

U.S.C. 1396n(g).

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

(H) Such other services specified by the Secretary.

(5) INSTITUTIONAL SETTING.— The term "institutional setting" means—

(A) a skilled nursing facility (as defined in section 1819(a) of the Social Security Act (42 U.S.C. 1395i-3(a)));

(B) a nursing facility (as defined in section 1919(a) of such Act (42 U.S.C. 1396r(a)));

(C) a long-term care hospital (as described in section 1886(d)(1)(B)(iv) of such Act (42 U.S.C. 1395ww(d)(1)(B)(iv)));

(D) a facility described in section 1905(d) of such Act (42 U.S.C. 1396d(d));

(E) an institution which is a psychiatric hospital (as defined in section 1861(f) of such Act (42 U.S.C. 1395x(f))) or that provides inpatient psychiatric services in a residential setting specified by the Secretary;

(F) an institution described in section 1905(i) of such Act (42 U.S.C. 1396d(i)); and

(G) any other relevant facility, as determined by the Secretary.

(6) MEDICAID ELIGIBLE INDIVIDUAL.— The term "Medicaid eligible individual" means an individual who is eligible for and receiving medical assistance under a State Medicaid plan or a waiver of such plan. Such term includes an individual who is on a waiting list and who would become eligible for medical assistance and enrolled under a State Medicaid plan, or waiver of such plan, upon receipt of home and community-based services.

(7) STATE MEDICAID PROGRAM.— The term "State Medicaid program" means, with respect to a State, the State program under title XIX of the Social Security Act (42 U.S.C. 1396 through 1396w-6) (including any waiver or demonstration under such title or under section 1115 of such Act (42 U.S.C. 1315) relating to such title).

(8) SECRETARY.— The term "Secretary" means the Secretary of Health and Human Services.

(9) STATE.— The term "State" means each of the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa.

**Sec. 30712. HCBS Improvement Program**

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

(1) in subsection (b), by striking "and (ii)" and inserting "(ii), and (j)"; and

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

"(j) ADDITIONAL SUPPORT FOR HCBS PROGRAM IMPROVEMENT STATES.—"(1) IN GENERAL.—

"(A) ADDITIONAL SUPPORT.— Subject to paragraph (5), in the case of a State that is an HCBS program improvement State, for each fiscal quarter that begins on or after the first date on which the State is an HCBS program improvement State—

"(i) and for which the State meets the requirements described in paragraphs (2) and (4), notwithstanding subsection (b) or (ff), subject to subparagraph (B), with respect to amounts expended during the quarter by such State for medical assistance for home and community-based services, the Federal medical assistance percentage for such State and quarter (as determined for the State under subsection (b) and, if applicable, increased under subsection (y), (z), (aa), or (ii), or section 6008(a) of the Families First Coronavirus Response Act) shall be increased by 6 percentage points in addition any percentage point increases pursuant to either such subsection (y), (z), (aa), or (ii), or such section 6008(a); and

"(ii) with respect to the State meeting the requirements described in paragraphs (2) and (4), notwithstanding sections 1903(a)(7) and 1903(a)(3).

, with respect to amounts expended during the quarter and before October 1, 2031, for administrative costs for expanding and enhancing home and community-based services, including for enhancing Medicaid data and technology infrastructure, modifying rate setting processes, adopting or improving training programs for direct care workers and family caregivers, home and community-based services ombudsman office activities, developing processes to identify direct care workers and assign such workers unique identifiers, and adopting, carrying out, or enhancing programs that register direct care workers or connect beneficiaries to direct care workers, the per centum specified in such sections 1903(a)(7) and 1903(a)(3).

shall be increased to 80 percent.

In no case may the application of clause (i) result in the Federal medical assistance percentage determined for a State being more than 95 percent with respect to such expenditures. In no case shall the application of clause (ii) result in a reduction to the per centum otherwise specified without application of such clause. Any increase pursuant to clause (ii) shall be available to a State before the State meets the requirements of paragraphs (2) and (4).

"(B) ADDITIONAL HCBS IMPROVEMENT EFFORTS.— Subject to paragraph (5), in addition to the increase to the Federal medical assistance percentage under subparagraph (A)(i) for amounts expended during a quarter for medical

assistance for home and community-based services by an HCBS program improvement State that meets the requirements of paragraphs (2) and (4) for the quarter, the Federal medical assistance percentage for amounts expended by the State during the quarter for medical assistance for home and community-based services shall be further increased by 2 percentage points (but not to exceed 95 percent) during the first 6 fiscal quarters throughout which the State has implemented and has in effect a program to support self-directed care that meets the requirements of paragraph (3).

“(C) NONAPPLICATION OF TERRITORIAL FUNDING CAPS.— Any payment made to Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, or American Samoa for expenditures that are subject to an increase in the Federal medical assistance percentage under subparagraph (A)(i) or (B), or an increase in an applicable Federal matching percentage under subparagraph (A)(ii), shall not be taken into account for purposes of applying payment limits under subsections (f) and (g) of section 1108.

“(D) NONAPPLICATION TO CHIP EFMF.— Any increase described in subparagraph (A) (or payment made for expenditures on medical assistance that are subject to such increase) shall not be taken into account in calculating the enhanced FMAP of a State under section 2105.

“(2) REQUIREMENTS.— Subject to the last sentence of paragraph (1)(A), as conditions for receipt of the increase under paragraph (1) to the Federal medical assistance percentage determined for a State, with respect to a fiscal year quarter, the State shall meet each of the following requirements:

“(A) NONSUPPLANTATION.— The State uses the Federal funds attributable to the increase in the Federal medical assistance percentage for amounts expended during a quarter for medical assistance for home and community-based services under subparagraphs (A) and, if applicable, (B) of paragraph (1) to supplement, and not supplant, the level of State funds expended for home and community-based services for eligible individuals through programs in effect as of the date the State is awarded a planning grant under section 30711 of the Act titled ‘An Act to provide for reconciliation pursuant to title II of S. Con. Res. 14’. In applying this subparagraph, the Secretary shall provide that a State shall have a 3-year period, as specified by the Secretary, to spend any accumulated unspent State funds attributable to the increase described in clause (i) in the Federal medical assistance percentage.

“(B) MAINTENANCE OF EFFORT.—

“(i) IN GENERAL.— The State does not—

“(1) reduce the amount, duration, or scope of home and community-based services available under the State plan (or waiver of such plan) (relative to the home and community-based services available under the plan or a waiver of such plan as of the date on

which the State was awarded a planning grant under section 30711 of the Act titled 'An Act to provide for reconciliation pursuant to title II of S. Con. Res. 14':

"(I) reduce payment rates for home and community-based services lower than such rates that were in place as of the date described in subclause (I), including, to the extent applicable, assumed payment rates for such services that are included in managed care capitation rates as such rates are being prospectively built; or

"(III) except to the extent permitted under clause (ii), adopt more restrictive standards, methodologies, or procedures for determining eligibility for or the scope of medical assistance of home and community-based services, including with respect to cost-sharing, than the standards, methodologies, or procedures applicable as of the date described in subclause (I).

"(ii) FLEXIBILITY TO SUPPORT INNOVATIVE MODELS.— A State may make modifications that would otherwise violate the maintenance of effort described in clause (i) if the State demonstrates to the satisfaction of the Secretary that such modifications shall not result in—

"(I) home and community-based services that are less comprehensive or lower in amount, duration, or scope;

"(II) fewer individuals (overall and within particular eligibility groups) receiving home and community-based services, the calculation of which may be adjusted for demographic changes since the date described in clause (i),(I); or

"(III) increased cost-sharing (other than resulting from the rate of inflation) for home and community-based services.

"(C) ACCESS TO SERVICES.— Not later than an implementation date as specified by the Secretary (which may vary for each of the following clauses) after the first day of the first fiscal quarter for which a State receives an increase to the Federal medical assistance percentage or other applicable Federal matching percentage under paragraph (1), the State does all of the following to improve access to services:

"(i) Reduce access barriers and disparities in access or utilization of home and community-based services, as described in the State HCBS improvement plan.

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

"(iii) Provides for navigation of home and community-based services through 'no wrong door' programs, provides expedited eligibility for home

and community-based services, and improves home and community-based services counseling and education programs.

"(iv) Expands access to behavioral health services furnished in home and community-based settings.

"(v) Improves coordination of home and community-based services with employment, housing, and transportation supports.

"(vi) Provides supports to family caregivers, such as respite care, caregiver assessments, peer supports, or paid family caregiving.

"(vii) Newly provides coverage under, or expands existing eligibility criteria for, 1 or more of the eligibility categories authorized under subclause (XIII), (XV), or (XVI) of section 1902(a)(10)(A)(ii).

"(D) STRENGTHENED AND EXPANDED WORKFORCE.—

"(i) IN GENERAL.— The State strengthens and expands the direct care workforce that provides home and community-based services by—

"(I) adopting processes to ensure that payment rates for home and community-based services are sufficient (as defined by the Secretary) to ensure that care and services are available to the extent described in the State HCBS improvement plan; and

"(II) updating qualification standards (at such time and at such frequency as the Secretary determines appropriate), and developing and adopting training opportunities, for the continuum of providers of home and community-based services, including programs for independent providers of such services and agency direct care workers, as well as unique programs and resources for family caregivers.

