected by the
24 United States Census Bureau), the Secretary shall
25 determine before the selected drug publication date

with respect to the initial price applicability year, if the drug is likely to be included as a negotiation-eligible drug with respect to the subsequent selected drug publication date, based on the projected spending under title XVIII or in the United States on such drug. For purposes of this paragraph the term 'United States' includes the 50 States, the District of Columbia, and the territories of the United States.

''(h) CONFLICT OF INTEREST.—

''(1) IN GENERAL.—In the case the Inspector General of the Department of Health and Human Services determines the Secretary has a conflict, with respect to a matter described in paragraph (2), the individual described in paragraph (3) shall carry out the duties of the Secretary under this part, with respect to a negotiation-eligible drug, that would otherwise be such a conflict.

''(2) MATTER DESCRIBED.—A matter described in this paragraph is—

''(A) a financial interest (as described in section 2635.402 of title 5, Code of Federal Regulations, as in effect on the date of the enactment of this section, (except for an interest described in subsection (b)(2)(iv) of such sec-

tion)) on the date of the selected drug publication date, with respect the price applicability year (as applicable);

"(B) a personal or business relationship (as described in section 2635.502 of such title) on the date of the selected drug publication date, with respect the price applicability year;

"(C) employment by a manufacturer of a negotiation-eligible drug during the preceding 10-year period beginning on the date of the selected drug publication date, with respect to each price applicability year; and

"(D) any other matter the General Counsel determines appropriate.

"(3) INDIVIDUAL DESCRIBED.—An individual described in this paragraph is—

"(A) the highest-ranking officer or employee of the Department of Health and Human Services (as determined by the organizational chart of the Department) that does not have a conflict under this subsection; and

"(B) is nominated by the President and confirmed by the Senate with respect to the position.

"SEC. 1193. MANUFACTURER AGREEMENTS.

"(a) IN GENERAL.—For purposes of section 1191(a)(2), the Secretary shall enter into agreements with manufacturers of selected drugs with respect to a price applicability period, by not later than June 15 following the selected drug publication date with respect to such selected drug, under which—

"(1) during the voluntary negotiation period for the initial price applicability year for the selected drug, the Secretary and manufacturer, in accordance with section 1194, negotiate to determine (and, by not later than the last date of such period and in accordance with subsection (c), agree to) a maximum fair price for such selected drug of the manufacturer in order to provide access to such price—

"(A) to fair price eligible individuals who with respect to such drug are described in subparagraph (A) of section 1191(c)(1) and are furnished or dispensed such drug during, subject to subparagraph (2), the price applicability period; and

"(B) to hospitals, physicians, and other providers of services and suppliers with respect to fair price eligible individuals who with respect to such drug are described in subparagraph (B) of such section and are furnished or

1 administered such drug during, subject to sub-
2 paragraph (2), the price applicability period;
3 ''(2) the Secretary and the manufacturer shall,
4 in accordance with a process and during a period
5 specified by the Secretary pursuant to rulemaking,
6 renegotiate (and, by not later than the last date of
7 such period and in accordance with subsection (c),
8 agree to) the maximum fair price for such drug if
9 the Secretary determines that there is a material
10 change in any of the factors described in section
11 1194(d) relating to the drug, including changes in
12 the AIM price for such drug, in order to provide ac-
13 cess to such maximum fair price (as so renegoti-
14 ated)—
15 ''(A) to fair price eligible individuals who
16 with respect to such drug are described in sub-
17 paragraph (A) of section 1191(c)(1) and are
18 furnished or dispensed such drug during any
19 year during the price applicability period (be-
20 ginning after such renegotiation) with respect
21 to such selected drug; and
22 ''(B) to hospitals, physicians, and other
23 providers of services and suppliers with respect
24 to fair price eligible individuals who with re-
25 spect to such drug are described in subpara-

graph (B) of such section and are furnished or administered such drug during any year described in subparagraph (A);

''(3) the maximum fair price (including as renegotiated pursuant to paragraph (2)), with respect to such a selected drug, shall be provided to fair price eligible individuals, who with respect to such drug are described in subparagraph (A) of section 1191(c)(1), at the pharmacy or by a mail order service at the point-of-sale of such drug;

''(4) the manufacturer, subject to subsection (d), submits to the Secretary, in a form and manner specified by the Secretary—

''(A) for the voluntary negotiation period for the price applicability period (and, if applicable, before any period of renegotiation specified pursuant to paragraph (2)) with respect to such drug all information that the Secretary requires to carry out the negotiation (or renegotiation process) under this part, including information described in section 1192(f) and section 1194(d)(1); and

''(B) on an ongoing basis, information on changes in prices for such drug that would affect the AIM price for such drug or otherwise

provide a basis for renegotiation of the maximum fair price for such drug pursuant to paragraph (2);

''(5) the manufacturer agrees that in the case the selected drug of a manufacturer is a drug described in subsection (c), the manufacturer will, in accordance with such subsection, make any payment required under such subsection with respect to such drug; and

''(6) the manufacturer complies with requirements imposed by the Secretary for purposes of administering the program, including with respect to the duties described in section 1196.

''(b) AGREEMENT IN EFFECT UNTIL DRUG IS NO LONGER A SELECTED DRUG.—An agreement entered into under this section shall be effective, with respect to a drug, until such drug is no longer considered a selected drug under section 1192(c).

''(c) SPECIAL RULE FOR CERTAIN SELECTED DRUGS WITHOUT AIM PRICE.—

''(1) IN GENERAL.—In the case of a selected drug for which there is no AIM price available with respect to the initial price applicability year for such drug and for which an AIM price becomes available beginning with respect to a subsequent plan year

during the price applicability period for such drug, if the Secretary determines that the amount described in paragraph (2)(A) for a unit of such drug is greater than the amount described in paragraph (2)(B) for a unit of such drug, then by not later than one year after the date of such determination, the manufacturer of such selected drug shall pay to the Treasury an amount equal to the product of—

"(A) the difference between such amount described in paragraph (2)(A) for a unit of such drug and such amount described in paragraph (2)(B) for a unit of such drug; and

"(B) the number of units of such drug sold in the United States, including the 50 States, the District of Columbia, and the territories of the United States, during the period described in paragraph (2)(B).

"(2) AMOUNTS DESCRIBED.—

"(A) WEIGHTED AVERAGE PRICE BEFORE AIM PRICE AVAILABLE.—For purposes of paragraph (1), the amount described in this subparagraph for a selected drug described in such paragraph, is the amount equal to the weighted average manufacturer price (as defined in section 1927(k)(1)) for such dosage strength and

form for the drug during the period beginning with the first plan year for which the drug is included on the list of negotiation-eligible drugs published under section 1192(d) and ending with the last plan year during the price applicability period for such drug with respect to which there is no AIM price available for such drug.

"(B) AMOUNT MULTIPLIER AFTER AIM PRICE AVAILABLE.—For purposes of paragraph (1), the amount described in this subparagraph for a selected drug described in such paragraph, is the amount equal to 200 percent of the AIM price for such drug with respect to the first plan year during the price applicability period for such drug with respect to which there is an AIM price available for such drug.

"(d) CONFIDENTIALITY OF INFORMATION.—Information submitted to the Secretary under this part by a manufacturer of a selected drug that is proprietary information of such manufacturer (as determined by the Secretary) may be used only by the Secretary or disclosed to and used by the Comptroller General of the United States or the Medicare Payment Advisory Commission for purposes of carrying out this part.

"(e) REGULATIONS.—

"(1) IN GENERAL.—The Secretary shall, pursuant to rulemaking, specify, in accordance with paragraph (2), the information that must be submitted under subsection (a)(4).

"(2) INFORMATION SPECIFIED.—Information described in paragraph (1), with respect to a selected drug, shall include information on sales of the drug (by the manufacturer of the drug or by another entity under license or other agreement with the manufacturer, with respect to the sales of such drug, regardless of the name under which the drug is sold) in any foreign country that is part of the AIM price. The Secretary shall verify, to the extent practicable, such sales from appropriate officials of the government of the foreign country involved.

"(f) COMPLIANCE WITH REQUIREMENTS FOR ADMINISTRATION OF PROGRAM.—Each manufacturer with an agreement in effect under this section shall comply with requirements imposed by the Secretary or a third party with a contract under section 1196(c)(1), as applicable, for purposes of administering the program.

"SEC. 1194. NEGOTIATION AND RENEGOTIATION PROCESS.

"(a) IN GENERAL.—For purposes of this part, under an agreement under section 1193 between the Secretary and a manufacturer of a selected drug, with respect to

the period for which such agreement is in effect and in accordance with subsections (b) and (c), the Secretary and the manufacturer—

"(1) shall during the voluntary negotiation period with respect to the initial price applicability year for such drug, in accordance with this section, negotiate a maximum fair price for such drug for the purpose described in section 1193(a)(1); and

"(2) as applicable pursuant to section 1193(a)(2) and in accordance with the process specified pursuant to such section, renegotiate such maximum fair price for such drug for the purpose described in such section.

"(b) NEGOTIATING METHODOLOGY AND OBJECTIVE.—

"(1) IN GENERAL.—The Secretary shall develop and use a consistent methodology for negotiations under subsection (a) that, in accordance with paragraph (2) and subject to paragraph (3), achieves the lowest maximum fair price for each selected drug while appropriately rewarding innovation.

"(2) PRIORITIZING FACTORS.—In considering the factors described in subsection (d) in negotiating (and, as applicable, renegotiating) the maximum fair price for a selected drug, the Secretary shall, to the

extent practicable, consider all of the available factors listed but shall prioritize the following factors:

"(A) RESEARCH AND DEVELOPMENT COSTS.—The factor described in paragraph (1)(A) of subsection (d).

"(B) MARKET DATA.—The factor described in paragraph (1)(B) of such subsection.

"(C) UNIT COSTS OF PRODUCTION AND DISTRIBUTION.—The factor described in paragraph (1)(C) of such subsection.

"(D) COMPARISON TO EXISTING THERAPEUTIC ALTERNATIVES.—The factor described in paragraph (2)(A) of such subsection.

"(3) REQUIREMENT.—

"(A) IN GENERAL.—In negotiating the maximum fair price of a selected drug, with respect to an initial price applicability year for the selected drug, and, as applicable, in renegotiating the maximum fair price for such drug, with respect to a subsequent year during the price applicability period for such drug, in the case that the manufacturer of the selected drug offers under the negotiation or renegotiation, as applicable, a price for such drug that is not more than the target price described in sub-

1 paragraph (B) for such drug for the respective
2 year, the Secretary shall agree under such ne-
3 gotiation or renegotiation, respectively, to such
4 offered price as the maximum fair price.
5 ''(B) TARGET PRICE.—
6 ''(i) IN GENERAL.—Subject to clause
7 (ii), the target price described in this sub-
8 paragraph for a selected drug with respect
9 to a year, is the average price (which shall
10 be the net average price, if practicable, and
11 volume-weighted, if practicable) for a unit
12 of such drug for sales of such drug, as
13 computed (across different dosage forms
14 and strengths of the drug and not based
15 on the specific formulation or package size
16 or package type of the drug) in the appli-
17 cable country described in section
18 1191(c)(3)(B) with respect to such drug
19 that, with respect to such year, has the
20 lowest average price for such drug as com-
21 pared to the average prices (as so com-
22 puted) of such drug with respect to such
23 year in the other applicable countries de-
24 scribed in such section with respect to such
25 drug.

"(ii) SELECTED DRUGS WITHOUT AIM PRICE.—In applying this paragraph in the case of negotiating the maximum fair price of a selected drug for which there is no AIM price available with respect to the initial price applicability year for such drug, or, as applicable, renegotiating the maximum fair price for such drug with respect to a subsequent year during the price applicability period for such drug before the first plan year for which there is an AIM price available for such drug, the target price described in this subparagraph for such drug and respective year is the amount that is 80 percent of the average manufacturer price (as defined in section 1927(k)(1)) for such drug and year.

"(c) LIMITATION.—

"(1) IN GENERAL.—Subject to paragraph (2), the maximum fair price negotiated (including as renegotiated) under this section for a selected drug, with respect to each plan year during a price applicability period for such drug, shall not exceed 120 percent of the AIM price applicable to such drug with respect to such year.

"(2) SELECTED DRUGS WITHOUT AIM PRICE.—In the case of a selected drug for which there is no AIM price available with respect to the initial price applicability year for such drug, for each plan year during the price applicability period before the first plan year for which there is an AIM price available for such drug, the maximum fair price negotiated (including as renegotiated) under this section for the selected drug shall not exceed the amount equal to 85 percent of the average manufacturer price for the drug with respect to such year.

"(d) CONSIDERATIONS.—For purposes of negotiating and, as applicable, renegotiating (including for purposes of determining whether to renegotiate) the maximum fair price of a selected drug under this part with the manufacturer of the drug, the Secretary, consistent with subsection (b)(2), shall take into consideration the factors described in paragraphs (1), (2), (3), and (5), and may take into consideration the factor described in paragraph (4):

"(1) MANUFACTURER-SPECIFIC INFORMATION.—The following information, including as submitted by the manufacturer:

"(A) Research and development costs of the manufacturer for the drug and the extent to

which the manufacturer has recouped research and development costs.

"(B) Market data for the drug, including the distribution of sales across different programs and purchasers and projected future revenues for the drug.

"(C) Unit costs of production and distribution of the drug.

"(D) Prior Federal financial support for novel therapeutic discovery and development with respect to the drug.

"(E) Data on patents and on existing and pending exclusivity for the drug.

"(F) National sales data for the drug.

"(G) Information on clinical trials for the drug in the United States or in applicable countries described in section 1191(c)(3)(B).

"(2) INFORMATION ON ALTERNATIVE PRODUCTS.—The following information:

"(A) The extent to which the drug represents a therapeutic advance as compared to existing therapeutic alternatives and, to the extent such information is available, the costs of such existing therapeutic alternatives.

"(B) Information on approval by the Food and Drug Administration of alternative drug products.

"(C) Information on comparative effectiveness analysis for such products, taking into consideration the effects of such products on specific populations, such as individuals with disabilities, the elderly, terminally ill, children, and other patient populations.

In considering information described in subparagraph (C), the Secretary shall not use evidence or findings from comparative clinical effectiveness research in a manner that treats extending the life of an elderly, disabled, or terminally ill individual as of lower value than extending the life of an individual who is younger, nondisabled, or not terminally ill. Nothing in the previous sentence shall affect the application or consideration of an AIM price for a selected drug.

"(3) FOREIGN SALES INFORMATION.—To the extent available on a timely basis, including as provided by a manufacturer of the selected drug or otherwise, information on sales of the selected drug in each of the countries described in section 1191(c)(3)(B).

1 "(4) VA DRUG PRICING INFORMATION.—Infor-
2 mation disclosed to the Secretary pursuant to sub-
3 section (f).
4 "(5) ADDITIONAL INFORMATION.—Information
5 submitted to the Secretary, in accordance with a
6 process specified by the Secretary, by other parties
7 that are affected by the establishment of a maximum
8 fair price for the selected drug.
9 "(e) REQUEST FOR INFORMATION.—For purposes of
10 negotiating and, as applicable, renegotiating (including for
11 purposes of determining whether to renegotiate) the max-
12 imum fair price of a selected drug under this part with
13 the manufacturer of the drug, with respect to a price ap-
14 plicability period, and other relevant data for purposes of
15 this section—
16 "(1) the Secretary shall, not later than the se-
17 lected drug publication date with respect to the ini-
18 tial price applicability year of such period, request
19 drug pricing information from the manufacturer of
20 such selected drug, including information described
21 in subsection (d)(1); and
22 "(2) by not later than October 1 following the
23 selected drug publication date, the manufacturer of
24 such selected drug shall submit to the Secretary

1 such requested information in such form and man-
2 ner as the Secretary may require.
3 The Secretary shall request, from the manufacturer or
4 others, such additional information as may be needed to
5 carry out the negotiation and renegotiation process under
6 this section.
7 ''(f) DISCLOSURE OF INFORMATION.—For purposes
8 of this part, the Secretary of Veterans Affairs may disclose
9 to the Secretary of Health and Human Services the price
10 of any negotiation-eligible drug that is purchased pursuant
11 to section 8126 of title 38, United States Code.
12 **''SEC. 1195. PUBLICATION OF MAXIMUM FAIR PRICES.**
13 ''(a) IN GENERAL.—With respect to an initial price
14 applicability year and selected drug with respect to such
15 year, not later than April 1 of the plan year prior to such
16 initial price applicability year, the Secretary shall publish
17 in the Federal Register the maximum fair price for such
18 drug negotiated under this part with the manufacturer of
19 such drug.
20 ''(b) UPDATES.—
21 ''(1) SUBSEQUENT YEAR MAXIMUM FAIR
22 PRICES.—For a selected drug, for each plan year
23 subsequent to the initial price applicability year for
24 such drug with respect to which an agreement for

such drug is in effect under section 1193, the Secretary shall publish in the Federal Register—

"(A) subject to subparagraph (B), the amount equal to the maximum fair price published for such drug for the previous year, increased by the annual percentage increase in the consumer price index for all urban consumers (all items; U.S. city average) as of September of such previous year; or

"(B) in the case the maximum fair price for such drug was renegotiated, for the first year for which such price as so renegotiated applies, such renegotiated maximum fair price.

"(2) PRICES NEGOTIATED AFTER DEADLINE.—In the case of a selected drug with respect to an initial price applicability year for which the maximum fair price is determined under this part after the date of publication under this section, the Secretary shall publish such maximum fair price in the Federal Register by not later than 30 days after the date such maximum price is so determined.

"SEC. 1196. ADMINISTRATIVE DUTIES; COORDINATION PROVISIONS.

"(a) ADMINISTRATIVE DUTIES.—

1 "(1) IN GENERAL.—For purposes of section
2 1191, the administrative duties described in this sec-
3 tion are the following:
4 "(A) The establishment of procedures (in-
5 cluding through agreements with manufacturers
6 under this part, contracts with prescription
7 drug plans under part D of title XVIII and
8 MA–PD plans under part C of such title, and
9 agreements under section 1197 with group
10 health plans and health insurance issuers of
11 health insurance coverage offered in the indi-
12 vidual or group market) under which the max-
13 imum fair price for a selected drug is provided
14 to fair price eligible individuals, who with re-
15 spect to such drug are described in subpara-
16 graph (A) of section 1191(c)(1), at pharmacies
17 or by mail order service at the point-of-sale of
18 the drug for the applicable price period for such
19 drug and providing that such maximum fair
20 price is used for determining cost-sharing under
21 such plans or coverage for the selected drug.
22 "(B) The establishment of procedures (in-
23 cluding through agreements with manufacturers
24 under this part and contracts with hospitals,
25 physicians, and other providers of services and

1 suppliers and agreements under section 1197
2 with group health plans and health insurance
3 issuers of health insurance coverage offered in
4 the individual or group market) under which, in
5 the case of a selected drug furnished or admin-
6 istered by such a hospital, physician, or other
7 provider of services or supplier to fair price eli-
8 gible individuals (who with respect to such drug
9 are described in subparagraph (B) of section
10 1191(c)(1)), the maximum fair price for the se-
11 lected drug is provided to such hospitals, physi-
12 cians, and other providers of services and sup-
13 pliers (as applicable) with respect to such indi-
14 viduals and providing that such maximum fair
15 price is used for determining cost-sharing under
16 the respective part, plan, or coverage for the se-
17 lected drug.
18 ''(C) The establishment of procedures (in-
19 cluding through agreements and contracts de-
20 scribed in subparagraphs (A) and (B)) to en-
21 sure that, not later than 90 days after the dis-
22 pensing of a selected drug to a fair price eligi-
23 ble individual by a pharmacy or mail order serv-
24 ice, the pharmacy or mail order service is reim-

1 bursed for an amount equal to the difference
2 between—
3 ''(i) the lesser of—
4 ''(I) the wholesale acquisition
5 cost of the drug;
6 ''(II) the national average drug
7 acquisition cost of the drug; and
8 ''(III) any other similar deter-
9 mination of pharmacy acquisition
10 costs of the drug, as determined by
11 the Secretary; and
12 ''(ii) the maximum fair price for the
13 drug.
14 ''(D) The establishment of procedures to
15 ensure that the maximum fair price for a se-
16 lected drug is applied before—
17 ''(i) any coverage or financial assist-
18 ance under other health benefit plans or
19 programs that provide coverage or finan-
20 cial assistance for the purchase or provi-
21 sion of prescription drug coverage on be-
22 half of fair price eligible individuals as the
23 Secretary may specify; and
24 ''(ii) any other discounts.

1 "(E) The establishment of procedures to
2 enter into appropriate agreements and protocols
3 for the ongoing computation of AIM prices for
4 selected drugs, including, to the extent possible,
5 to compute the AIM price for selected drugs
6 and including by providing that the manufac-
7 turer of such a selected drug should provide in-
8 formation for such computation not later than
9 3 months after the first date of the voluntary
10 negotiation period for such selected drug.
11 "(F) The establishment of procedures to
12 compute and apply the maximum fair price
13 across different strengths and dosage forms of
14 a selected drug and not based on the specific
15 formulation or package size or package type of
16 the drug.
17 "(G) The establishment of procedures to
18 negotiate and apply the maximum fair price in
19 a manner that does not include any dispensing
20 or similar fee.
21 "(H) The establishment of procedures to
22 carry out the provisions of this part, as applica-
23 ble, with respect to—
24 "(i) fair price eligible individuals who
25 are enrolled under a prescription drug plan

under part D of title XVIII or an MA–PD plan under part C of such title;

''(ii) fair price eligible individuals who are enrolled under a group health plan or health insurance coverage offered by a health insurance issuer in the individual or group market with respect to which there is an agreement in effect under section 1197; and

''(iii) fair price eligible individuals who are entitled to benefits under part A of title XVIII or enrolled under part B of such title.

''(I) The establishment of a negotiation process and renegotiation process in accordance with section 1194, including a process for acquiring information described in subsection (d) of such section and determining amounts described in subsection (b) of such section.

''(J) The provision of a reasonable dispute resolution mechanism to resolve disagreements between manufacturers, fair price eligible individuals, and the third party with a contract under subsection (c)(1).

''(2) MONITORING COMPLIANCE.—

1 "(A) IN GENERAL.—The Secretary shall
2 monitor compliance by a manufacturer with the
3 terms of an agreement under section 1193, in-
4 cluding by establishing a mechanism through
5 which violations of such terms may be reported.
6 "(B) NOTIFICATION.—If a third party
7 with a contract under subsection (c)(1) deter-
8 mines that the manufacturer is not in compli-
9 ance with such agreement, the third party shall
10 notify the Secretary of such noncompliance for
11 appropriate enforcement under section 4192 of
12 the Internal Revenue Code of 1986 or section
13 1198, as applicable.
14 "(b) COLLECTION OF DATA.—
15 "(1) FROM PRESCRIPTION DRUG PLANS AND
16 MA–PD PLANS.—The Secretary may collect appro-
17 priate data from prescription drug plans under part
18 D of title XVIII and MA–PD plans under part C of
19 such title in a timeframe that allows for maximum
20 fair prices to be provided under this part for selected
21 drugs.
22 "(2) FROM HEALTH PLANS.—The Secretary
23 may collect appropriate data from group health
24 plans or health insurance issuers offering group or
25 individual health insurance coverage in a timeframe

that allows for maximum fair prices to be provided under this part for selected drugs.

"(3) COORDINATION OF DATA COLLECTION.—To the extent feasible, as determined by the Secretary, the Secretary shall ensure that data collected pursuant to this subsection is coordinated with, and not duplicative of, other Federal data collection efforts.

"(c) CONTRACT WITH THIRD PARTIES.—

"(1) IN GENERAL.—The Secretary may enter into a contract with 1 or more third parties to administer the requirements established by the Secretary in order to carry out this part. At a minimum, the contract with a third party under the preceding sentence shall require that the third party—

"(A) receive and transmit information between the Secretary, manufacturers, and other individuals or entities the Secretary determines appropriate;

"(B) receive, distribute, or facilitate the distribution of funds of manufacturers to appropriate individuals or entities in order to meet the obligations of manufacturers under agreements under this part;

"(C) provide adequate and timely information to manufacturers, consistent with the agreement with the manufacturer under this part, as necessary for the manufacturer to fulfill its obligations under this part; and

"(D) permit manufacturers to conduct periodic audits, directly or through contracts, of the data and information used by the third party to determine discounts for applicable drugs of the manufacturer under the program.

"(2) PERFORMANCE REQUIREMENTS.—The Secretary shall establish performance requirements for a third party with a contract under paragraph (1) and safeguards to protect the independence and integrity of the activities carried out by the third party under the program under this part.

"SEC. 1197. VOLUNTARY PARTICIPATION BY OTHER HEALTH PLANS.

"(a) AGREEMENT TO PARTICIPATE UNDER PROGRAM.—

"(1) IN GENERAL.—Subject to paragraph (2), under the program under this part the Secretary shall be treated as having in effect an agreement with a group health plan or health insurance issuer offering group or individual health insurance cov-

erage (as such terms are defined in section 2791 of the Public Health Service Act), with respect to a price applicability period and a selected drug with respect to such period—

"(A) with respect to such selected drug furnished or dispensed at a pharmacy or by mail order service if coverage is provided under such plan or coverage during such period for such selected drug as so furnished or dispensed; and

"(B) with respect to such selected drug furnished or administered by a hospital, physician, or other provider of services or supplier if coverage is provided under such plan or coverage during such period for such selected drug as so furnished or administered.