"(ii) PAYMENT RATES.— In carrying out clause (i)(I), the State shall—

"(I) update and, as appropriate, increase payment rates to support recruitment and retention of the direct care workforce by 2 years after approval of the improvement plan and, at least every 3 years thereafter, using, through existing or other processes to determine provider payment, a transparent process involving meaningful input from stakeholders; and

"(II) ensure that increases in the payment rates for home and community-based services—

"(aa) at a minimum, result in a proportionate increase to payments for direct care workers and in a manner that is determined with input from the stakeholders described in subclause (II); and

"(bb) are incorporated into provider payment rates for home and community-based services provided under this title

by a health plan, under a contract and paid through capitation rates with the State.

"(3) SELF-DIRECTED MODELS FOR THE DELIVERY OF SERVICES.— As conditions for receipt of the increase under paragraph (1)(B) to the Federal medical assistance percentage determined for a State, with respect to a fiscal year quarter, the State shall establish directly, or by contract with 1 or more entities, including an agency with choice or a similar service delivery model, a program for the performance of all of the following functions to facilitate beneficiary use of self-directed care in the case the State covers home and community-based services under authorities that permit self-direction:

"(A) Registering qualified direct care workers and assisting beneficiaries in finding direct care workers.

"(B) Undertaking activities to recruit and train independent providers to enable beneficiaries to direct their own care, including by providing or coordinating training for beneficiaries on self-directed care.

"(C) Ensuring the safety of, and supporting the quality of, care provided to beneficiaries, such as by conducting background checks and addressing complaints reported by recipients of home and community-based services.

"(D) Facilitating coordination between State and local agencies and direct care workers for matters of public health, training opportunities, changes in program requirements, workplace health and safety, or related matters.

"(E) Supporting beneficiary hiring, if selected by the beneficiary, of independent providers of home and community-based services, including by processing applicable tax information, collecting and processing timesheets, submitting claims and processing payments to such providers.

"(E) To the extent a State permits beneficiaries to hire a family member or individual with whom they have an existing relationship to provide home and community-based services, providing support to beneficiaries who wish to hire a caregiver who is a family member or individual with whom they have an existing relationship, such as by facilitating enrollment of such family member or individual as a provider of home and community-based services under the State plan or a waiver of such plan.

"(G) Ensuring that the program under this paragraph does not promote or prevent the ability of workers to form a labor organization or discriminate against workers who may join or decline to join such an organization.

"(4) REPORTING AND OVERSIGHT.— As conditions for receipt of the increase under paragraph (1) to the Federal medical assistance percentage determined for a State, with respect to a fiscal year quarter, the State shall meet each of the following requirements:

(1)  
"(A) The State designates (by a date specified by the Secretary) an HCBS ombudsman (or a long-term care ombudsman program office) that—

"(i) operates independently from the State Medicaid agency and managed care entities;

"(ii) provides direct assistance to recipients of home and community-based services available under the State Medicaid program and their families; and

"(iii) identifies and reports systemic problems to State officials, the public, and the Secretary.

"(B) Beginning with the last day of the 5th fiscal quarter for which the State is an HCBS program improvement State, and annually thereafter, the State reports to the Secretary on the state (as of the most recent quarter before the report for which complete data is available and which may be incorporated into the report) of—

"(i) the availability and utilization of home and community-based services, disaggregated (to the extent available and as applicable) by age groups, primary disability, income brackets, gender, race, ethnicity, geography, primary language, and type of service setting;

"(ii) benefits, turnover and vacancy rates, and average and range of wages for the direct care workforce;

"(iii) changes in payment rates for home and community-based services;

"(iv) implementation of the activities to strengthen and expand access to home and community-based services and the direct care workforce that provides such services in accordance with the requirements of subparagraphs (C) and (D) of paragraph (2);

"(v) if applicable, implementation of the activities described in paragraph (3);

"(vi) State expenditures for home and community-based services under the State plan or a waiver of such plan as a proportion of the total amount of State expenditures under the plan or waiver of such plan for long-term services and supports;

"(vii) the challenges in, and best practices identified for expanding access to home and community-based services, reducing disparities, and supporting and expanding the direct care workforce; and

"(viii) the use of enhanced Federal funding provided under this section.

"(5) BENCHMARKS FOR DEMONSTRATING IMPROVEMENTS.— An HCBS program improvement State shall cease to be eligible for an increase in the Federal medical assistance percentage under paragraph (1)(A)(i) or (1)(B) or an increase in an applicable Federal matching percentage under paragraph (1)(A)(ii), or after the first date on which a State is an HCBS program improvement State if the State is found to be out of compliance with paragraph (2)(B) or any other

requirement of this subsection and, beginning with such 29th fiscal quarter, unless, not later than 90 days before the first day of such fiscal quarter, the State submits to the Secretary a report demonstrating the following improvements:

"(A) Increased availability (above a marginal increase) of home and community-based services in the State relative to such availability as reported in the State HCBS improvement plan and adjusted for demographic changes in the State since the submission of such plan.

"(B) Reduced disparities in the utilization and availability of home and community-based services relative to the availability and utilization of such services by such populations as reported in such plan according to age groups, primary disability, income brackets, gender, race, ethnicity, geography, primary language, and type of service setting (to the extent available and applicable), and adjusted for demographic changes in the State since the submission of such plan.

"(C) Evidence that rates are sufficient (as defined by the Secretary) to ensure access to items and services for individuals eligible for HCBS in such State.

"(D) With respect to the percentage of expenditures made by the State for long-term services and supports that are for home and community-based services, in the case of an HCBS program improvement State for which such percentage (as reported in the State HCBS improvement plan) was—

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

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

"(6) DEFINITIONS.— In this subsection, the terms 'State Medicaid plan', 'direct care worker', 'HCBS program improvement State', 'health plan'; and 'home and community-based services' have the meaning given those terms in section 30711(e) of the Act titled 'An Act to provide for reconciliation pursuant to title II of S. Con. Res. 14'."

### **Sec. 30713. Funding for Federal activities**

In addition to amounts otherwise available, there is appropriated to the Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, \$40,000,000, to remain available until expended, to carry out section 30712 (including the amendments made by such section), including by issuing necessary guidance and technical assistance to States, conducting program integrity and oversight efforts, and preparing and submitting to the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate, beginning 5 years after the date of the enactment of this Act and every three years thereafter, a report describing the



progress of the HCBS planning and improvement activities undertaken by States as applicable and as described in sections 30711 and 30712 (including the amendments made by such sections), and describing the impact of such activities on access to care, including with respect to disparities in access and utilization, and the direct care workforce.

**Sec. 30714. Funding for HCBS quality measurement and improvement**

(a) INCREASED FEDERAL MATCHING RATE FOR ADOPTION AND REPORTING OF HCBS QUALITY MEASURES.—

(1) IN GENERAL.— Section 1903(a)(3) of the Social Security Act (42 U.S.C. 1396b(a)(3)) is amended—

(A) in subparagraph (F)(ii), by striking "plus" after the semicolon and inserting "and"; and

(B) by inserting after subparagraph (F), the following:

"(G) 80 percent of so much of the sums expended during such quarter as are attributable to the reporting of information regarding the quality of home and community-based services in accordance with sections 1139A(a)(4)(B)(ii) and 1139B(b)(3)(C); and".

(2) EXEMPTION FROM TERRITORIES' PAYMENT LIMITS.— Section 1108(g)(4) of the Social Security Act is amended by adding at the end the following new subparagraph:

"(C) ADDITIONAL EXEMPTION RELATING TO HCBS QUALITY REPORTING.— Payments under section 1903(a)(3)(G) shall not be taken into account in applying payment limits under subsections (f) and (g) of this subsection. "

(b) HCBS QUALITY MEASURES FOR INCREASE.— Title XI of the Social Security Act (42 U.S.C. 1301 through 1320e-3) is amended—

(1) in section 1139A—

(A) in subsection (a)(4)(B)—

(i) by striking "Beginning with the annual State report on fiscal year 2024" and inserting the following:

"(i) IN GENERAL.— Subject to clause (ii), beginning with the annual State report on fiscal year 2024"; and

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

"(ii) REPORTING HCBS QUALITY MEASURES.— With respect to reporting on information regarding the quality of home and community-based services provided to children under title XIX or title XXI, beginning with the annual State report required under subsection (c)(1) for the first fiscal year that begins on or after the date that is 2 years after the date that the Secretary publishes the home and community-based services quality measures developed under subsection (b)(5)(B) the Secretary shall require States to report such information using the standardized format for reporting information and procedures developed under

subparagraph (A) and using all such home and community-based quality measures developed under subsection (b)(5) (including any updates or changes to such measures)."; and

(B) in subsection (b)(5)—

(i) by striking "Beginning no later than January 1, 2013" and inserting the following:

"(A) IN GENERAL.— Beginning no later than January 1, 2013"; and

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

"(B) HCBS QUALITY MEASURES.— Beginning with the first year that begins on the date that is 2 years after the date of enactment of this subparagraph, the requirements of subparagraph (A) shall apply, and the core measures described in subsection (a) (and any updates or changes to such measures) shall include home and community-based services quality measures developed by the Secretary in the manner described in section 1139B(b)(5)(D). The Secretary shall ensure that the application of such measures reflects the full array of home and community-based services, consult with stakeholders with expertise in home and community-based services (including recipients and providers of such services) and allowing for the collection (to the extent available) of data disaggregated by age groups, primary disability, income brackets, gender, race, ethnicity, geography, primary language, and type of service setting.";

(C) in subsection (b)(6).