"(2) OPTING OUT OF AGREEMENT.—The Secretary shall not be treated as having in effect an agreement under the program under this part with a group health plan or health insurance issuer offering group or individual health insurance coverage with respect to a price applicability period and a selected drug with respect to such period if such a plan or issuer affirmatively elects, through a process

specified by the Secretary, not to participate under the program with respect to such period and drug.

"(b) PUBLICATION OF ELECTION.—With respect to each price applicability period and each selected drug with respect to such period, the Secretary and the Secretary of Labor and the Secretary of the Treasury, as applicable, shall make public a list of each group health plan and each health insurance issuer offering group or individual health insurance coverage, with respect to which coverage is provided under such plan or coverage for such drug, that has elected under subsection (a) not to participate under the program with respect to such period and drug.

"SEC. 1198. CIVIL MONETARY PENALTY.

"(a) VIOLATIONS RELATING TO OFFERING OF MAXIMUM FAIR PRICE.—Any manufacturer of a selected drug that has entered into an agreement under section 1193, with respect to a plan year during the price applicability period for such drug, that does not provide access to a price that is not more than the maximum fair price (or a lesser price) for such drug for such year—

"(1) to a fair price eligible individual who with respect to such drug is described in subparagraph (A) of section 1191(c)(1) and who is furnished or dispensed such drug during such year; or

1 "(2) to a hospital, physician, or other provider
2 of services or supplier with respect to fair price eligi-
3 ble individuals who with respect to such drug is de-
4 scribed in subparagraph (B) of such section and is
5 furnished or administered such drug by such hos-
6 pital, physician, or provider or supplier during such
7 year;
8 shall be subject to a civil monetary penalty equal to ten
9 times the amount equal to the difference between the price
10 for such drug made available for such year by such manu-
11 facturer with respect to such individual or hospital, physi-
12 cian, provider, or supplier and the maximum fair price for
13 such drug for such year.
14 "(b) VIOLATIONS OF CERTAIN TERMS OF AGREE-
15 MENT.—Any manufacturer of a selected drug that has en-
16 tered into an agreement under section 1193, with respect
17 to a plan year during the price applicability period for
18 such drug, that is in violation of a requirement imposed
19 pursuant to section 1193(a)(6) shall be subject to a civil
20 monetary penalty of not more than $1,000,000 for each
21 such violation.
22 "(c) APPLICATION.—The provisions of section 1128A
23 (other than subsections (a) and (b)) shall apply to a civil
24 monetary penalty under this section in the same manner

as such provisions apply to a penalty or proceeding under section 1128A(a).

"SEC. 1199. MISCELLANEOUS PROVISIONS.

"(a) PAPERWORK REDUCTION ACT.—Chapter 35 of title 44, United States Code, shall not apply to data collected under this part.

"(b) LIMITATION ON JUDICIAL REVIEW.—The following shall not be subject to judicial review:

"(1) The selection of drugs for publication under section 1192(a).

"(2) The determination of whether a drug is a negotiation-eligible drug under section 1192(d).

"(3) The determination of the maximum fair price of a selected drug under section 1194.

"(4) The determination of units of a drug for purposes of section 1191(c)(3).

"(c) COORDINATION.—In carrying out this part with respect to group health plans or health insurance coverage offered in the group market that are subject to oversight by the Secretary of Labor or the Secretary of the Treasury, the Secretary of Health and Human Services shall coordinate with such respective Secretary.

"(d) DATA SHARING.—The Secretary shall share with the Secretary of the Treasury such information as

is necessary to determine the tax imposed by section 4192 of the Internal Revenue Code of 1986.''.

(b) APPLICATION OF MAXIMUM FAIR PRICES AND CONFORMING AMENDMENTS.—

(1) UNDER MEDICARE.—

(A) APPLICATION TO PAYMENTS UNDER PART B.—Section 1847A(b)(1)(B) of the Social Security Act (42 U.S.C. 1395w–3a(b)(1)(B)) is amended by inserting ''or in the case of such a drug or biological that is a selected drug (as defined in section 1192(c)), with respect to a price applicability period (as defined in section 1191(b)(2)), 106 percent of the maximum fair price (as defined in section 1191(c)(2)) applicable for such drug and a plan year during such period'' after ''paragraph (4)''.

(B) EXCEPTION TO PART D NON-INTERFERENCE.—Section 1860D–11(i) of the Social Security Act (42 U.S.C. 1395w–111(i)) is amended by inserting '', except as provided under part E of title XI'' after ''the Secretary''.

(C) APPLICATION AS NEGOTIATED PRICE UNDER PART D.—Section 1860D–2(d)(1) of the Social Security Act (42 U.S.C. 1395w–102(d)(1)) is amended—

(i) in subparagraph (B), by inserting ", subject to subparagraph (D)," after "negotiated prices"; and

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

"(D) APPLICATION OF MAXIMUM FAIR PRICE FOR SELECTED DRUGS.—In applying this section, in the case of a covered part D drug that is a selected drug (as defined in section 1192(c)), with respect to a price applicability period (as defined in section 1191(b)(2)), the negotiated prices used for payment (as described in this subsection) shall be the maximum fair price (as defined in section 1191(c)(2)) for such drug and for each plan year during such period.".

(D) INFORMATION FROM PRESCRIPTION DRUG PLANS AND MA–PD PLANS REQUIRED.—

(i) PRESCRIPTION DRUG PLANS.—Section 1860D–12(b) of the Social Security Act (42 U.S.C. 1395w–112(b)) is amended by adding at the end the following new paragraph:

"(8) PROVISION OF INFORMATION RELATED TO MAXIMUM FAIR PRICES.—Each contract entered into

with a PDP sponsor under this part with respect to a prescription drug plan offered by such sponsor shall require the sponsor to provide information to the Secretary as requested by the Secretary in accordance with section 1196(b).''.

(ii) MA–PD PLANS.—Section 1857(f)(3) of the Social Security Act (42 U.S.C. 1395w–27(f)(3)) is amended by adding at the end the following new subparagraph:

''(E) PROVISION OF INFORMATION RELATED TO MAXIMUM FAIR PRICES.—Section 1860D–12(b)(8).''.

(2) UNDER GROUP HEALTH PLANS AND HEALTH INSURANCE COVERAGE.—

(A) PHSA.—Part D of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–111 et seq.) is amended by adding at the end the following new section:

''SEC. 2799A–11. FAIR PRICE NEGOTIATION PROGRAM AND APPLICATION OF MAXIMUM FAIR PRICES.

''(a) IN GENERAL.—In the case of a group health plan or health insurance issuer offering group or individual health insurance coverage that is treated under section 1197 of the Social Security Act as having in effect

1 an agreement with the Secretary under the Fair Price Ne-
2 gotiation Program under part E of title XI of such Act,
3 with respect to a price applicability period (as defined in
4 section 1191(b) of such Act) and a selected drug (as de-
5 fined in section 1192(c) of such Act) with respect to such
6 period with respect to which coverage is provided under
7 such plan or coverage—
8 ''(1) the provisions of such part shall apply—
9 ''(A) if coverage of such selected drug is
10 provided under such plan or coverage if the
11 drug is furnished or dispensed at a pharmacy
12 or by a mail order service, to the plans or cov-
13 erage offered by such plan or issuer, and to the
14 individuals enrolled under such plans or cov-
15 erage, during such period, with respect to such
16 selected drug, in the same manner as such pro-
17 visions apply to prescription drug plans and
18 MA–PD plans, and to individuals enrolled
19 under such prescription drug plans and MA–
20 PD plans during such period; and
21 ''(B) if coverage of such selected drug is
22 provided under such plan or coverage if the
23 drug is furnished or administered by a hospital,
24 physician, or other provider of services or sup-
25 plier, to the plans or coverage offered by such

1 plan or issuers, to the individuals enrolled
2 under such plans or coverage, and to hospitals,
3 physicians, and other providers of services and
4 suppliers during such period, with respect to
5 such drug in the same manner as such provi-
6 sions apply to the Secretary, to individuals enti-
7 tled to benefits under part A of title XVIII or
8 enrolled under part B of such title, and to hos-
9 pitals, physicians, and other providers and sup-
10 pliers participating under title XVIII during
11 such period;
12 ''(2) the plan or issuer shall apply any cost-
13 sharing responsibilities under such plan or coverage,
14 with respect to such selected drug, by substituting
15 an amount not more than the maximum fair price
16 negotiated under such part E of title XI for such
17 drug in lieu of the drug price upon which the cost-
18 sharing would have otherwise applied, and such cost-
19 sharing responsibilities with respect to such selected
20 drug may not exceed such maximum fair price; and
21 ''(3) the Secretary shall apply the provisions of
22 such part E to such plan, issuer, and coverage, such
23 individuals so enrolled in such plans and coverage,
24 and such hospitals, physicians, and other providers

and suppliers participating in such plans and coverage.

''(b) NOTIFICATION REGARDING NONPARTICIPATION IN FAIR PRICE NEGOTIATION PROGRAM.—A group health plan or a health insurance issuer offering group or individual health insurance coverage shall publicly disclose in a manner and in accordance with a process specified by the Secretary any election made under section 1197 of the Social Security Act by the plan or issuer to not participate in the Fair Price Negotiation Program under part E of title XI of such Act with respect to a selected drug (as defined in section 1192(c) of such Act) for which coverage is provided under such plan or coverage before the beginning of the plan year for which such election was made.''.

(B) ERISA.—

(i) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181 et seq.) is amended by adding at the end the following new section:

''SEC. 726. FAIR PRICE NEGOTIATION PROGRAM AND APPLICATION OF MAXIMUM FAIR PRICES.

''(a) IN GENERAL.—In the case of a group health plan or health insurance issuer offering group health in-

1 surance coverage that is treated under section 1197 of the
2 Social Security Act as having in effect an agreement with
3 the Secretary under the Fair Price Negotiation Program
4 under part E of title XI of such Act, with respect to a
5 price applicability period (as defined in section 1191(b)
6 of such Act) and a selected drug (as defined in section
7 1192(c) of such Act) with respect to such period with re-
8 spect to which coverage is provided under such plan or
9 coverage—

10 "(1) the provisions of such part shall apply, as
11 applicable—

12 "(A) if coverage of such selected drug is
13 provided under such plan or coverage if the
14 drug is furnished or dispensed at a pharmacy
15 or by a mail order service, to the plans or cov-
16 erage offered by such plan or issuer, and to the
17 individuals enrolled under such plans or cov-
18 erage, during such period, with respect to such
19 selected drug, in the same manner as such pro-
20 visions apply to prescription drug plans and
21 MA–PD plans, and to individuals enrolled
22 under such prescription drug plans and MA–
23 PD plans during such period; and

24 "(B) if coverage of such selected drug is
25 provided under such plan or coverage if the

1 drug is furnished or administered by a hospital,
2 physician, or other provider of services or sup-
3 plier, to the plans or coverage offered by such
4 plan or issuers, to the individuals enrolled
5 under such plans or coverage, and to hospitals,
6 physicians, and other providers of services and
7 suppliers during such period, with respect to
8 such drug in the same manner as such provi-
9 sions apply to the Secretary, to individuals enti-
10 tled to benefits under part A of title XVIII or
11 enrolled under part B of such title, and to hos-
12 pitals, physicians, and other providers and sup-
13 pliers participating under title XVIII during
14 such period;
15 ''(2) the plan or issuer shall apply any cost-
16 sharing responsibilities under such plan or coverage,
17 with respect to such selected drug, by substituting
18 an amount not more than the maximum fair price
19 negotiated under such part E of title XI for such
20 drug in lieu of the drug price upon which the cost-
21 sharing would have otherwise applied, and such cost-
22 sharing responsibilities with respect to such selected
23 drug may not exceed such maximum fair price; and

1 ''(3) the Secretary shall apply the provisions of
2 such part E to such plan, issuer, and coverage, and
3 such individuals so enrolled in such plans.
4 ''(b) NOTIFICATION REGARDING NONPARTICIPATION
5 IN FAIR PRICE NEGOTIATION PROGRAM.—A group health
6 plan or a health insurance issuer offering group health in-
7 surance coverage shall publicly disclose in a manner and
8 in accordance with a process specified by the Secretary
9 any election made under section 1197 of the Social Secu-
10 rity Act by the plan or issuer to not participate in the
11 Fair Price Negotiation Program under part E of title XI
12 of such Act with respect to a selected drug (as defined
13 in section 1192(c) of such Act) for which coverage is pro-
14 vided under such plan or coverage before the beginning
15 of the plan year for which such election was made.''.
16 (ii) APPLICATION TO RETIREE AND
17 CERTAIN SMALL GROUP HEALTH PLANS.—
18 Section 732(a) of the Employee Retire-
19 ment Income Security Act of 1974 (29
20 U.S.C. 1191a(a)) is amended by striking
21 ''section 711'' and inserting ''sections 711
22 and 726''.
23 (iii) CLERICAL AMENDMENT.—The
24 table of sections for subpart B of part 7 of
25 subtitle B of title I of the Employee Re-

1 tirement Income Security Act of 1974 is
2 amended by adding at the end the fol-
3 lowing:

"Sec. 726. Fair Price Negotiation Program and application of maximum fair prices.".