(i) by inserting "or support services" before "that is capable of";

(ii) by striking "and ambulatory health care and home and community-based settings" and inserting ", ambulatory health care, and home and community-based settings"; and

(iii) by inserting "and home and community-based" before "care system";

and

(D) in subsection (c)(1), in the matter preceding subparagraph (A), by inserting ", subject to subsection (a)(4)(B)(ii)," before "annually report"; and

(2) in section 1139B—

(A) in subsection (b)—

(i) in paragraph (3), by adding at the end the following new subparagraph:

"(C) MANDATORY REPORTING WITH RESPECT TO HCBS QUALITY MEASURES.— Beginning with the State report required under subsection (d)(1) for the first year that begins on or after the date that is 2 years after the date that the Secretary publishes the home and community-based quality measures developed under paragraph (5)(D), the Secretary shall require States to report information, using the

standardized format for reporting information and procedures developed under subparagraph (A), regarding the quality of home and community-based services for Medicaid eligible adults using all of the home and community-based services quality measures included in the core set of adult health quality measures under paragraph (5)(D), and any updates or changes to such measures."; and

(ii) in paragraph (5), by adding at the end the following new subparagraph:

"(D) HCBS QUALITY MEASURES.—

"(i) FUNDING.— In addition to amounts otherwise available, there is appropriated to the Secretary, for each fiscal year, beginning with fiscal year 2022, out of any money in the Treasury not otherwise appropriated, \$5,000,000, for carrying out this subparagraph.

"(ii) INCLUSION OF HCBS QUALITY MEASURES.— Beginning with respect to State reports required under subsection (d)(1) for the first year that begins on or after the date that is 2 years after the date of enactment of this subparagraph (or, in the case of measures that require development and testing prior to availability, not later than 4 years after the date of enactment of this subparagraph) the core set of child and adult health quality measures maintained under this paragraph (and any updates or changes to such measures) shall include home and community-based services quality measures developed in accordance with this subparagraph.

"(iii) REQUIREMENTS.—

"(I) IN GENERAL.— In developing (and subsequently reviewing and updating) the home and community-based services quality measures included in the core set of adult health quality measures maintained under this paragraph, the Secretary shall collaborate with relevant agencies across the Department of Health and Human Services and ensure that such measures are informed consultation with stakeholders with expertise in home and community-based services (including recipients and providers of such services).

"(II) FULL ARRAY OF SERVICES.— Such home and community-based services quality measures shall reflect the full array of home and community-based services and adult recipients of such services.

"(III) DEMOGRAPHICS.— Such home and community-based services quality measures shall allow for the collection, to the extent available, of data that is disaggregated by age groups,

primary disability, income brackets, gender, race, ethnicity, geography, primary language, and type of service setting.

"(IV) DEFINITIONS.— For purposes of this section and section 1139A, the terms 'home and community-based services', and 'direct care worker' have the meanings given those terms in section 30711(e) of the Act titled 'An Act to provide for reconciliation pursuant to title II of S. Con. Res. 14'."; and

(B) in subsection (d)(1)(A), by striking "; and" and inserting "and, beginning with the report for the first year that begins after the date that is 2 years after the Secretary publishes the home and community-based quality measures developed under subsection (b)(5)(D), all home and community-based services quality measures included in the core set of adult health quality measures maintained under subsection (b)(5) and any updates or changes to such measures; and".

**Sec. 30721. Permanent extension of Medicaid protections against spousal impoverishment for recipients of home and community-based services**

(a) IN GENERAL.— Section 1924(h)(1)(A) of the Social Security Act (42 U.S.C. 1396r–5(h)(1)(A)) is amended by striking "(at the option of the State) is described in section 1902(a)(10)(A)(ii)(VI)" and inserting the following: "is eligible for medical assistance for home and community-based services provided under subsection (c), (d), or (i) of section 1915 or under a waiver approved under section 1115, or who is eligible for such medical assistance by reason of being determined eligible under section 1902(a)(10)(C) or by reason of section 1902(f) or otherwise on the basis of a reduction of income based on costs incurred for medical or other remedial care, or who is eligible for medical assistance for home and community-based attendant services and supports under section 1915(k)".

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

**Sec. 30722. Permanent extension of Money Follows the Person Rebalancing demonstration**

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

(1) in paragraph (1)—

(A) in subparagraph (I), by inserting "and" after the semicolon;

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

"(J) \$450,000,000 for each fiscal year after fiscal year 2021."; and

(C) by striking subparagraph (K);

(2) in paragraph (2), by striking "September 30, 2023" and inserting "September 30 of the subsequent fiscal year"; and

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

"(3) TECHNICAL ASSISTANCE.— Out of the amounts made available under paragraph (1), for the 3-year period beginning with fiscal year 2022 and for each subsequent 3-year period, \$5,000,000 shall be made available for carrying out subsections (f), (g), and (i)."

(b) REDISTRIBUTION OF UNEXPENDED GRANT AWARDS.— Subsection (e)(2) of section 6071 of the Deficit Reduction Act of 2005 (42 U.S.C. 1396a note) is amended by adding at the end the following new sentence: "Any portion of a State grant award for a fiscal year under this section that is unexpended by the State at the end of the fourth succeeding fiscal year shall be rescinded by the Secretary and added to the appropriation for the fifth succeeding fiscal year."

## **Subtitle ~~HF~~— Social Safety Net**

Part 1— Child tax credit

Part 2— Child and dependent care tax credit Part 3— Supporting  
Caregivers Part 4— Earned Income Tax Credit

Part ~~5~~3— Expanding Access to Health Coverage and Lowering Costs

Part ~~6~~4— Pathway to Practice Training Programs

Part ~~7~~5— Higher education

### **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.

### **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) RULES RELATMENT OF JOINT RETURNING TO RECONCILIATION OF CREDIT AND ADVANCE CREDIT.—~~

Section 24(j) is amended by adding at the end the following new paragraphs:

"(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.

*"(4) COORDINATION WITH POSSESSIONS OF THE UNITED STATES.— For purposes of this subsection, payments made under section 7527A include payments made by any jurisdiction other than the United States under section 7527A of the income tax law of such jurisdiction, and advance payments made by American Samoa pursuant to a plan described in subsection (k)(3)(B). In carrying out this section, the Secretary shall coordinate with each possession of the United States to prevent any application of this paragraph that is inconsistent with the purposes of this subsection."*

(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) <sup>(1)</sup> Effective date.— The amendments made by this section shall apply to taxable years beginning, and payments made, after December 31, 2020.~~ DISCLOSURE OF

INFORMATION RELATING TO JOINT FILERS AND ADVANCE PAYMENT OF CHILD TAX CREDIT.—  
Section 6103(e) is amended by adding at the end the following new paragraph:

"(12) DISCLOSURE OF INFORMATION RELATING TO JOINT FILERS AND ADVANCE PAYMENT OF CHILD TAX CREDIT.— In the case of an individual to whom the Secretary makes payments under section 7527A, if the reference taxable year (as defined in section 7527A(b)(2)) that the Secretary uses to calculate such payments is a year for which the individual filed an income tax return jointly with another individual, the Secretary may disclose to such individual any information which is relevant in determining the payment under section 7527A and the individual's eligibility for such payment, including information regarding any of the following:

"(A) The number of specified children, including by reason of the birth of a child.

"(B) The name and TIN of specified children.

"(C) Marital status.

"(D) Modified adjusted gross income.

"(E) Principal place of abode.

"(F) Any other factor which the Secretary may provide pursuant to section 7527A(c)."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.— Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning, and payments made, after December 31, 2020.

(2) DISCLOSURE OF INFORMATION RELATING TO JOINT FILERS AND ADVANCE PAYMENT OF CHILD TAX CREDIT.— The amendment made by subsection (d) shall take effect on the date of the enactment of this Act.

**Sec. 137102. Extensions and modification of child tax credit and advance payment for applicable beginning in 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".

(3b) EXTENSION AND MODIFICATION OF ADVANCE PAYMENT.—

(1) IN GENERAL.— 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".

(b2) Repeal of social security number requirement MONTHLY PAYMENTS.—

(A) IN GENERAL.—

~~Section 24(h)(7527A(a) 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 to read as follows:~~

"(a) IN GENERAL.— The Secretary shall establish a program for making monthly payments to taxpayers in amounts equal to 1/12 of the annual advance amount with respect to such taxpayer."

(B) MODIFICATIONS DURING CALENDAR YEAR.— Section 7527A(b)(3), as amended by the preceding provisions of this Act, is amended—

(i) by amending subparagraph (A)(ii) to read as follows:

"(ii) any other information provided, or known, to the Secretary which allows the Secretary to more accurately estimate the amount treated as allowed under subpart C of part IV of subchapter A of chapter 1 by reason of section 24(i)(1) with respect to 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, ference taxable year."

(ii) by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) APPLICATION OF MODIFICATIONS TO SUBSEQUENT MONTHS.— Except as may be provided under subparagraph (C), any modification of



the annual advance amount with respect to any taxpayer under subparagraph (4A) and subsection (b)(1) shall both be applied with respect to such taxpayer's modified adjusted gross income (as so defined) for shall be taken into account for purposes of determining the amount of monthly payments with respect to such taxpayer under subsection (a) which are determined by the Secretary after such modification., and

(iii) in subparagraph (C) (as redesignated by clause (ii), by striking "periodic payment" both preceding taxable year faces it appears and inserting "monthly payment".