4 (C) IRC.—
5 (i) IN GENERAL.—Subchapter B of
6 chapter 100 of the Internal Revenue Code
7 of 1986 is amended by adding at the end
8 the following new section:

9 **"SEC. 9826. FAIR PRICE NEGOTIATION PROGRAM AND AP-**
10 **PLICATION OF MAXIMUM FAIR PRICES.**

11 "(a) IN GENERAL.—In the case of a group health
12 plan that is treated under section 1197 of the Social Secu-
13 rity Act as having in effect an agreement with the Sec-
14 retary under the Fair Price Negotiation Program under
15 part E of title XI of such Act, with respect to a price
16 applicability period (as defined in section 1191(b) of such
17 Act) and a selected drug (as defined in section 1192(c)
18 of such Act) with respect to such period with respect to
19 which coverage is provided under such plan—
20 "(1) the provisions of such part shall apply, as
21 applicable—
22 "(A) if coverage of such selected drug is
23 provided under such plan if the drug is fur-
24 nished or dispensed at a pharmacy or by a mail

order service, to the plan, and to the individuals enrolled under such plan during such period, with respect to such selected drug, in the same manner as such provisions apply to prescription drug plans and MA–PD plans, and to individuals enrolled under such prescription drug plans and MA–PD plans during such period; and

''(B) if coverage of such selected drug is provided under such plan if the drug is furnished or administered by a hospital, physician, or other provider of services or supplier, to the plan, to the individuals enrolled under such plan, and to hospitals, physicians, and other providers of services and suppliers during such period, with respect to such drug in the same manner as such provisions apply to the Secretary, to individuals entitled to benefits under part A of title XVIII or enrolled under part B of such title, and to hospitals, physicians, and other providers and suppliers participating under title XVIII during such period;

''(2) the plan shall apply any cost-sharing responsibilities under such plan, with respect to such selected drug, by substituting an amount not more

than the maximum fair price negotiated under such part E of title XI for such drug in lieu of the drug price upon which the cost-sharing would have otherwise applied, and such cost-sharing responsibilities with respect to such selected drug may not exceed such maximum fair price; and

''(3) the Secretary shall apply the provisions of such part E to such plan and such individuals so enrolled in such plan.

''(b) NOTIFICATION REGARDING NONPARTICIPATION IN FAIR PRICE NEGOTIATION PROGRAM.—A group health plan shall publicly disclose in a manner and in accordance with a process specified by the Secretary any election made under section 1197 of the Social Security Act by the plan to not participate in the Fair Price Negotiation Program under part E of title XI of such Act with respect to a selected drug (as defined in section 1192(c) of such Act) for which coverage is provided under such plan before the beginning of the plan year for which such election was made.''.

(ii) APPLICATION TO RETIREE AND CERTAIN SMALL GROUP HEALTH PLANS.—Section 9831(a)(2) of the Internal Revenue Code of 1986 is amended by inserting

1 "other than with respect to section 9826,"
2 before "any group health plan".
3 (iii) CLERICAL AMENDMENT.—The
4 table of sections for subchapter B of chap-
5 ter 100 of such Code is amended by add-
6 ing at the end the following new item:

"Sec. 9826. Fair Price Negotiation Program and application of maximum fair prices.".

7 (3) FAIR PRICE NEGOTIATION PROGRAM PRICES
8 INCLUDED IN BEST PRICE AND AMP.—Section 1927
9 of the Social Security Act (42 U.S.C. 1396r–8) is
10 amended—
11 (A) in subsection (c)(1)(C)(ii)—
12 (i) in subclause (III), by striking at
13 the end "; and";
14 (ii) in subclause (IV), by striking at
15 the end the period and inserting "; and";
16 and
17 (iii) by adding at the end the fol-
18 lowing new subclause:
19 "(V) in the case of a rebate pe-
20 riod and a covered outpatient drug
21 that is a selected drug (as defined in
22 section 1192(c)) during such rebate
23 period, shall be inclusive of the price
24 for such drug made available from the

manufacturer during the rebate period by reason of application of part E of title XI to any wholesaler, retailer, provider, health maintenance organization, nonprofit entity, or governmental entity within the United States.''; and

(B) in subsection (k)(1)(B), by adding at the end the following new clause:

''(iii) CLARIFICATION.—Notwithstanding clause (i), in the case of a rebate period and a covered outpatient drug that is a selected drug (as defined in section 1192(c)) during such rebate period, any reduction in price paid during the rebate period to the manufacturer for the drug by a wholesaler or retail community pharmacy described in subparagraph (A) by reason of application of part E of title XI shall be included in the average manufacturer price for the covered outpatient drug.''.

(4) FEHBP.—Section 8902 of title 5, United States Code, is amended by adding at the end the following:

1 ''(p) A contract may not be made or a plan approved
2 under this chapter with any carrier that has affirmatively
3 elected, pursuant to section 1197 of the Social Security
4 Act, not to participate in the Fair Price Negotiation Pro-
5 gram established under section 1191 of such Act for any
6 selected drug (as that term is defined in section 1192(c)
7 of such Act).''.

8 (5) OPTION OF SECRETARY OF VETERANS AF-
9 FAIRS TO PURCHASE COVERED DRUGS AT MAXIMUM
10 FAIR PRICES.—Section 8126 of title 38, United
11 States Code, is amended—

12 (A) in subsection (a)(2), by inserting '',
13 subject to subsection (j),'' after ''may not ex-
14 ceed'';

15 (B) in subsection (d), in the matter pre-
16 ceding paragraph (1), by inserting '', subject to
17 subsection (j)'' after ''for the procurement of
18 the drug''; and

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

21 ''(j)(1) In the case of a covered drug that is a selected
22 drug, for any year during the price applicability period for
23 such drug, if the Secretary determines that the maximum
24 fair price of such drug for such year is less than the price
25 for such drug otherwise in effect pursuant to this section

1 (including after application of any reduction under sub-
2 section (a)(2) and any discount under subsection (c)), at
3 the option of the Secretary, in lieu of the maximum price
4 (determined after application of the reduction under sub-
5 section (a)(2) and any discount under subsection (c), as
6 applicable) that would be permitted to be charged during
7 such year for such drug pursuant to this section without
8 application of this subsection, the maximum price per-
9 mitted to be charged during such year for such drug pur-
10 suant to this section shall be such maximum fair price for
11 such drug and year.

12 ''(2) For purposes of this subsection:

13 ''(A) The term 'maximum fair price' means,
14 with respect to a selected drug and year during the
15 price applicability period for such drug, the max-
16 imum fair price (as defined in section 1191(c)(2) of
17 the Social Security Act) for such drug and year.

18 ''(B) The term 'negotiation eligible drug' has
19 the meaning given such term in section 1192(d)(1)
20 of the Social Security Act.

21 ''(C) The term 'price applicability period' has,
22 with respect to a selected drug, the meaning given
23 such term in section 1191(b)(2) of such Act.

"(D) The term 'selected drug' means, with respect to a year, a drug that is a selected drug under section 1192(c) of such Act for such year.".

SEC. 139002. SELECTED DRUG MANUFACTURER EXCISE TAX IMPOSED DURING NONCOMPLIANCE PERIODS.

(a) IN GENERAL.—Subchapter E of chapter 32 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 4192. SELECTED DRUGS DURING NONCOMPLIANCE PERIODS.

"(a) IN GENERAL.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any selected drug during a day described in subsection (b) a tax in an amount such that the applicable percentage is equal to the ratio of—

"(1) such tax, divided by

"(2) the sum of such tax and the price for which so sold.

"(b) NONCOMPLIANCE PERIODS.—A day is described in this subsection with respect to a selected drug if it is a day during one of the following periods:

"(1) The period beginning on the June 16th immediately following the selected drug publication date and ending on the first date during which the

manufacturer of the drug has in place an agreement described in subsection (a) of section 1193 of the Social Security Act with respect to such drug.

''(2) The period beginning on the April 1st immediately following the June 16th described in paragraph (1) and ending on the first date during which the manufacturer of the drug has agreed to a maximum fair price under such agreement.

''(3) In the case of a selected drug with respect to which the Secretary of Health and Human Services has specified a renegotiation period under such agreement, the period beginning on the first date after the last date of such renegotiation period and ending on the first date during which the manufacturer of the drug has agreed to a renegotiated maximum fair price under such agreement.

''(4) With respect to information that is required to be submitted to the Secretary of Health and Human Services under such agreement, the period beginning on the date on which such Secretary certifies that such information is overdue and ending on the date that such information is so submitted.

''(5) In the case of a selected drug with respect to which a payment is due under subsection (c) of such section 1193, the period beginning on the date

on which the Secretary of Health and Human Services certifies that such payment is overdue and ending on the date that such payment is made in full.

''(c) APPLICABLE PERCENTAGE.—For purposes of this section, the term 'applicable percentage' means—

''(1) in the case of sales of a selected drug during the first 90 days described in subsection (b) with respect to such drug, 65 percent,

''(2) in the case of sales of such drug during the 91st day through the 180th day described in subsection (b) with respect to such drug, 75 percent,

''(3) in the case of sales of such drug during the 181st day through the 270th day described in subsection (b) with respect to such drug, 85 percent, and

''(4) in the case of sales of such drug during any subsequent day, 95 percent.

''(d) SELECTED DRUG.—For purposes of this section—

''(1) IN GENERAL.—The term 'selected drug' means any selected drug (within the meaning of section 1192 of the Social Security Act) which is manufactured or produced in the United States or entered into the United States for consumption, use, or warehousing.

"(2) UNITED STATES.—The term 'United States' has the meaning given such term by section 4612(a)(4).

"(3) COORDINATION WITH RULES FOR POSSESSIONS OF THE UNITED STATES.—Rules similar to the rules of paragraphs (2) and (4) of section 4132(c) shall apply for purposes of this section.

"(e) OTHER DEFINITIONS.—For purposes of this section, the terms 'selected drug publication date' and 'maximum fair price' have the meaning given such terms in section 1191 of the Social Security Act.

"(f) ANTI-ABUSE RULE.—In the case of a sale which was timed for the purpose of avoiding the tax imposed by this section, the Secretary may treat such sale as occurring during a day described in subsection (b).".

(b) NO DEDUCTION FOR EXCISE TAX PAYMENTS.—Section 275 of the Internal Revenue Code of 1986 is amended by adding "or by section 4192" before the period at the end of subsection (a)(6).

(c) CONFORMING AMENDMENTS.—

(1) Section 4221(a) of the Internal Revenue Code of 1986 is amended by inserting "or 4192" after "section 4191".

(2) Section 6416(b)(2) of such Code is amended by inserting "or 4192" after "section 4191".

(d) CLERICAL AMENDMENTS.—

(1) The heading of subchapter E of chapter 32 of the Internal Revenue Code of 1986 is amended by striking "**Medical Devices**" and inserting "**Other Medical Products**".

(2) The table of subchapters for chapter 32 of such Code is amended by striking the item relating to subchapter E and inserting the following new item:

"SUBCHAPTER E. OTHER MEDICAL PRODUCTS".

(3) The table of sections for subchapter E of chapter 32 of such Code is amended by adding at the end the following new item:

"Sec. 4192. Selected drugs during noncompliance periods.".

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

SEC. 139003. FAIR PRICE NEGOTIATION IMPLEMENTATION FUND.

(a) IN GENERAL.—There is hereby established a Fair Price Negotiation Implementation Fund (referred to in this section as the "Fund"). The Secretary of Health and Human Services may obligate and expend amounts in the Fund to carry out this part and parts 2 and 3 (and the amendments made by such parts).

(b) FUNDING.—There is authorized to be appropriated, and there is hereby appropriated, out of any monies in the Treasury not otherwise appropriated, to the Fund $3,000,000,000, to remain available until expended, of which—

(1) $600,000,000 shall become available on the date of the enactment of this Act;

(2) $600,000,000 shall become available on October 1, 2023;

(3) $600,000,000 shall become available on October 1, 2024;

(4) $600,000,000 shall become available on October 1, 2025; and

(5) $600,000,000 shall become available on October 1, 2026.