(dC) Inflation adjust CONFORMING AMENDMENT.— Section 24(i), a 7527A(c)(2) is amended by subsection (e), striking "subsection (b)(3)(B)" and inserting "subsection (b)(3)".

(3) ELIGIBILITY FOR ADVANCE PAYMENTS LIMITED BASED ON MODIFIED ADJUSTED GROSS INCOME.— Section 7527A(b) is amended by adding at the end the following new paragraph:

"(6) LIMITATION ADJUSTMENTS BASED ON MODIFIED ADJUSTED GROSS INCOME.—

"(A) IN GENERAL.— In the case of any taxable year beginning after December 31, 2021, the \$500 amount in submodified adjusted gross income of the taxpayer for the reference taxable year exceeds the applicable threshold amount with respect to such taxpayer (as defined in section (h) 24(i) (4)(AB)), the \$3,000 and \$3,600 amounts in paragraph (3) and subsection (j) (2)(B)(iv), and the dollar amounts in annual advance amount with respect to such taxpayer shall be zero.

"(B) EXCEPTION FOR MODIFICATIONS MADE DURING THE CALENDAR YEAR.— Subparagraph (4)(B), A) 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 not apply to a reference taxable year taken into account by reason of paragraph (3)(A)(i) or subsection (c) if the taxpayer received one or more payments under subsection (a) for months in the calendar year which preceding the calendar year in month for which such reference taxable year begins, exceeds "(ii) the CPI (a will be taken into account."

(4) ADVANCE PAYMENTS (SO DEFINED) FOR CALENDAR YEAR 2020. "(B) ROUNDING.—  
"(i) \$500 AMOUNT.— IN THE CASE OF THE \$500 AMOUNT IN SUBPUERTO RICO RESIDENTS FOR 2022.— Section 7527A(e)(4) is amended—

(A) in subparagraph (A), by striking "The advance" and in section (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 subg. "Except as provided in subparagraph (D), the advance", and~~

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

~~"(D) ADVANCE PAYMENTS TO PUERTO RICO RESIDENTS FOR 2022.— For the period beginning on July 1, 2022, and ending on December 31, 2022, the Secretary may apply this section without regard to subparagraph (A)(i)."~~

~~(c) ELECTION TO APPLY INCOME PHASEOUT ON BASIS OF INCOME FROM THE PRECEDING TAXABLE YEAR.—~~

~~Section 24(i) is amended by adding at the end the following new paragraph:~~

~~"(5) ELECTION TO APPLY INCOME PHASEOUT ON BASIS OF INCOME FROM THE PRECEDING TAXABLE YEAR.— In the case of a taxpayer who elects (at such time and in such manner as the Secretary may provide) the application of this paragraph for any taxable year, paragraph (A4) which is not a multiple of \$5,000 shall be rounded to the nearest multiple of \$5,000 and subsection (b)(1) shall both be applied with respect to the modified adjusted gross income (as defined in subsection (b)) for the taxpayer's preceding taxable year."~~

~~(ed) 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 sum of—~~

~~"(I) an amount equal to the product of \$3,600 multiplied by the excess (if any) of the number of a-qualifying children who have 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—, and who are taken into account in determining the annual advance amount with respect to the taxpayer under section 7527A with respect to months beginning in such taxable year, over the number of such qualifying children taken into account in determining the credit allowed under this section for such taxable year. plus~~

~~"(II) an amount equal to the product of \$3,000 multiplied by the excess (if any) of the number of qualifying children not described in clause (I), and who are taken into account in determining the annual advance amount with respect to such the taxpayer under section 7527A with respect to months beginning in such taxable year, and "(II) not over the number of such qualifying children taken into account in determining the credit allowed to such taxpayer under this section for such taxable year."~~

~~(e) REPEAL OF SOCIAL SECURITY NUMBER REQUIREMENT.—~~

~~(1) IN GENERAL.— Section 24(h) is amended by striking paragraph (7).~~

~~(2) CONFORMING AMENDMENTS.—~~

(A) Section 24(h)(1) is amended by striking "paragraphs (2) through (7)" and inserting "paragraphs (2) through (6)".

(B) Section 24(h)(4) is amended by striking subparagraph (C).

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

[NOTE-- DELETED /tXIII/stH/p1/s137103: ~~Sec. 137103. Establishment of monthly child tax credit with advance payment through 2025~~]

### **Sec. 137104~~3~~. Refundable child tax credit after 2025~~2~~**

(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~~2~~.— In the case of any taxable year beginning after December 31, 2025~~2~~, 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) so much of the credit determined under subsection (a) (after application of paragraph (1)) as does not exceed the amount of such credit which would be so determined without regard to subsection (h)(4), 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, is amended to read as follows:~~

~~(G)~~ APPLICATION TO TAXABLE YEARS AFTER 2025~~2~~.— For application of refundable credit to residents of Puerto Rico for taxable years after 2025~~2~~, see subsection (m).".

(2) AMERICAN SAMOA.— Section 24(k)(3)(C)(ii)(~~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 to read as follows:~~

~~(III)~~ if such taxable year begins after December 31, 2025~~2~~, subsection (m) shall be applied by substituting <sup>(j)</sup> '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.

[NOTE-- DELETED /tXIII/stH/p1/s137105: Sec. 137105. Appropriations]

**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". earned income tax credit extended through 2022**

(ea) INCREASE IN APPLICABLE PERCENTAGE GENERAL.— Section 21(a)(2)(B) 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 January 1, 2022" and inserting "January 1, 2023".

(eb) INFLATION ADJUSTMENT.—

Section 21(e)(2)(B) is amended by adding at the end the following new paragraph to read as follows:

"(4B) 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 2021, the \$9,820 and \$11,610 dollar amounts in subsection (c)(2) paragraph (A) 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 begins, 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,

(c) ELECTION TO DETERMINE EARNED INCOME BASED ON PRIOR TAXABLE YEAR.—  
Section 32, as amended by subsection (f), is amended by adding at the end the following new subsection:

"(o) 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 beginning after December 31, 2021, and before January 1, 2023, is less than the nearest multiple of \$100." (f) Application of phaseout to high-income income of such taxpayer for the preceding taxable year, if such taxpayer elects (at such time 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: 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.

"(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 in 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 striking "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 on 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."

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

[NOTE-- DELETED /tXIII/stH/p2/s137202: ~~Sec. 137202. Increase in exclusion for employer-provided dependent care assistance made permanent~~]

[NOTE-- DELETED /tXIII/stH/p3/s137301: ~~Sec. 137301. Payroll tax credit for child care workers~~]

[NOTE-- DELETED /tXIII/stH/p3/s137302: ~~Sec. 137302. Credit for caregiver expenses~~]

[NOTE-- DELETED /tXIII/stH/p4/s137401: ~~Sec. 137401. Certain improvements to the earned income tax credit made permanent~~]

**Sec. 1374202. 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.

[NOTE-- DELETED /tXIII/stH/p5/s137501: ~~Sec. 137501. Improve affordability and reduce premium costs of health insurance for consumers~~]

(/)

**Sec. 137301. Improve affordability and reduce premium costs of health insurance for consumers**

(a) IN GENERAL.— Section 36B(b)(3)(A) is amended—

(1) by striking clause (ii) and redesignating clause (iii) as clause (ii), and  
(2) in clause (ii) (as redesignated by paragraph (1)) by striking all that precedes the table contained therein and inserting the following:

"(ii) TEMPORARY PERCENTAGES FOR 2021 THROUGH 2025.— In the case of a taxable year beginning after December 31, 2020, and before January 1, 2026, the following table shall be applied in lieu of the table contained in clause (i):"

(b) EXTENSION THROUGH 2025 OF RULE TO ALLOW CREDIT TO TAXPAYERS WHOSE HOUSEHOLD INCOME EXCEEDS 400 PERCENT OF THE POVERTY LINE.— Section 36B(c)(1)(E) is amended—

(1) by striking "in 2021 or 2022" and inserting "after December 31, 2020, and before January 1, 2026", and

(2) by striking "and 2022" in the heading thereof and inserting "through 2025".

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

**Sec. 1375302. Modification of employer-sponsored coverage affordability test in health insurance premium tax credit**

(a) IN GENERAL.— Section 36B(c)(2)(C)(i)(II) is amended— (1) in clause (i)(II), by striking "9(8.5 percent)" and inserting "8.5 percent", and (2) by striking clause (iv) in the case of any taxable year beginning after December 31, 2021, and before January 1, 2026) after "9.5 percent".

(b) QUALIFIED SMALL EMPLOYER HEALTH REIMBURSEMENT ARRANGEMENTS.— Section 36B(c)(4)(C)(ii) is amended— (1) in subparagraph (C)(ii), by striking "9.5 percent" and inserting "8.5 percent", and (2) by inserting "(8.5 percent in the case of any taxable year beginning after December 31, 2021, and before January 1, 2026)" after "9.5 percent".

(c) PERCENTAGES DETERMINED WITHOUT REGARD TO ADJUSTMENTS AFTER 2025.—

(1) Section 36B(c)(2)(C) is amended by striking clause (iv).