(c) SUPPLEMENT NOT SUPPLANT.—Any amounts appropriated pursuant to this section shall be in addition to any other amounts otherwise appropriated pursuant to any other provision of law.

PART 2—PRESCRIPTION DRUG INFLATION REBATES

SEC. 139101. MEDICARE PART B REBATE BY MANUFACTURERS.

(a) IN GENERAL.—Section 1834 of the Social Security Act (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

"(z) REBATE BY MANUFACTURERS FOR SINGLE SOURCE DRUGS WITH PRICES INCREASING FASTER THAN INFLATION.—

"(1) REQUIREMENTS.—

"(A) SECRETARIAL PROVISION OF INFORMATION.—Not later than 6 months after the end of each calendar quarter beginning on or after July 1, 2023, the Secretary shall, for each part B rebatable drug, report to each manufacturer of such part B rebatable drug the following for such calendar quarter:

"(i) Information on the total number of units of the billing and payment code described in subparagraph (A)(i) of paragraph (3) with respect to such drug and calendar quarter.

"(ii) Information on the amount (if any) of the excess average sales price increase described in subparagraph (A)(ii) of

1 such paragraph for such drug and calendar
2 quarter.
3 ''(iii) The rebate amount specified
4 under such paragraph for such part B
5 rebatable drug and calendar quarter.
6 ''(B) MANUFACTURER REQUIREMENT.—
7 For each calendar quarter beginning on or after
8 July 1, 2023, the manufacturer of a part B
9 rebatable drug shall, for such drug, not later
10 than 30 days after the date of receipt from the
11 Secretary of the information described in sub-
12 paragraph (A) for such calendar quarter, pro-
13 vide to the Secretary a rebate that is equal to
14 the amount specified in paragraph (3) for such
15 drug for such calendar quarter.
16 ''(2) PART B REBATABLE DRUG DEFINED.—
17 ''(A) IN GENERAL.—In this subsection, the
18 term 'part B rebatable drug' means a single
19 source drug or biological (as defined in sub-
20 paragraph (D) of section 1847A(c)(6)), includ-
21 ing a biosimilar biological product (as defined
22 in subparagraph (H) of such section), payable
23 (if such drug were furnished to an individual
24 enrolled under this part) under this part, except

such term shall not include such a drug or biological—

"(i) if the average total allowed charges under this part as determined by the Secretary for a year per individual that uses such a drug or biological, as determined by the Secretary, are less than, subject to subparagraph (B), $100; or

"(ii) that is a vaccine described in subparagraph (A) or (B) of section 1861(s)(10).

"(B) INCREASE.—The dollar amount applied under subparagraph (A)(i)—

"(i) for 2024, shall be the dollar amount specified under such subparagraph for 2023, increased by the percentage increase in the consumer price index for all urban consumers (United States city average) for the 12-month period ending with June of the previous year; and

"(ii) for a subsequent year, shall be the dollar amount specified in this clause (or clause (i)) for the previous year, increased by the percentage increase in the consumer price index for all urban con-

sumers (United States city average) for the 12-month period ending with June of the previous year.

Any dollar amount specified under this subparagraph that is not a multiple of $10 shall be rounded to the nearest multiple of $10.

"(3) REBATE AMOUNT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the amount specified in this paragraph for a part B rebatable drug assigned to a billing and payment code for a calendar quarter is, subject to subparagraph (B) and paragraph (4), the amount equal to the product of—

"(i) the total number of units, as described in section 1847A(c)(1)(B), with respect to such drug during the calendar quarter; and

"(ii) the amount (if any) by which—

"(I) the payment amount under subparagraph (B) or (C) of section 1847A(b)(1), as applicable, for such part B rebatable drug during the calendar quarter; exceeds

"(II) the inflation-adjusted payment amount determined under subparagraph (C) for such part B rebatable drug during the calendar quarter.

"(B) EXCLUDED UNITS.—For purposes of subparagraph (A)(i), the Secretary shall exclude from the total number of units with respect to a part B rebatable drug and calendar quarter units of such part B rebatable drug for which payment was made under a State plan under title XIX (or waiver of such plan), as reported by States under section 1927(b)(2)(A) for the most recent rebate period.

"(C) DETERMINATION OF INFLATION-ADJUSTED PAYMENT AMOUNT.—The inflation-adjusted payment amount determined under this subparagraph for a part B rebatable drug for a calendar quarter is—

"(i) the payment amount for the billing and payment code for such drug in the payment amount benchmark quarter (as defined in subparagraph (D)); increased by

"(ii) the percentage by which the rebate period CPI–U (as defined in subpara-

graph (F)) for the calendar quarter exceeds the benchmark period CPI–U (as defined in subparagraph (E)).

"(D) PAYMENT AMOUNT BENCHMARK QUARTER.—The term 'payment amount benchmark quarter' means the calendar quarter beginning January 1, 2016.

"(E) BENCHMARK PERIOD CPI–U.—The term 'benchmark period CPI–U' means the consumer price index for all urban consumers (United States city average) for July 2015.

"(F) REBATE PERIOD CPI–U.—The term 'rebate period CPI–U' means, with respect to a calendar quarter described in subparagraph (C), the greater of the benchmark period CPI–U and the consumer price index for all urban consumers (United States city average) for the first month of the calendar quarter that is two calendar quarters prior to such described calendar quarter.

"(4) SPECIAL TREATMENT OF CERTAIN DRUGS AND EXEMPTION.—

"(A) SUBSEQUENTLY APPROVED DRUGS.—Subject to subparagraph (B), in the case of a part B rebatable drug first approved or licensed

by the Food and Drug Administration after July 1, 2015, clause (i) of paragraph (3)(C) shall be applied as if the term 'payment amount benchmark quarter' were defined under paragraph (3)(D) as the third full calendar quarter after the day on which the drug was first marketed and clause (ii) of paragraph (3)(C) shall be applied as if the term 'benchmark period CPI–U' were defined under paragraph (3)(E) as if the reference to 'July 2015' under such paragraph were a reference to 'the first month of the first full calendar quarter after the day on which the drug was first marketed'.

''(B) TIMELINE FOR PROVISION OF REBATES FOR SUBSEQUENTLY APPROVED DRUGS.—In the case of a part B rebatable drug first approved or licensed by the Food and Drug Administration after July 1, 2015, paragraph (1)(B) shall be applied as if the reference to 'July 1, 2023' under such paragraph were a reference to the later of the 6th full calendar quarter after the day on which the drug was first marketed or July 1, 2023.

''(C) EXEMPTION FOR SHORTAGES.—The Secretary may reduce or waive the rebate

amount under paragraph (1)(B) with respect to a part B rebatable drug that is described as currently in shortage on the shortage list in effect under section 506E of the Federal Food, Drug, and Cosmetic Act or in the case of other exigent circumstances, as determined by the Secretary.

''(D) SELECTED DRUGS.—In the case of a part B rebatable drug that is a selected drug (as defined in section 1192(c)) for a price applicability period (as defined in section 1191(b)(2))—

''(i) for calendar quarters during such period for which a maximum fair price (as defined in section 1191(c)(2)) for such drug has been determined and is applied under part E of title XI, the rebate amount under paragraph (1)(B) shall be waived; and

''(ii) in the case such drug is determined (pursuant to such section 1192(c)) to no longer be a selected drug, for each applicable year beginning after the price applicability period with respect to such drug, clause (i) of paragraph (3)(C) shall

be applied as if the term 'payment amount benchmark quarter' were defined under paragraph (3)(D) as the calendar quarter beginning January 1 of the last year beginning during such price applicability period with respect to such selected drug and clause (ii) of paragraph (3)(C) shall be applied as if the term 'benchmark period CPI–U' were defined under paragraph (3)(E) as if the reference to 'July 2015' under such paragraph were a reference to the July of the year preceding such last year.

''(5) APPLICATION TO BENEFICIARY COINSURANCE.—In the case of a part B rebatable drug, if the payment amount under this part for a quarter exceeds the inflation adjusted payment for such quarter—

''(A) in computing the amount of any coinsurance applicable under this part to an individual to whom such drug is furnished, the computation of such coinsurance shall be based on the inflation-adjusted payment amount determined under paragraph (3)(C) for such part B rebatable drug; and

"(B) the amount of such coinsurance is equal to 20 percent of such inflation-adjusted payment amount so determined.

"(6) REBATE DEPOSITS.—Amounts paid as rebates under paragraph (1)(B) shall be deposited into the Federal Supplementary Medical Insurance Trust Fund established under section 1841.

"(7) CIVIL MONEY PENALTY.—If a manufacturer of a part B rebatable drug has failed to comply with the requirements under paragraph (1)(B) for such drug for a calendar quarter, the manufacturer shall be subject to, in accordance with a process established by the Secretary pursuant to regulations, a civil money penalty in an amount equal to at least 125 percent of the amount specified in paragraph (3) for such drug for such calendar quarter. The provisions of section 1128A (other than subsections (a) (with respect to amounts of penalties or additional assessments) and (b)) shall apply to a civil money penalty under this paragraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(8) APPLICATION TO MULTIPLE SOURCE DRUGS.—The Secretary may, pursuant to rulemaking, apply the provisions of this subsection to

multiple source drugs (as defined in section 1847A(c)(6)(C)), including, for purposes of determining the rebate amount under paragraph (3), by calculating manufacturer-specific average sales prices for the benchmark period and the rebate period.''.

(b) AMOUNTS PAYABLE; COST-SHARING.—Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in subparagraph (G), by inserting ''\, subject to subsection (i)(9),'' after ''the amounts paid'';

(ii) in subparagraph (S), by striking ''with respect to'' and inserting ''subject to subparagraph (DD), with respect to'';

(iii) by striking ''and (DD)'' and inserting ''(EE)''; and

(iv) by inserting before the semicolon at the end the following: ''\, and (EE) with respect to a part B rebatable drug (as defined in paragraph (2) of section 1834(z)) for which the payment amount for a calendar quarter under paragraph

(3)(A)(ii)(I) of such section for such quarter exceeds the inflation-adjusted payment under paragraph (3)(A)(ii)(II) of such section for such quarter, the amounts paid shall be the difference between (i) the payment amount under paragraph (3)(A)(ii)(I) of such section for such drug, and (ii) 20 percent of the inflation-adjusted payment amount under paragraph (3)(A)(ii)(II) of such section for such drug''; and

(B) by adding at the end of the flush left matter following paragraph (9), the following: ''For purposes of applying paragraph (1)(EE), subsections (i)(9) and (t)(8)(F), and section 1834(z)(5), the Secretary shall make such estimates and use such data as the Secretary determines appropriate, and may do so by program instruction or otherwise.'';

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

''(9) In the case of a part B rebatable drug (as defined in paragraph (2) of section 1834(z)) for which payment under this subsection is not packaged into a payment for a covered OPD service (as defined in subsection (t)(1)(B)) (or group of services) furnished on or after July

1, 2023, under the system under this subsection, in lieu of calculation of coinsurance and the amount of payment otherwise applicable under this subsection, the provisions of section 1834(z)(5), paragraph (1)(EE) of subsection (a), and the flush left matter following paragraph (9) of subsection (a), shall, as determined appropriate by the Secretary, apply under this subsection in the same manner as such provisions of section 1834(z)(5) and subsection (a) apply under such section and subsection.''; and

(3) in subsection (t)(8), by adding at the end the following new subparagraph:

''(F) PART B REBATABLE DRUGS.—In the case of a part B rebatable drug (as defined in paragraph (2) of section 1834(z)) for which payment under this part is not packaged into a payment for a service furnished on or after July 1, 2023, under the system under this subsection, in lieu of calculation of coinsurance and the amount of payment otherwise applicable under this subsection, the provisions of section 1834(z)(5), paragraph (1)(EE) of subsection (a), and the flush left matter following paragraph (9) of subsection (a), shall, as determined appropriate by the Secretary, apply under this subsection in the same manner as such provi-

sions of section 1834(z)(5) and subsection (a) apply under such section and subsection.''.

(c) CONFORMING AMENDMENTS.—

(1) TO PART B ASP CALCULATION.—Section 1847A(c)(3) of the Social Security Act (42 U.S.C. 1395w–3a(c)(3)) is amended by inserting ''or section 1834(z)'' after ''section 1927''.

(2) EXCLUDING PARTS B DRUG INFLATION REBATE FROM BEST PRICE.—Section 1927(c)(1)(C)(ii)(I) of the Social Security Act (42 U.S.C. 1396r–8(c)(1)(C)(ii)(I)) is amended by inserting ''or section 1834(z)'' after ''this section''.

(3) COORDINATION WITH MEDICAID REBATE INFORMATION DISCLOSURE.—Section 1927(b)(3)(D)(i) of the Social Security Act (42 U.S.C. 1396r–8(b)(3)(D)(i)) is amended by striking ''or to carry out section 1847B'' and inserting ''to carry out section 1847B or section 1834(z)''.