(2) Section 36B(c)(4) is amended by striking subparagraph (F).

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

**Sec. 1375303. Treatment of lump-sum social security benefits in determining household income**

(a) IN GENERAL.— (1)

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))~~ after December 31, 2025, 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. ~~30602~~137304. 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 ~~FOR 2022 THROUGH~~ BEGINNING IN 2024.— With respect to any taxable year beginning after December 31, 2021, and before January 1, 2025~~6~~—

"(1) 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.

"(2) CREDIT ALLOWED TO CERTAIN LOW-INCOME EMPLOYEES OFFERED EMPLOYER-PROVIDED COVERAGE.— Subclause (II) of subsection (c)(2)(C)(i) shall not apply if the taxpayer's household income does not exceed 138 percent of the poverty line for a family of the size involved. ~~The last sentence of such subsection shall also apply for purposes of this paragraph.~~ Subclause (II) of subsection (c)(2)(C)(i) shall also not apply to an individual described in the last sentence of such subsection if the taxpayer's household income does not exceed 138 percent of the poverty line for a family of the size involved.

"(3) CREDIT ALLOWED TO CERTAIN LOW-INCOME EMPLOYEES OFFERED QUALIFIED SMALL EMPLOYER HEALTH REIMBURSEMENT ARRANGEMENTS.— A qualified small employer health reimbursement arrangement shall not be treated as constituting affordable coverage for an employee (or any spouse or dependent of such employee) for any months of a taxable year <sup>(1)</sup> if the employee's household income for such taxable year does not exceed 138 percent of the poverty line for a family of the size involved.

"(4) LIMITATIONS ON RECAPTURE.—



"(A) 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).

"(B) 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 projected 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.

"(C) 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 clauses (i) and (ii) of subparagraph (B) with respect to such taxpayer."

(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 credit, reduction, or payment is allowed or paid for a taxable year of an employee (beginning after December 31, 2021, and before January 1, 2025<sup>6</sup>) with respect to which—

"(i) an Exchange established under title I of the Patient Protection and Affordable Care Act has determined that such employee's household income for such taxable year is projected to not exceed 138 percent of the poverty line for a family of the size involved, or

"(ii) such employee's household income for such taxable year does not exceed 138 percent of the poverty line for a family of the size involved."

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

**Sec. 137507305. 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. 137508306. 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.

**Sec. 137307. Exclusion of certain dependent income for purposes of premium tax credit**

(a) IN GENERAL.—

Section 36B(d)(2), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subparagraph:

"(D) EXCEPTION FOR CERTAIN DEPENDENT INCOME.—

"(i) IN GENERAL.— There shall not be taken into account under subparagraph (A)(ii) the modified adjusted gross income of any dependent of the taxpayer who has not attained age 24 as of the last day of the calendar year in which the taxable year of the taxpayer begins.

"(ii) LIMITATION.— Clause (i) shall not apply to so much of the aggregate of the modified adjusted gross income of all dependents of the taxpayer who have

not attained the age described in such clause as exceeds \$3,500.

"(iii) ELECTION TO HAVE SUBPARAGRAPH NOT APPLY.— In the case of any taxable year beginning after December 31, 2025, a taxpayer may elect (at such time and in such manner as the Secretary may provide) to have this subparagraph not apply with respect to the income of any dependent of the taxpayer for such taxable year.

"(iv) ADJUSTMENT FOR INFLATION.— In the case of any taxable year beginning after December 31, 2023, the \$3,500 amount in clause (ii) 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 in which the taxable year begins, determined by substituting 'calendar year 2022' for 'calendar year 2016' in subparagraph (A)(ii) thereof.

If any increase determined under the preceding sentence is not a multiple of \$100, such increase shall be rounded to the next lowest multiple of \$100."

(b) CONFORMING AMENDMENTS.—

(1) Section 36B(d)(2)(A)(ii) is amended by inserting ", except as provided in subparagraph (D)," after "individuals".

(2) Section 1411(b)(3) of the Patient Protection and Affordable Care Act (42 U.S.C. 18081) is amended by adding at the end the following new subparagraph:

"(D) INFORMATION REGARDING CERTAIN DEPENDENTS.— Information regarding whether section 36B(d)(2)(D) will apply to any individuals taken into account as members of the household of the enrollee, and the amount of income of each such individual for the taxable year described in subparagraph (A)."

(c) EFFECTIVE DATE.— The amendments made by this section shall apply to credits allowed under section 36B of the Internal Revenue Code of 1986 for, and advance payments of credits under section 1412 of the Patient Protection and Affordable Care Act with respect to, taxable years beginning after December 31, 2022.

#### **Sec. 137604401. 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. 1395f), 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 1399C 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)). Amounts transferred under the preceding sentence shall remain available until expended.

[NOTE-- DELETED /tXIII/stH/p7/s137701: ~~Sec. 137701. Credit for public university research infrastructure~~]

**Sec. 137604402. 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) attests he or she—

"(A) is or will be a first-generation student of a 4-year college, graduate school, or professional school;

"(B) was a Pell Grant recipient; or

"(C) lived in a medically underserved area, rural area, or health professional shortage area for a period of 4 or more years prior to attending an undergraduate program;

"(2) has accepted enrollment in—

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

"(B) a qualifying medical school;

"(3) will practice medicine in a health professional shortage area, medically underserved area, public hospital, rural area, or as required under subsection (d) (5); and

"(4) submits an application and a signed copy of the agreement described under subsection (c). (l)

"(c) APPLICATIONS.—

"(1) IN GENERAL.— To be eligible to receive a Pathway to Practice medical scholarship voucher 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 for Post-Baccalaureate and Medical Students.

"(d) PATHWAY TO PRACTICE MEDICAL SCHOLARSHIP VOUCHER DETAILS.—

"(1) NUMBER.— On an annual basis, the Secretary ~~may~~shall 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, Centers of Excellence Program, or an Area Health Education Center ~~scholar~~program;

"(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(e) of title 10, United States Code~~ for active service stipend monthly rate; 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;

"(C) complete a residency program in an approved residency training program (as defined in section 1886(h)(5)(A));

"(D) complete an initial residency period or the period of board eligibility;

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

"(F) for the purpose of determining compliance with subparagraph (E), not later than 180 days after the date on which qualifying student completes a residency program, provide to the Secretary information with respect to where the qualifying student is practicing medicine following the period described in such subparagraph;

"(G) except in the case of a waiver for hardship pursuant to section 1892(f)(3), be liable 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 to a 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 term '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 designated pursuant to section 330(b)(3)(A) of the Public Health Service Act.

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

"(5) PERIOD OF BOARD ELIGIBILITY.— The term 'period of board eligibility' has the meaning given such term in section 1886(h)(5)(G).

"(6) QUALIFYING MEDICAL SCHOOL.— The term 'qualifying medical school' means a school of medicine accredited by the Liaison Committee on Medical Education of the American Medical Association and the Association of American Medical Colleges (or approved by such Committee as meeting the standards necessary for such accreditation) or a school of osteopathy accredited by the American Osteopathic Association, or approved by such Association as meeting the standards necessary for such accreditation which—

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

"(B) requires qualifying students to enroll in didactic coursework and clinical experience applicable to practicing medicine in health professional 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~~ or 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~~*shall* 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~~*shall* 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~~*shall* <sup>(1)</sup> 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. 137602403. 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 preceding 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 in 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. 137603404. 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 EXCLUSION FROM 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 qualifying resident (as defined in subclause (II)) trains in an applicable hospital or hospitals (as defined in subclause (II)) in an approved Rural and Underserved Pathway to Practice 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 (as defined in subclause (V)), the Secretary shall, for such cost reporting period by the number of full-time equivalent residents so trained under such program during such period, exclude from the limitation under subparagraph (F).~~

~~"(II) QUALIFYING RESIDENT.— For purposes of this clause, the term 'qualifying resident' means a full-time equivalent resident who—~~

~~"(aa) was a qualifying student awarded a Pathway to Practice medical scholarship voucher under section 1899C; and~~

~~"(bb) graduated from a qualifying medical 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~~ool~~.~~

~~"(III) APPLICABLE HOSPITAL OR HOSPITALS DEFINED.— For purposes of this clause, the term 'applicable hospital or hospitals' means any hospital that~~

~~"(aa) has established an approved Rural and Underserved Pathway to Practice Medical Residency Training Program;~~

~~"(bb) agrees to provide data to the Secretary with respect to where such residents practice medicine or participate in fellowships following~~

their residencies; and

"(cc) agrees to promote community-based training of residents under such program, as appropriate.

"(IV) RURAL AND UNDERSERVED PATHWAY TO PRACTICE MEDICAL RESIDENCY TRAINING PROGRAM DEFINED.— For purposes of this clause, the term 'Rural and Underserved Pathway to Practice Medical Residency Training Program' means an approved medical residency training program 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 ~~Such~~ programs provides mentorships for residents.

"(bb) The ~~Such~~ programs includes cultural ~~and/or~~ structural competency as part of the training of residents under the ~~such~~ 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~~ health professional shortage areas (as defined in section 332(a)(1) (A) of the Public Health Service Act).

"(V) OTHER DEFINITIONS.—

"(aa) HEALTH PROFESSIONAL SHORTAGE AREA.— The term '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. 1357501. Possessions Economic Activity Credit for public university Creditsearch 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. 45VAA. Possessions Economic Activity ~~Public university research~~ infrastructure credit**

"(a) ALLOWANCE OF CREDIT.— For purposes of section 38, ~~in the case of a qualified domestic corporation the possessions economic activity~~public university research infrastructure credit determined under this section for a taxable year is an amount equal to ~~240~~ percent of the sum of the ~~qualified possession wages and allocable employee fringe benefit expenses paid or incurred~~qualified cash contributions made by the taxpayer for ~~the~~during such taxable year.

"(b) QUALIFIED DOMESTIC CORPORATION; QUALIFIED CASH CONTRIBUTION.—

"(1) IN GENERAL.—

"(A) DEFINED CORPORATION.— For purposes of this ~~subsection—~~"(1) In general.— The term 'qualified domestic corporation' means any domestic corporation which is ~~—~~"(A) a qualified corporation, or "(B) a United States shareholder of a foreign corporation which ~~—~~"(i) is a qualified corporation, and "(ii) is wholly owned by the United States shareholder together with any corpora ~~(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 sections, which are members of the same affiliated group (within the meaning of section 1504(a)) as such United States shareholder~~ould be treated as a charitable contribution for purposes of section 170(c).

"(2B) QUALIFIED CORPORATION.— THE TERM 'QUALIFIED CORPORATION' MEANS ANY CORPORATION IF SUCH 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~~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 904(f)170(b).

"(B2) 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 possessDESIGNATION REQUIRED.— A contribution shall only be treated as a qualified cash contribution for the United States. "(3) ~~Special rule for separate~~that it is designated and clearly identified units of

foreign corporations. ~~s such by a certified educational institution under subsection (d).~~

~~"(A) In general.— In the case of a United States shareholder of a foreign corporation which~~  
~~DEFINITIONS.— For purposes of this section—~~

~~"(1) 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 whi~~  
~~QUALIFYING PROJECT.— The term 'qualifying project' means a project to purchase, construct, or improve research infrastructure property.~~

~~"(2) RESEARCH; 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~~  
~~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.~~

~~"(B) ELIGIBLE FOREIGN BUSINESS UNIT.— FOR PURPOSES OF THIS PARAGRAPH, THE TERM 'ELIGIBLE FOREIGN BUSINESS UNIT' MEANS A SEPARATE AND CLEARLY IDENTIFIED~~  
~~EDUCATIONAL INSTITUTION.— The term 'eligible educational institution' means—~~

~~"(A) an institution of higher education (as such term is defined foreign unit of a trade or business, including a partnership or an entity treated as disregarded as a separate entity from its owner (under 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), section 1704 or other provision under this title), which maintains separ(b)(1)(A)(vi), or section 509(a)(3) to which authority has been delegated 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 ofy 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 group which are United States shareholders with respect to the foreign corporation which has such unit/ject under subsection (d)(2), and~~

~~"(B) designates credit amounts to taxpayers for qualifying cash contributions toward such project under subsection (d)(4).~~

~~"(ed) QUALIFIED POSSESSION WAGES.— FOR PURPOSES OF THIS SECTION~~YING UNIVERSITY RESEARCH INFRASTRUCTURE PROGRAM.—

~~"(1) ESTABLISHMENT.—~~

~~"(4A) 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 possess~~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, but only if such services are performed while the principal place of employment of such employee is within such possess~~and

~~"(ii) allow certified educational institutions to designate cash contributions for qualifying projects of such certified educational institutions as qualified cash contributions.~~

~~"(2B) LIMITATION ON AMOUNT OF WAGES TAKEN INTO ACCOUNT.— "(A) IN GENERAL.— THE AMOUNT OF WAGES WHICH MAY BE TAKEN INTO ACCOUNTS.—~~

~~"(i) ALLOCATION LIMITATION PER INSTITUTION.— The credit amounts allocated to a certified educational institution under subparagraph (4) with respect to any employee for any taxable year shall not exceed \$50,000. "(B) Treatment of part-time employees, etc.— If A)(i) for all projects shall not exceed \$50,000,000 per calendar year.~~

~~"(ii) OVERALL ALLOCATION LIMITATION.—~~

~~"(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 with~~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 possession at all times during the taxable year, calendar year shall be carried to the succeeding calendar year and added to the limitation applicable under paragraph (1) with respect to such employee shall be the appropriate portion (as determined by the Secretary) of the limit~~such subclause for such succeeding calendar year.

~~"(iii) DESIGNATION LIMITATION.— The aggregate amount of cash contributions 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 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 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 ified 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) 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 ELECTION 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 expeansesion of any qualified corporation for any taxable year is an amount which bears the same ratio to the amount det eligible educational institution's targeted research within disciplines in science, mathematics, engineermined under subparagraph (B) for such taxable year as—"(i) the aggregate amount of the qualified corporg, and technology, and~~

~~"(B) in a manner that ensures consideration is given to eligible educational institutions with full-time student population's qualified possession wages for such taxable yeof less than 12,000.~~

~~"(4) DESIGNATION OF QUALIFIED CASH CONTRIBUTIONS TO TAXPAYERS.— The Secretary, 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) 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.~~

~~"(B5) 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 dDISCLOSURE OF ALLOCATIONS AND DESIGNATIONS.—~~

~~"(A) ALLOCATIONS.— The Secretary shall, upon allocating credit amounts to ar applicant under this subsection, publicly disclose the identity of the applicant and the credit amount allocated to such applicant.~~



"(B) DESIGNATIONS.— Each certified education—under this chapter to the qualified corporation for such taxable al institution shall, upon designating contributions of a taxpayer 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 as qualified cash contributions under this subsection, publicly disclose the identity of the taxpayer and the amount of contributions designated in 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 time, form, and manner as the Secretary may require.

"(e) REGULATIONS AND GUIDANCE.— The Secretary, after consultation with the Secretary of Education when applicable, shall prescribe such regulations and guidance as may be necessary or appropriate to carry out the purposes of this section, including regulations or other guidance for—

"(1) prevention of abuse,

"(2) establishment of reparation, subsection (a) shall be applied by substituting '50 percent' for '20 percent' ng requirements,

"(3) establishment of selection criteria for applications, and

"(24) Qualified small domestic corporation disclosure of allocations.

"(f) PENALTY FOR NONCOMPLIANCE.—

"(A1) 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 if at any time during the 5-year period beginning on the date of the allocation of credit amounts to a certified educational institution under subsection (d)(1)(A)(i) there is a noncompliance event with the requirements of this subparagraph if the qualified corporation which is the qualified domestic corporation under subsection (b)(1)(A) or the foreign corporationspect to such credit amounts, then the following rules shall apply:

"(A) GENERAL RULE.— Any cash contribution designated as a qualifying cash contribution with respect to a qualifying project for which such credit amounts were allocated under subsection (b)(1)(A)(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 ill be treated as unrelated business taxable income (as defined in section 512) of such certified educational institution.

"(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 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 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 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 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.—~~

~~"(4) Amount of wages taken into account.— Subsection (e)(2)(A) shall be applied by substituting '\$139,500' for '\$50,000'."(e) Possession of the United States 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.—~~

~~"(4) IN GENERAL.— The term 'possession of the United States' means American Samoa, the Commonwealth of the Northern Secretary may reallocate credit amounts allocated under this section if the Secretary determines, as of the date of the review in Mariana Islands, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands graph (1), that such credit amounts are subject to a noncompliance event.~~

~~"(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 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, this section shall be applied separately with

“(i) RULE FOR TRUSTS AND ESTATES.— For purposes of this section, rules similar to the respect to each possession of the United States rules of subsection (d) of section 52 shall apply.

“(g) TERMINATION.— No credit shall be allowed under this section for any taxable year beginning This section shall not apply to qualified cash contributions made after December 31, 2034-3.”.

(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 (3541), by striking the period at the end of paragraph (3642) and inserting ", plus", and by adding at the end the following new paragraph:

“(437) the possessions economic activity public university research infrastructure credit determined under section 45VAA.”.

(c) CLERICAL AMENDMENT.—

The table of sections for subpart BD 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. -45V. Possessions Economic Activity GAA. Public university research infrastructure credit.”.

(d) EFFECTIVE DATE.— The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act, and in the case of a qualified corporation that is a foreign corporation, to taxable years beginning after the date of enactment and to taxable years of United States shareholders in which or with which such taxable years of foreign corporations end qualified cash contributions made after December 31, 2021.

## **Sec. 1377-502. 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 students 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. 1377-503. 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. 1377-504. 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.