SEC. 139102. MEDICARE PART D REBATE BY MANUFACTURERS.

(a) IN GENERAL.—Part D of title XVIII of the Social Security Act is amended by inserting after section 1860D–14A (42 U.S.C. 1395w–114a) the following new section:

"SEC. 1860D–14B. MANUFACTURER REBATE FOR CERTAIN DRUGS WITH PRICES INCREASING FASTER THAN INFLATION.

"(a) REQUIREMENTS.—

"(1) SECRETARIAL PROVISION OF INFORMATION.—Not later than 9 months after the end of each applicable year (as defined in subsection (g)(7)), the Secretary shall, for each part D rebatable drug, report to each manufacturer of such part D rebatable drug the following for such year:

"(A) Information on the amount (if any) of the excess average manufacturer price increase described in subsection (b)(1)(B) for each dosage form and strength with respect to such drug and year.

"(B) The rebate amount specified under subsection (b) for each dosage form and strength with respect to such drug and year.

"(2) MANUFACTURER REQUIREMENTS.—For each applicable year, the manufacturer of a part D rebatable drug, for each dosage form and strength with respect to such drug, not later than 30 days after the date of receipt from the Secretary of the information described in paragraph (1) for such year, shall provide to the Secretary a rebate that is equal to the amount specified in subsection (b) for

such dosage form and strength with respect to such drug for such year.

"(b) REBATE AMOUNT.—

"(1) IN GENERAL.—

"(A) CALCULATION.—For purposes of this section, the amount specified in this subsection for a dosage form and strength with respect to a part D rebatable drug and applicable year is, subject to subparagraph (B) of this paragraph and subparagraphs (B) and (C) of paragraph (5), the amount equal to the product of—

"(i) the total number of units that are used to calculate the average manufacturer price of such dosage form and strength with respect to such part D rebatable drug, as reported by the manufacturer of such drug under section 1927 for each recent rebate period under such section, with respect to such year, under such section for which such information is available; and

"(ii) the amount (if any) by which—

"(I) the annual manufacturer price (as determined in paragraph (2)) paid for such dosage form and

strength with respect to such part D rebatable drug for the year; exceeds

"(II) the inflation-adjusted payment amount determined under paragraph (3) for such dosage form and strength with respect to such part D rebatable drug for the year.

"(B) EXCLUDED UNITS.—For purposes of subparagraph (A)(i), the Secretary shall exclude from the total number of units for a dosage form and strength with respect to a part D rebatable drug and the most recent rebate period under section 1927, with respect to an applicable year, for which such information is available, units of each dosage form and strength of such part D rebatable drug, for which payment was made under a State plan under title XIX (or waiver of such plan), as reported by States under section 1927(b)(2)(A) for such rebate period.

"(2) DETERMINATION OF ANNUAL MANUFACTURER PRICE.—The annual manufacturer price determined under this paragraph for a dosage form and strength, with respect to a part D rebatable

drug and an applicable year, is the sum of the products of—

"(A) the average manufacturer price (as defined in subsection (g)(6)) of such dosage form and strength, as calculated for a unit of such drug, with respect to each of the calendar quarters of such year; and

"(B) the ratio of—

"(i) the total number of units of such dosage form and strength reported for the purpose of calculating average manufacturer price under section 1927 during each such calendar quarter of such year; to

"(ii) the total number of units of such dosage form and strength reported for the purpose of calculating average manufacturer price under section 1927 during such year, as determined by the Secretary.

"(3) DETERMINATION OF INFLATION-ADJUSTED PAYMENT AMOUNT.—The inflation-adjusted payment amount determined under this paragraph for a dosage form and strength with respect to a part D rebatable drug for an applicable year, subject to subparagraphs (A) and (D) of paragraph (5), is—

"(A) the benchmark year manufacturer price determined under paragraph (4) for such dosage form and strength with respect to such drug and year; increased by

"(B) the percentage by which the applicable year CPI–U (as defined in subsection (g)(5)) for the year exceeds the benchmark period CPI–U (as defined in subsection (g)(4)).

"(4) DETERMINATION OF BENCHMARK YEAR MANUFACTURER PRICE.—The benchmark year manufacturer price determined under this paragraph for a dosage form and strength, with respect to a part D rebatable drug and an applicable year, is the sum of the products of—

"(A) the average manufacturer price (as defined in subsection (g)(6)) of such dosage form and strength, as calculated for a unit of such drug, with respect to each of the calendar quarters of the payment amount benchmark year (as defined in subsection (g)(3)); and

"(B) the ratio of—

"(i) the total number of units of such dosage form and strength dispensed during each such calendar quarter of such payment amount benchmark year; to

1 ''(ii) the total number of units of such
2 dosage form and strength dispensed during
3 such payment amount benchmark year.
4 ''(5) SPECIAL TREATMENT OF CERTAIN DRUGS
5 AND EXEMPTION.—
6 ''(A) SUBSEQUENTLY APPROVED DRUGS.—
7 In the case of a part D rebatable drug first ap-
8 proved or licensed by the Food and Drug Ad-
9 ministration after January 1, 2016, subpara-
10 graphs (A) and (B) of paragraph (4) shall be
11 applied as if the term 'payment amount bench-
12 mark year' were defined under subsection
13 (g)(3) as the first calendar year beginning after
14 the day on which the drug was first marketed
15 by any manufacturer and subparagraph (B) of
16 paragraph (3) shall be applied as if the term
17 'benchmark period CPI–U' were defined under
18 subsection (g)(4) as if the reference to 'January
19 2016' under such subsection were a reference to
20 'January of the first year beginning after the
21 date on which the drug was first marketed by
22 any manufacturer'.
23 ''(B) EXEMPTION FOR SHORTAGES.—The
24 Secretary may reduce or waive the rebate under
25 paragraph (1) with respect to a part D

rebatable drug that is described as currently in shortage on the shortage list in effect under section 506E of the Federal Food, Drug, and Cosmetic Act or in the case of other exigent circumstances, as determined by the Secretary.

"(C) TREATMENT OF NEW FORMULATIONS.—

"(i) IN GENERAL.—In the case of a part D rebatable drug that is a line extension of a part D rebatable drug that is an oral solid dosage form, the Secretary shall establish a formula for determining the amount specified in this subsection with respect to such part D rebatable drug and an applicable year with consideration of the original part D rebatable drug.

"(ii) LINE EXTENSION DEFINED.—In this subparagraph, the term 'line extension' means, with respect to a part D rebatable drug, a new formulation of the drug, such as an extended release formulation, but does not include an abuse-deterrent formulation of the drug (as determined by the Secretary), regardless of

whether such abuse-deterrent formulation is an extended release formulation.

"(D) SELECTED DRUGS.—In the case of a part D rebatable drug that is a selected drug (as defined in section 1192(c)) for a price applicability period (as defined in section 1191(b)(2))—

"(i) for plan years during such period for which a maximum fair price (as defined in section 1191(c)(2)) for such drug has been determined and is applied under part E of title XI, the rebate under subsection (a)(1)(B) shall be waived; and

"(ii) in the case such drug is determined (pursuant to such section 1192(c)) to no longer be a selected drug, for each applicable year beginning after the price applicability period with respect to such drug, subparagraphs (A) and (B) of paragraph (4) shall be applied as if the term 'payment amount benchmark year' were defined under subsection (g)(3) as the last year beginning during such price applicability period with respect to such selected drug and subparagraph (B) of paragraph

(3) shall be applied as if the term 'benchmark period CPI–U' were defined under subsection (g)(4) as if the reference to 'January 2016' under such subsection were a reference to January of the last year beginning during such price applicability period with respect to such drug.

''(c) REBATE DEPOSITS.—Amounts paid as rebates under subsection (b) shall be deposited into the Medicare Prescription Drug Account in the Federal Supplementary Medical Insurance Trust Fund established under section 1841.

''(d) INFORMATION.—For purposes of carrying out this section, the Secretary shall use information submitted by manufacturers under section 1927(b)(3) and information submitted by States under section 1927(b)(2)(A).

''(e) CIVIL MONEY PENALTY.—If a manufacturer of a part D rebatable drug has failed to comply with the requirement under subsection (a)(1)(B) with respect to such drug for an applicable year, the manufacturer shall be subject to, in accordance with a process established by the Secretary pursuant to regulations, a civil money penalty in an amount equal to 125 percent of the amount specified in subsection (b) for such drug for such year. The provisions of section 1128A (other than subsections (a) (with

respect to amounts of penalties or additional assessments) and (b)) shall apply to a civil money penalty under this subsection in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(f) JUDICIAL REVIEW.—There shall be no judicial review of the following:

"(1) The determination of units under this section.

"(2) The determination of whether a drug is a part D rebatable drug under this section.

"(3) The calculation of the rebate amount under this section.

"(g) DEFINITIONS.—In this section:

"(1) PART D REBATABLE DRUG DEFINED.—

"(A) IN GENERAL.—The term 'part D rebatable drug' means a drug or biological that would (without application of this section) be a covered part D drug, except such term shall, with respect to an applicable year, not include such a drug or biological if the average annual total cost under this part for such year per individual who uses such a drug or biological, as determined by the Secretary, is less than, subject to subparagraph (B), $100, as determined by the Secretary using the most recent data

available or, if data is not available, as estimated by the Secretary.

"(B) INCREASE.—The dollar amount applied under subparagraph (A)—

"(i) for 2024, shall be the dollar amount specified under such subparagraph for 2023, increased by the percentage increase in the consumer price index for all urban consumers (United States city average) for the 12-month period beginning with January of 2023; and

"(ii) for a subsequent year, shall be the dollar amount specified in this subparagraph for the previous year, increased by the percentage increase in the consumer price index for all urban consumers (United States city average) for the 12-month period beginning with January of the previous year.

Any dollar amount specified under this subparagraph that is not a multiple of $10 shall be rounded to the nearest multiple of $10.

"(2) UNIT DEFINED.—The term 'unit' means, with respect to a part D rebatable drug, the lowest identifiable quantity (such as a capsule or tablet,

1 milligram of molecules, or grams) of the part D
2 rebatable drug, including data reported under sec-
3 tion 1927.

4 ''(3) PAYMENT AMOUNT BENCHMARK YEAR.—
5 The term 'payment amount benchmark year' means
6 the year beginning January 1, 2016.

7 ''(4) BENCHMARK PERIOD CPI–U.—The term
8 'benchmark period CPI–U' means the consumer
9 price index for all urban consumers (United States
10 city average) for January 2016.

11 ''(5) APPLICABLE YEAR CPI–U.—The term 'ap-
12 plicable year CPI–U' means, with respect to an ap-
13 plicable year, the consumer price index for all urban
14 consumers (United States city average) for January
15 of such year.

16 ''(6) AVERAGE MANUFACTURER PRICE.—The
17 term 'average manufacturer price' has the meaning,
18 with respect to a part D rebatable drug of a manu-
19 facturer, given such term in section 1927(k)(1), with
20 respect to a covered outpatient drug of a manufac-
21 turer for a rebate period under section 1927.

22 ''(7) APPLICABLE YEAR.—The term 'applicable
23 year' means a year beginning with 2023.''.

24 (b) CONFORMING AMENDMENTS.—

(1) TO PART B ASP CALCULATION.—Section 1847A(c)(3) of the Social Security Act (42 U.S.C. 1395w–3a(c)(3)), as amended by section 139101(c)(1), is further amended by striking ''section 1927 or section 1834(z)'' and inserting ''section 1927, section 1834(z), or section 1860D–14B''.

(2) EXCLUDING PART D DRUG INFLATION REBATE FROM BEST PRICE.—Section 1927(c)(1)(C)(ii)(I) of the Social Security Act (42 U.S.C. 1396r–8(c)(1)(C)(ii)(I)), as amended by section 139101(c)(2), is further amended by striking ''or section 1834(z)'' and inserting '', section 1834(z), or section 1860D–14B''.

(3) COORDINATION WITH MEDICAID REBATE INFORMATION DISCLOSURE.—Section 1927(b)(3)(D)(i) of the Social Security Act (42 U.S.C. 1396r–8(b)(3)(D)(i)), as amended by section 139101(c)(3), is further amended by striking ''or section 1834(z)'' and inserting '', section 1834(z), or section 1860D–14B''.

PART 3—PART D IMPROVEMENTS AND MAXIMUM OUT-OF-POCKET CAP FOR MEDICARE BENEFICIARIES

SEC. 139201. MEDICARE PART D BENEFIT REDESIGN.