[NOTE-- MOVED /tXIII/stI to /tXIII/stG ]

**Subtitle IG— Responsibly Funding Our Priorities**

Part 1— Corporate and International Tax Reforms

Subpart A— Corporate ~~tax rate~~provisions

Subpart B— Limitations on deduction for interest expense

Subpart C— Outbound international provisions

Subpart D— Inbound international provisions

Subpart E— Other Business Tax Provisions

Part 2— Tax increases for high-income individuals

~~Part 3— Modifications of rules relating to retirement plans Subpart A—~~

~~Limitations on high-income taxpayers with large retirement account balances Subpart B— Other provisions relating to individual retirement~~

~~plans Part 4— Funding the Internal Revenue Service and Improving~~

~~Taxpayer Compliance~~

~~Part 54— Other provisions~~

**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.

[NOTE-- DELETED /tXIII/stI/p1/spA/s138101: ~~Sec. 138101. Increase in corporate tax rate~~ (l)]

~~Sec. 138144. 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 (directly 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. “(ii) Treatment of intra-group distributions.—The EBITDA of any specified domestic corporation shall be determined without regard to any distribution received by such corporation from any other member of the international financial reporting group. “(E) Special rules for non-positive EBITDA.—“(i) Non-positive group EBITDA.—In the case of any international financial reporting group the EBITDA of which is zero or less, paragraph (1) shall not apply to any specified domestic corporation which is a member of such group. “(ii) Non-positive entity EBITDA.—In the case of any specified domestic corporation the EBITDA of which is zero or less, the allowable percentage shall be 0 percent. “(5) Applicable financial statement.—For purposes of this subsection, the term ‘applicable financial statement’ has the meaning given such 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 purposes 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 384(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.~~ 01. Corporate alternative minimum tax

(a) IMPOSITION OF TAX.—

(1) IN GENERAL.— Paragraph (2) of section 55(b) is amended to read as follows:

"(2) CORPORATIONS.—

"(A) APPLICABLE CORPORATIONS.— In the case of an applicable corporation, the tentative minimum tax for the taxable year shall be the excess of—

"(i) 15 percent of the adjusted financial statement income for the taxable year (as determined under section 56A), over

"(ii) the corporate AMT foreign tax credit for the taxable year.

"(B) OTHER CORPORATIONS.— In the case of any corporation which is not an applicable corporation, the tentative minimum tax for the taxable year shall be zero."

(2) APPLICABLE CORPORATION.— Section 59 is amended by adding at the end the following new subsection:

"(k) APPLICABLE CORPORATION.— For purposes of this part—

"(1) APPLICABLE CORPORATION DEFINED.—

"(A) IN GENERAL.— The term 'applicable corporation' means any corporation (other than an S corporation, a regulated investment company, or a real estate investment trust) which, for any applicable 3-taxable year period

=

"(i) has the average annual adjusted financial statement income which is greater than \$1,000,000,000, and

"(ii) in the case of a corporation described in paragraph (2), has an average annual adjusted financial statement income (determined without regard to the application of paragraph (2)) which is \$100,000,000 or more.

"(B) APPLICABLE 3-TAXABLE YEAR PERIOD.— For purposes of this paragraph, the term 'applicable 3-taxable-year period' means, with respect to any corporation for any taxable year, any 3 consecutive taxable years of such corporation occurring during the period ending with the taxable year which precedes such taxable year. For purposes of the preceding sentence, only taxable years ending after December 31, 2019, shall be taken into account.

"(C) EXCEPTION.— Notwithstanding subparagraph (A), the term 'applicable corporation' shall not include any corporation which otherwise meets the requirements of subparagraph (A) if—

"(i) such corporation—

"(I) has a change in ownership, or

"(II) has a consistent reduction in adjusted financial statement income below the dollar amounts applicable to such corporation under subparagraph (A), and

"(ii) the Secretary determines that it would not be appropriate to continue to treat such corporation as an applicable corporation.

The preceding sentence shall not apply to any corporation if, after the Secretary makes the determination described in clause (ii), such corporation meets the requirements of subparagraph (A) for any applicable 3-taxable year period beginning after the first taxable year for which the determination applies.

"(D) SPECIAL RULES FOR DETERMINING AVERAGE ANNUAL ADJUSTED FINANCIAL STATEMENT INCOME.— Solely for purposes of determining the average annual adjusted financial statement income of a corporation for any period—

"(i) all persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as 1 person, except that in applying section 1563 for purposes of section 52, the exceptions under subparagraphs (C) and (D) of section 1563(b)(2) shall be disregarded,

"(ii) in the case of a foreign corporation, only income described in section 56A(c)(3) and income that is, or is treated as, effectively connected with the conduct of a trade or business in the United States) shall be taken into account.

"(E) OTHER SPECIAL RULES.—

"(i) CORPORATIONS IN EXISTENCE FOR LESS THAN 3 YEARS.— If the corporation was in existence for less than 3-taxable years, subparagraph (B) shall be applied by substituting the number of taxable years for which the corporation was in existence for '3'.

"(ii) SHORT TAXABLE YEARS.— Adjusted financial statement income for any taxable year of less than 12 months shall be annualized by multiplying the adjusted financial statement income for the short period by 12 and dividing the result by the number of months in the short period.

"(iii) TREATMENT OF PREDECESSORS.— Any reference in this subparagraph to a corporation shall include a reference to any predecessor of such corporation.

"(2) SPECIAL RULE FOR FOREIGN-PARENTED CORPORATIONS.—

"(A) IN GENERAL.— Solely for purposes of determining whether a corporation is an applicable corporation under paragraph (1), any corporation which for any taxable year is a member of an international financial reporting group the common parent of which is a foreign corporation shall include in

the adjusted financial statement income of such corporation for such taxable year the adjusted financial statement income of all foreign members of such group.

"(B) INTERNATIONAL FINANCIAL REPORTING GROUP.— For purposes of this subparagraph (A), 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.

"(3) REGULATIONS AND OTHER GUIDANCE.— The Secretary shall provide regulations and other guidance for the purposes of carrying out this subsection, including regulations or other guidance—

"(A) providing a simplified method for determining whether a corporation meets the requirements of paragraph (1), and

"(B) addressing the application of this subsection to a corporation that experiences a change in ownership."

(3) REDUCTION FOR BASE EROSION AND ANTI-ABUSE TAX.— Section 55(a)(2) is amended by inserting "plus, in the case of an applicable corporation (as defined in subsection (b)(2)), the tax imposed by section 59A" before the period at the end.

(4) CONFORMING AMENDMENTS.—

(A) Section 55(a) is amended by striking "In the case of a taxpayer other than a corporation, there" and inserting "There".

(B)

(i) Section 55(b)(1) is amended—

(I) by striking so much as precedes subparagraph (A) and inserting the following:

"(1) NONCORPORATE TAXPAYERS.— In the case of a taxpayer other than a corporation—", and

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

"(D) ALTERNATIVE MINIMUM TAXABLE INCOME.— The term 'alternative minimum taxable income' means the taxable income of the taxpayer for the taxable year—

"(i) determined with the adjustments provided in section 56 and section 58, and

"(ii) <sup>(1)</sup> increased by the amount of the items of tax preference described in section 57.

If a taxpayer is subject to the regular tax, such taxpayer shall be subject to the tax imposed by this section (and, if the regular tax is determined by reference to an amount other than taxable income, such amount shall be treated as the taxable income of such taxpayer for purposes of the preceding sentence)."

(ii) Section 860E(a)(4) is amended by striking "55(b)(2)" and inserting "55(b)(1)(D)".

(iii) Section 897(a)(2)(A)(i) is amended by striking "55(b)(2)" and inserting "55(b)(1)(D)".

(C) Section 11(d) is amended by striking "the tax imposed by subsection (a)" and inserting "the taxes imposed by subsection (a) and section 55".

(D) Section 12 is amended by adding at the end the following new paragraph:

"(5) For alternative minimum tax, see section 55."

(E) Section 882(a)(1) is amended by inserting ", 55," after "section 11".

(E) Section 6425(c)(1)(A) is amended to read as follows:

"(A) the sum of—

"(i) the tax imposed by section 11 or subchapter L of chapter 1, whichever is applicable, plus

"(ii) the tax imposed by section 55, plus

"(iii) the tax imposed by section 59A, over".

(G) Section 6655(e)(2) is amended by inserting ", adjusted financial statement income (as defined in section 56A)," before "and modified taxable income" each place it appears in subparagraphs (A)(i) and (B)(i).

(H) Section 6655(g)(1)(A) is amended by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively, and by inserting after clause (i) the following new clause:

"(ii) the tax imposed by section 55,".

(b) ADJUSTED FINANCIAL STATEMENT INCOME.—

(1) IN GENERAL.— Part VI of subchapter A of chapter 1 is amended by inserting after section 56 the following new section:

**"Sec. 56A. Adjusted financial statement income**

"(a) IN GENERAL.— For purposes of this part, the term 'adjusted financial statement income' means, with respect to any corporation for any taxable year, the net income or loss of the taxpayer set forth on the taxpayer's applicable financial statement for such taxable year, adjusted as provided in this section.

"(b) APPLICABLE FINANCIAL STATEMENT.— For purposes of this section, the term 'applicable financial statement' means, with respect to any taxable year, an applicable financial statement (as defined in section 451(b)(3)) which covers such taxable year.

"(c) GENERAL ADJUSTMENTS.—

"(1) STATEMENTS COVERING DIFFERENT TAXABLE YEARS.— Appropriate adjustments shall be made in adjusted financial statement income in any case in which an applicable financial statement covers a period other than the taxable year.

"(2) SPECIAL RULES FOR RELATED CORPORATIONS.—

"(A) CONSOLIDATED FINANCIAL STATEMENTS.— If the financial results of a taxpayer are reported on the applicable financial statement for a group of entities, such statement shall be treated as the applicable financial statement of the taxpayer.

"(B) CONSOLIDATED RETURNS.— If the taxpayer files a consolidated return for any taxable year, adjusted financial statement income for such taxable year shall take into account items on the taxpayer's applicable financial statement which are properly allocable to members of such group included on such return.