(a) BENEFIT STRUCTURE REDESIGN.—Section 1860D–2(b) of the Social Security Act (42 U.S.C. 1395w–102(b)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A), in the matter preceding clause (i), by inserting ''for a year preceding 2024 and for costs above the annual deductible specified in paragraph (1) and up to the annual out-of-pocket threshold specified in paragraph (4)(B) for 2024 and each subsequent year'' after ''paragraph (3)'';

(B) in subparagraph (C)—

(i) in clause (i), in the matter preceding subclause (I), by inserting ''for a year preceding 2024,'' after ''paragraph (4),''; and

(ii) in clause (ii)(III), by striking ''and each subsequent year'' and inserting ''through 2023''; and

(C) in subparagraph (D)—

(i) in clause (i)—

(I) in the matter preceding subclause (I), by inserting ''for a year preceding 2024,'' after ''paragraph (4),''; and

(II) in subclause (I)(bb), by striking ''a year after 2018'' and inserting ''each of years 2018 through 2023''; and

(ii) in clause (ii)(V), by striking ''2019 and each subsequent year'' and inserting ''each of years 2019 through 2023'';

(2) in paragraph (3)(A)—

(A) in the matter preceding clause (i), by inserting ''for a year preceding 2024,'' after ''and (4),''; and

(B) in clause (ii), by striking ''for a subsequent year'' and inserting ''for each of years 2007 through 2023''; and

(3) in paragraph (4)—

(A) in subparagraph (A)—

(i) in clause (i)—

(I) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively, and moving the margin

of each such redesignated item 2 ems to the right;

(II) in the matter preceding item (aa), as redesignated by subclause (I), by striking ''is equal to the greater of—'' and inserting ''is equal to—

''(I) for a year preceding 2024, the greater of—'';

(III) by striking the period at the end of item (bb), as redesignated by subclause (I), and inserting ''; and''; and

(IV) by adding at the end the following:

''(II) for 2024 and each succeeding year, $0.''; and

(ii) in clause (ii), by striking ''clause (i)(I)'' and inserting ''clause (i)(I)(aa)'';

(B) in subparagraph (B)—

(i) in clause (i)—

(I) in subclause (V), by striking ''or'' at the end;

(II) in subclause (VI)—

(aa) by striking ''for a subsequent year'' and inserting ''for

1 each of years 2021 through
2 2023''; and
3 (bb) by striking the period
4 at the end and inserting a semi-
5 colon; and
6 (III) by adding at the end the
7 following new subclauses:
8 ''(VII) for 2024, is equal to
9 $2,000; or
10 ''(VIII) for a subsequent year, is
11 equal to the amount specified in this
12 subparagraph for the previous year,
13 increased by the annual percentage in-
14 crease described in paragraph (6) for
15 the year involved.''; and
16 (ii) in clause (ii), by striking ''clause
17 (i)(II)'' and inserting ''clause (i)'';
18 (C) in subparagraph (C)(i), by striking
19 ''and for amounts'' and inserting ''and, for a
20 year preceding 2024, for amounts''; and
21 (D) in subparagraph (E), by striking ''In
22 applying'' and inserting ''For each of years
23 2011 through 2023, in applying''.
24 (b) DECREASING REINSURANCE PAYMENT
25 AMOUNT.—Section 1860D–15(b)(1) of the Social Security

1 Act (42 U.S.C. 1395w–115(b)(1)) is amended by inserting
2 after ''80 percent'' the following: ''(or, with respect to a
3 coverage year after 2023, 20 percent)''.

4 (c) MANUFACTURER DISCOUNT PROGRAM.—

5 (1) IN GENERAL.—Part D of title XVIII of the
6 Social Security Act (42 U.S.C. 1395w–101 et seq.),
7 as amended by section 139102, is further amended
8 by inserting after section 1860D–14B the following
9 new section:

10 **''SEC. 1860D–14C. MANUFACTURER DISCOUNT PROGRAM.**

11 ''(a) ESTABLISHMENT.—The Secretary shall estab-
12 lish a manufacturer discount program (in this section re-
13 ferred to as the 'program'). Under the program, the Sec-
14 retary shall enter into agreements described in subsection
15 (b) with manufacturers and provide for the performance
16 of the duties described in subsection (c). The Secretary
17 shall establish a model agreement for use under the pro-
18 gram by not later than January 1, 2023, in consultation
19 with manufacturers, and allow for comment on such model
20 agreement.

21 ''(b) TERMS OF AGREEMENT.—

22 ''(1) IN GENERAL.—

23 ''(A) AGREEMENT.—An agreement under
24 this section shall require the manufacturer to
25 provide applicable beneficiaries access to dis-

1 counted prices for applicable drugs of the man-
2 ufacturer that are dispensed on or after Janu-
3 ary 1, 2024.

4 "(B) PROVISION OF DISCOUNTED PRICES
5 AT THE POINT-OF-SALE.—The discounted prices
6 described in subparagraph (A) shall be provided
7 to the applicable beneficiary at the pharmacy or
8 by the mail order service at the point-of-sale of
9 an applicable drug.

10 "(C) TIMING OF AGREEMENT.—

11 "(i) SPECIAL RULE FOR 2024.—In
12 order for an agreement with a manufac-
13 turer to be in effect under this section with
14 respect to the period beginning on January
15 1, 2024, and ending on December 31,
16 2024, the manufacturer shall enter into
17 such agreement not later than 30 days
18 after the date of the establishment of a
19 model agreement under subsection (a).

20 "(ii) 2025 AND SUBSEQUENT
21 YEARS.—In order for an agreement with a
22 manufacturer to be in effect under this
23 section with respect to plan year 2025 or
24 a subsequent plan year, the manufacturer
25 shall enter into such agreement (or such

agreement shall be renewed under paragraph (4)(A)) not later than January 30 of the preceding year.

"(2) PROVISION OF APPROPRIATE DATA.—Each manufacturer with an agreement in effect under this section shall collect and have available appropriate data, as determined by the Secretary, to ensure that it can demonstrate to the Secretary compliance with the requirements under the program.

"(3) COMPLIANCE WITH REQUIREMENTS FOR ADMINISTRATION OF PROGRAM.—Each manufacturer with an agreement in effect under this section shall comply with requirements imposed by the Secretary or a third party with a contract under subsection (d)(3), as applicable, for purposes of administering the program, including any determination under subparagraph (A) of subsection (c)(1) or procedures established under such subsection (c)(1).

"(4) LENGTH OF AGREEMENT.—

"(A) IN GENERAL.—An agreement under this section shall be effective for an initial period of not less than 12 months and shall be automatically renewed for a period of not less than 1 year unless terminated under subparagraph (B).

"(B) TERMINATION.—

"(i) BY THE SECRETARY.—The Secretary may provide for termination of an agreement under this section for a knowing and willful violation of the requirements of the agreement or other good cause shown. Such termination shall not be effective earlier than 30 days after the date of notice to the manufacturer of such termination. The Secretary shall provide, upon request, a manufacturer with a hearing concerning such a termination, and such hearing shall take place prior to the effective date of the termination with sufficient time for such effective date to be repealed if the Secretary determines appropriate.

"(ii) BY A MANUFACTURER.—A manufacturer may terminate an agreement under this section for any reason. Any such termination shall be effective, with respect to a plan year—

"(I) if the termination occurs before January 30 of a plan year, as of the day after the end of the plan year; and

"(II) if the termination occurs on or after January 30 of a plan year, as of the day after the end of the succeeding plan year.

"(iii) EFFECTIVENESS OF TERMINATION.—Any termination under this subparagraph shall not affect discounts for applicable drugs of the manufacturer that are due under the agreement before the effective date of its termination.

"(iv) NOTICE TO THIRD PARTY.—The Secretary shall provide notice of such termination to a third party with a contract under subsection (d)(3) within not less than 30 days before the effective date of such termination.

"(c) DUTIES DESCRIBED.—The duties described in this subsection are the following:

"(1) ADMINISTRATION OF PROGRAM.—Administering the program, including—

"(A) the determination of the amount of the discounted price of an applicable drug of a manufacturer;

"(B) the establishment of procedures under which discounted prices are provided to

applicable beneficiaries at pharmacies or by mail order service at the point-of-sale of an applicable drug;

"(C) the establishment of procedures to ensure that, not later than the applicable number of calendar days after the dispensing of an applicable drug by a pharmacy or mail order service, the pharmacy or mail order service is reimbursed for an amount equal to the difference between—

"(i) the negotiated price of the applicable drug; and

"(ii) the discounted price of the applicable drug;

"(D) the establishment of procedures to ensure that the discounted price for an applicable drug under this section is applied before any coverage or financial assistance under other health benefit plans or programs that provide coverage or financial assistance for the purchase or provision of prescription drug coverage on behalf of applicable beneficiaries as the Secretary may specify; and

"(E) providing a reasonable dispute resolution mechanism to resolve disagreements be-

tween manufacturers, applicable beneficiaries, and the third party with a contract under subsection (d)(3).

"(2) MONITORING COMPLIANCE.—

"(A) IN GENERAL.—The Secretary shall monitor compliance by a manufacturer with the terms of an agreement under this section.

"(B) NOTIFICATION.—If a third party with a contract under subsection (d)(3) determines that the manufacturer is not in compliance with such agreement, the third party shall notify the Secretary of such noncompliance for appropriate enforcement under subsection (e).

"(3) COLLECTION OF DATA FROM PRESCRIPTION DRUG PLANS AND MA–PD PLANS.—The Secretary may collect appropriate data from prescription drug plans and MA–PD plans in a timeframe that allows for discounted prices to be provided for applicable drugs under this section.

"(d) ADMINISTRATION.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall provide for the implementation of this section, including the performance of the duties described in subsection (c).

"(2) LIMITATION.—In providing for the implementation of this section, the Secretary shall not receive or distribute any funds of a manufacturer under the program.

"(3) CONTRACT WITH THIRD PARTIES.—The Secretary shall enter into a contract with 1 or more third parties to administer the requirements established by the Secretary in order to carry out this section. At a minimum, the contract with a third party under the preceding sentence shall require that the third party—

"(A) receive and transmit information between the Secretary, manufacturers, and other individuals or entities the Secretary determines appropriate;

"(B) receive, distribute, or facilitate the distribution of funds of manufacturers to appropriate individuals or entities in order to meet the obligations of manufacturers under agreements under this section;

"(C) provide adequate and timely information to manufacturers, consistent with the agreement with the manufacturer under this section, as necessary for the manufacturer to fulfill its obligations under this section; and

"(D) permit manufacturers to conduct periodic audits, directly or through contracts, of the data and information used by the third party to determine discounts for applicable drugs of the manufacturer under the program.

"(4) PERFORMANCE REQUIREMENTS.—The Secretary shall establish performance requirements for a third party with a contract under paragraph (3) and safeguards to protect the independence and integrity of the activities carried out by the third party under the program under this section.

"(5) IMPLEMENTATION.—The Secretary may implement the program under this section by program instruction or otherwise.

"(6) ADMINISTRATION.—Chapter 35 of title 44, United States Code, shall not apply to the program under this section.

"(e) ENFORCEMENT.—

"(1) AUDITS.—Each manufacturer with an agreement in effect under this section shall be subject to periodic audit by the Secretary.

"(2) CIVIL MONEY PENALTY.—

"(A) IN GENERAL.—The Secretary may impose a civil money penalty on a manufacturer that fails to provide applicable beneficiaries dis-

counts for applicable drugs of the manufacturer in accordance with such agreement for each such failure in an amount the Secretary determines is equal to the sum of—

"(i) the amount that the manufacturer would have paid with respect to such discounts under the agreement, which will then be used to pay the discounts which the manufacturer had failed to provide; and

"(ii) 25 percent of such amount.

"(B) APPLICATION.—The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this paragraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(f) CLARIFICATION REGARDING AVAILABILITY OF OTHER COVERED PART D DRUGS.—Nothing in this section shall prevent an applicable beneficiary from purchasing a covered part D drug that is not an applicable drug (including a generic drug or a drug that is not on the formulary of the prescription drug plan or MA–PD plan that the applicable beneficiary is enrolled in).

"(g) DEFINITIONS.—In this section:

1 "(1) APPLICABLE BENEFICIARY.—The term
2 'applicable beneficiary' means an individual who, on
3 the date of dispensing a covered part D drug—
4 "(A) is enrolled in a prescription drug plan
5 or an MA–PD plan;
6 "(B) is not enrolled in a qualified retiree
7 prescription drug plan; and
8 "(C) has incurred costs, as determined in
9 accordance with section 1860D–2(b)(4)(C), for
10 covered part D drugs in the year that exceed
11 the annual deductible with respect to such indi-
12 vidual for such year, as specified in section
13 1860D–2(b)(1), section 1860D–14(a)(1)(B), or
14 section 1860D–14(a)(2)(B), as applicable.
15 "(2) APPLICABLE DRUG.—The term 'applicable
16 drug', with respect to an applicable beneficiary—
17 "(A) means a covered part D drug—
18 "(i) approved under a new drug appli-
19 cation under section 505(c) of the Federal
20 Food, Drug, and Cosmetic Act or, in the
21 case of a biologic product, licensed under
22 section 351 of the Public Health Service
23 Act; and
24 "(ii)(I) if the PDP sponsor of the pre-
25 scription drug plan or the MA organization

offering the MA–PD plan uses a formulary, which is on the formulary of the prescription drug plan or MA–PD plan that the applicable beneficiary is enrolled in;

"(II) if the PDP sponsor of the prescription drug plan or the MA organization offering the MA–PD plan does not use a formulary, for which benefits are available under the prescription drug plan or MA–PD plan that the applicable beneficiary is enrolled in; or

"(III) is provided through an exception or appeal; and

"(B) does not include a selected drug (as defined in section 1192(c)) during a price applicability period (as defined in section 1191(b)(2)) with respect to such drug.

"(3) APPLICABLE NUMBER OF CALENDAR DAYS.—The term 'applicable number of calendar days' means—

"(A) with respect to claims for reimbursement submitted electronically, 14 days; and

"(B) with respect to claims for reimbursement submitted otherwise, 30 days.

1 "(4) DISCOUNTED PRICE.—
2 "(A) IN GENERAL.—The term 'discounted
3 price' means, with respect to an applicable drug
4 of a manufacturer dispensed during a year to
5 an applicable beneficiary—
6 "(i) who has not incurred costs, as de-
7 termined in accordance with section
8 1860D–2(b)(4)(C), for covered part D
9 drugs in the year that are equal to or ex-
10 ceed the annual out-of-pocket threshold
11 specified in section 1860D–2(b)(4)(B)(i)
12 for the year, 90 percent of the negotiated
13 price of such drug; and
14 "(ii) who has incurred such costs, as
15 so determined, in the year that are equal
16 to or exceed such threshold for the year,
17 70 percent of the negotiated price of such
18 drug.
19 "(B) CLARIFICATION.—Nothing in this
20 section shall be construed as affecting the re-
21 sponsibility of an applicable beneficiary for pay-
22 ment of a dispensing fee for an applicable drug.
23 "(C) SPECIAL CASE FOR CERTAIN
24 CLAIMS.—

"(i) CLAIMS SPANNING DEDUCTIBLE.—In the case where the entire amount of the negotiated price of an individual claim for an applicable drug with respect to an applicable beneficiary does not fall above the annual deductible specified in section 1860D–2(b)(1) for the year, the manufacturer of the applicable drug shall provide the discounted price under this section on only the portion of the negotiated price of the applicable drug that falls above such annual deductible.

"(ii) CLAIMS SPANNING OUT-OF-POCKET THRESHOLD.—In the case where the entire amount of the negotiated price of an individual claim for an applicable drug with respect to an applicable beneficiary does not fall entirely below or entirely above the annual out-of-pocket threshold specified in section 1860D–2(b)(4)(B)(i) for the year, the manufacturer of the applicable drug shall provide the discounted price—

"(I) in accordance with subparagraph (A)(i) on the portion of the ne-

gotiated price of the applicable drug that falls below such threshold; and

"(II) in accordance with subparagraph (A)(ii) on the portion of such price of such drug that falls at or above such threshold.

"(5) MANUFACTURER.—The term 'manufacturer' means any entity which is engaged in the production, preparation, propagation, compounding, conversion, or processing of prescription drug products, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis. Such term does not include a wholesale distributor of drugs or a retail pharmacy licensed under State law.

"(6) NEGOTIATED PRICE.—The term 'negotiated price' has the meaning given such term in section 423.100 of title 42, Code of Federal Regulations (or any successor regulation), except that, with respect to an applicable drug, such negotiated price shall not include any dispensing fee for the applicable drug.

"(7) QUALIFIED RETIREE PRESCRIPTION DRUG PLAN.—The term 'qualified retiree prescription drug

plan' has the meaning given such term in section 1860D–22(a)(2).''.

(2) SUNSET OF MEDICARE COVERAGE GAP DISCOUNT PROGRAM.—Section 1860D–14A of the Social Security Act (42 U.S.C. 1395–114a) is amended—

(A) in subsection (a), in the first sentence, by striking ''The Secretary'' and inserting ''Subject to subsection (h), the Secretary''; and

(B) by adding at the end the following new subsection:

''(h) SUNSET OF PROGRAM.—

''(1) IN GENERAL.—The program shall not apply with respect to applicable drugs dispensed on or after January 1, 2024, and, subject to paragraph (2), agreements under this section shall be terminated as of such date.

''(2) CONTINUED APPLICATION FOR APPLICABLE DRUGS DISPENSED PRIOR TO SUNSET.—The provisions of this section (including all responsibilities and duties) shall continue to apply after January 1, 2024, with respect to applicable drugs dispensed prior to such date.''.

(3) INCLUSION OF ACTUARIAL VALUE OF MANUFACTURER DISCOUNTS IN BIDS.—Section 1860D–11

of the Social Security Act (42 U.S.C. 1395w–111) is amended—

(A) in subsection (b)(2)(C)(iii)—

(i) by striking ''assumptions regarding the reinsurance'' and inserting ''assumptions regarding—

''(I) the reinsurance''; and

(ii) by adding at the end the following:

''(II) for 2024 and each subsequent year, the manufacturer discounts provided under section 1860D–14C subtracted from the actuarial value to produce such bid; and''; and

(B) in subsection (c)(1)(C)—

(i) by striking ''an actuarial valuation of the reinsurance'' and inserting ''an actuarial valuation of—

''(i) the reinsurance'';

(ii) in clause (i), as inserted by clause (i) of this subparagraph, by adding ''and'' at the end; and

(iii) by adding at the end the following:

"(ii) for 2024 and each subsequent year, the manufacturer discounts provided under section 1860D–14C;".

(d) CONFORMING AMENDMENTS.—

(1) Section 1860D–2 of the Social Security Act (42 U.S.C. 1395w–102) is amended—

(A) in subsection (a)(2)(A)(i)(I), by striking ", or an increase in the initial" and inserting "or, for a year preceding 2024, an increase in the initial";

(B) in subsection (c)(1)(C)—

(i) in the subparagraph heading, by striking "AT INITIAL COVERAGE LIMIT"; and

(ii) by inserting "for a year preceding 2024 or the annual out-of-pocket threshold specified in subsection (b)(4)(B) for the year for 2024 and each subsequent year" after "subsection (b)(3) for the year" each place it appears; and

(C) in subsection (d)(1)(A), by striking "or an initial" and inserting "or, for a year preceding 2024, an initial".

(2) Section 1860D–4(a)(4)(B)(i) of the Social Security Act (42 U.S.C. 1395w–104(a)(4)(B)(i)) is

amended by striking ''the initial'' and inserting ''for a year preceding 2024, the initial''.

(3) Section 1860D–14(a) of the Social Security Act (42 U.S.C. 1395w–114(a)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (C), by striking ''The continuation'' and inserting ''For a year preceding 2024, the continuation'';

(ii) in subparagraph (D)(iii), by striking ''1860D–2(b)(4)(A)(i)(I)'' and inserting ''1860D–2(b)(4)(A)(i)(I)(aa)''; and

(iii) in subparagraph (E), by striking ''The elimination'' and inserting ''For a year preceding 2024, the elimination''; and

(B) in paragraph (2)—

(i) in subparagraph (C), by striking ''The continuation'' and inserting ''For a year preceding 2024, the continuation''; and

(ii) in subparagraph (E), by striking ''1860D–2(b)(4)(A)(i)(I)'' and inserting ''1860D–2(b)(4)(A)(i)(I)(aa)''.

(4) Section 1860D–21(d)(7) of the Social Security Act (42 U.S.C. 1395w–131(d)(7)) is amended

by striking ''section 1860D–2(b)(4)(B)(i)'' and inserting ''section 1860D–2(b)(4)(C)(i)''.

(5) Section 1860D–22(a)(2)(A) of the Social Security Act (42 U.S.C. 1395w–132(a)(2)(A)) is amended—

(A) by striking ''the value of any discount'' and inserting the following: ''the value of—

''(i) for years prior to 2024, any discount'';

(B) in clause (i), as inserted by subparagraph (A) of this paragraph, by striking the period at the end and inserting ''; and''; and

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

''(ii) for 2024 and each subsequent year, any discount provided pursuant to section 1860D–14C.''.

(6) Section 1860D–41(a)(6) of the Social Security Act (42 U.S.C. 1395w–151(a)(6)) is amended—

(A) by inserting ''for a year before 2024'' after ''1860D–2(b)(3)''; and

(B) by inserting ''for such year'' before the period.

(7) Section 1860D–43 of the Social Security Act (42 U.S.C. 1395w–153) is amended—

(A) in subsection (a)—

(i) by striking paragraph (1) and inserting the following:

''(1) participate in—

''(A) for 2011 through 2023, the Medicare coverage gap discount program under section 1860D–14A; and

''(B) for 2024 and each subsequent year, the manufacturer discount program under section 1860D–14C;'';

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

''(2) have entered into and have in effect—

''(A) for 2011 through 2023, an agreement described in subsection (b) of section 1860D–14A with the Secretary; and

''(B) for 2024 and each subsequent year, an agreement described in subsection (b) of section 1860D–14C with the Secretary; and''; and

(iii) by striking paragraph (3) and inserting the following:

''(3) have entered into and have in effect, under terms and conditions specified by the Secretary—

''(A) for 2011 through 2023, a contract with a third party that the Secretary has en-

tered into a contract with under subsection (d)(3) of section 1860D–14A; and

"(B) for 2024 and each subsequent year, a contract with a third party that the Secretary has entered into a contract with under subsection (d)(3) of section 1860D–14C."; and

(B) by striking subsection (b) and inserting the following:

"(b) EFFECTIVE DATE.—Paragraphs (1)(A), (2)(A), and (3)(A) of subsection (a) shall apply to covered part D drugs dispensed under this part on or after January 1, 2011, and before January 1, 2024, and paragraphs (1)(B), (2)(B), and (3)(B) of such subsection shall apply to covered part D drugs dispensed under this part on or after January 1, 2024.".

(8) Section 1927 of the Social Security Act (42 U.S.C. 1396r–8) is amended—

(A) in subsection (c)(1)(C)(i)(VI), by inserting before the period at the end the following: "or under the manufacturer discount program under section 1860D–14C"; and

(B) in subsection (k)(1)(B)(i)(V), by inserting before the period at the end the following: "or under section 1860D–14C".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan year 2024 and subsequent plan years.

SEC. 139202. ALLOWING CERTAIN ENROLLEES OF PRESCRIPTION DRUG PLANS AND MA–PD PLANS UNDER MEDICARE PROGRAM TO SPREAD OUT COST-SHARING UNDER CERTAIN CIRCUMSTANCES.

Section 1860D–2(b)(2) of the Social Security Act (42 U.S.C. 1395w–102(b)(2)), as amended by section 139201, is further amended—

(1) in subparagraph (A), by striking ''Subject to subparagraphs (C) and (D)'' and inserting ''Subject to subparagraphs (C), (D), and (E)''; and

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

''(E) ENROLLEE OPTION REGARDING SPREADING COST-SHARING.—The Secretary shall establish by regulation a process under which, with respect to plan year 2024 and subsequent plan years, a prescription drug plan or an MA–PD plan shall, in the case of a part D eligible individual enrolled with such plan for such plan year who is not a subsidy eligible individual (as defined in section 1860D–14(a)(3))

and with respect to whom the plan projects that the dispensing of the first fill of a covered part D drug to such individual will result in the individual incurring costs that are equal to or above the annual out-of-pocket threshold specified in paragraph (4)(B) for such plan year, provide such individual with the option to make the coinsurance payment required under subparagraph (A) (for the portion of such costs that are not above such annual out-of-pocket threshold) in the form of periodic installments over the remainder of such plan year.''.

PART 4—REPEAL OF CERTAIN PRESCRIPTION DRUG REBATE RULE

SEC. 139301. PROHIBITING IMPLEMENTATION OF RULE RELATING TO ELIMINATING THE ANTI-KICKBACK STATUTE SAFE HARBOR PROTECTION FOR PRESCRIPTION DRUG REBATES.

Beginning January 1, 2026, the Secretary of Health and Human Services shall not implement, administer, or enforce the provisions of the final rule published by the Office of the Inspector General of the Department of Health and Human Services on November 30, 2020, and titled ''Fraud and Abuse; Removal of Safe Harbor Protection for Rebates Involving Prescription Pharmaceuticals

1 and Creation of New Safe Harbor Protection for Certain
2 Point-of-Sale Reductions in Price on Prescription Phar-
3 maceuticals and Certain Pharmacy Benefit Manager Serv-
4 ice Fees'' (85 Fed. Reg. 76666).

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