"(C) TREATMENT OF DIVIDENDS AND OTHER AMOUNTS.— In the case of any corporation which is not included on a consolidated return with the taxpayer, adjusted financial statement income shall take into account the earnings of such other corporation only to the extent of the sum of the dividends received from such other corporation and other amounts required to be included in gross income under this chapter (other than amounts required to be included under sections 951 and 951A) in respect of the earnings of such other corporation.

"(3) ADJUSTMENTS TO TAKE INTO ACCOUNT CERTAIN ITEMS OF FOREIGN INCOME.—

"(A) CONTROLLED FOREIGN CORPORATIONS.—

"(i) IN GENERAL.— If, for any taxable year, a taxpayer is a United States shareholder of one or more controlled foreign corporations, the adjusted financial statement income of such taxpayer shall be adjusted to take into account such taxpayer's pro rata share (determined under rules similar to the rules under section 951(a)(2)) of items taken into account in computing the net income or loss set forth on the applicable financial statement of each such controlled foreign corporation with respect to which such taxpayer is a United States shareholder.

"(ii) NEGATIVE ADJUSTMENTS.— In any case in which the adjustment determined under clause (i) would result in a negative adjustment for such taxable year—

"(I) no adjustment shall be made under this subparagraph for such taxable year, and

"(II) the amount of the adjustment determined under this subparagraph for the succeeding taxable year (determined without regard to this subparagraph) shall be reduced by an amount equal to the negative adjustment for such taxable year.

"(B) DISREGARDED ENTITIES.— Adjusted financial statement income shall be adjusted to take into account any adjusted financial statement income of a disregarded entity owned by the taxpayer that is not otherwise included on the applicable financial statement.

"(4) ADJUSTMENTS FOR CERTAIN TAXES.— Adjusted financial statement income shall be appropriately adjusted to disregard any Federal income taxes, or income, war profits, or excess profits taxes (within the meaning of section 901), imposed by any foreign country or possession of the United States, which are directly or indirectly taken into account on the taxpayer's applicable financial statement. The preceding sentence shall not apply to any such taxes imposed by a foreign country or possession of the United States if the taxpayer does not choose to take, to any extent, the benefits of section 901.

"(5) SPECIAL RULE FOR COOPERATIVES.— In the case of a cooperative to which section 1381 applies, the adjusted financial statement income (determined without regard to this paragraph) shall be reduced by the amounts referred to in section 1382(b) (relating to patronage dividends and per-unit retain allocations) to the extent such amounts were not otherwise taken into account in determining adjusted financial statement income.

"(6) RULES FOR ALASKA NATIVE CORPORATIONS.— Adjusted financial statement income shall be appropriately adjusted to allow—

"(A) cost recovery and depletion attributable to property the basis of which is determined under section 21(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1620(c)), and

"(B) deductions for amounts payable made pursuant to section 7(i) or section 7(j) of such Act (43 U.S.C. 1606(i) and 1606(j)) only at such time as the deductions are allowed for tax purposes.

"(7) AMOUNTS ATTRIBUTABLE TO ELECTIONS FOR DIRECT PAYMENT OF CERTAIN CREDITS.— Adjusted financial statement income shall be appropriately adjusted to disregard any amount received as a refund of taxes which is attributable to an election under section 6417.

"(8) CONSISTENT TREATMENT OF REASONABLE MORTGAGE SERVICING INCOME OF A TAXPAYER OTHER THAN A REGULATED INVESTMENT COMPANY.— Adjusted financial statement income shall be appropriately adjusted to provide that reasonable compensation (as determined by the Secretary) recognized in connection with a mortgage servicing contract shall not be taken into account earlier than when such income is taken into account under section 451.

"(9) SECRETARIAL AUTHORITY TO ADJUST ITEMS.— The Secretary shall issue regulations and other guidance to provide for such adjustments to adjusted financial statement income as the Secretary determines necessary to carry out the purposes of this section, including adjustments—

"(A) to prevent the<sup>(1)</sup> omission or duplication of any item, and

"(B) to carry out the principles of part II of subchapter C of this chapter (relating to corporate liquidations) and part III of subchapter C of this chapter (relating to corporate organizations and reorganizations).

"(d) DEDUCTION FOR FINANCIAL STATEMENT NET OPERATING LOSS.—

"(1) IN GENERAL.— Adjusted financial statement income (determined after application of subsection (c) and without regard to this subsection) shall be reduced by an amount equal to the lesser of—

"(A) the aggregate amount of financial statement net operating loss carryovers to the taxable year, or

"(B) 80 percent of adjusted financial statement income computed without regard to the deduction allowable under this subsection.

"(2) FINANCIAL STATEMENT NET OPERATING LOSS CARRYOVER.— A financial statement net operating loss for any taxable year shall be a financial statement net operating loss carryover to each taxable year following the taxable year of the loss. The portion of such loss which shall be carried to subsequent taxable years shall be the excess, if any, of the amount of such loss over the amount of such loss remaining after the application of paragraph (1).

"(3) FINANCIAL STATEMENT NET OPERATING LOSS DEFINED.— For purposes of this subsection, the term 'financial statement net operating loss' means the amount of the net loss (if any) set forth on the corporation's applicable financial statement (determined after application of subsection (c) and without regard to this subsection) for taxable years ending after December 31, 2019.

"(e) REGULATIONS AND OTHER GUIDANCE.— The Secretary shall provide for such regulations and other guidance as necessary to carry out the purposes of this section, including regulations and other guidance relating to the effect of the rules of this section on partnerships with income taken into account by an applicable corporation."

(2) CLERICAL AMENDMENT.— The table of sections for part VI of subchapter A of chapter 1 is amended by inserting after the item relating to section 56 the following new item:

"Sec. 56A. Adjusted financial statement income."

(c) CORPORATE AMT FOREIGN TAX CREDIT.—

Section 59, as amended by this section, is amended by adding at the end the following new subsection:

"(I) CORPORATE AMT FOREIGN TAX CREDIT.—

"(1) IN GENERAL.— For purposes of this part, if an applicable corporation chooses to have the benefits of subpart A of part III of subchapter N for any taxable year, the AMT foreign tax credit for the taxable year of the applicable corporation is an amount equal to sum of—

"(A) the lesser of— (I)



"(i) the aggregate of the applicable corporation's pro rata share (as determined under section 56A(c)(3)(A)) of the amount of income, war profits, and excess profits taxes (within the meaning of section 901) imposed by any foreign country or possession of the United States which are—

"(I) directly or indirectly taken into account on the taxpayer's applicable financial statement, and

"(II) paid or accrued (for Federal income tax purposes) by each controlled foreign corporation with respect to which the applicable corporation is a United States shareholder, or

"(ii) the product of the amount of the adjustment under section 56A(c)(3) and the percentage specified in section 55(b)(2)(A)(i), and

"(B) the amount of income, war profits, and excess profits taxes (within the meaning of section 901) imposed by any foreign country or possession of the United States to the extent such taxes are—

"(i) directly or indirectly taken into account on the applicable corporation's applicable financial statement, and

"(ii) paid or accrued (for Federal income tax purposes) by the applicable corporation.

"(2) CARRYOVER OF EXCESS TAX PAID.— For any taxable year for which an applicable corporation chooses to have the benefits of subpart A of part III of subchapter N, the excess of the amount described in paragraph (1)(A)(i) over the amount described in paragraph (1)(A)(ii) shall increase the amount described in paragraph (1)(A)(i) in any of the first 5 succeeding taxable years to the extent not taken into account in a prior taxable year.

"(3) REGULATIONS AND OTHER GUIDANCE.— The Secretary shall provide for such regulations and other guidance as necessary to carry out the purposes of this subsection."

(d) TREATMENT OF GENERAL BUSINESS CREDIT.—

Section 38(c)(6)(E) is amended to read as follows:

"(E) CORPORATIONS.— In the case of a corporation—

"(i) the first sentence of paragraph (1) shall be applied by substituting '25 percent of the taxpayer's net income tax as exceeds \$25,000' for 'the greater of and all that follows,

"(ii) paragraph (2)(A) shall be applied without regard to clause (ii)(I) thereof, and

"(iii) paragraph (4)(A) shall be applied without regard to clause (ii)(I) thereof."

(e) CREDIT FOR PRIOR YEAR MINIMUM TAX LIABILITY.—

(1) IN GENERAL.— Section 53(e) is amended to read as follows:

"(c) APPLICATION TO APPLICABLE CORPORATIONS.— In the case of an applicable corporation—

"(1) subsection (b)(1) shall be applied by substituting 'the net minimum tax for all prior taxable years beginning after 2022' for 'the adjusted net minimum tax imposed for all prior taxable years beginning after 1986', and

"(2) the amount determined under subsection (c)(1) shall be increased by the amount of tax imposed under section 59A for the taxable year."

(2) CONFORMING AMENDMENTS.— Section 53(d) is amended—

(A) in paragraph (2), by inserting "(other than an applicable corporation" after "corporation", and

(B) by striking paragraph (3).

(f) EFFECTIVE DATE.— The amendments made by this section shall apply to taxable years beginning after December 31, 2022.

### **Sec. 138102. Excise tax on repurchase of corporate stock**

(a) IN GENERAL.—

Subtitle D is amended by inserting after chapter 36 the following new chapter:

### **"Chapter 37— Repurchase of corporate stock**

"Sec. 4501. Repurchase of corporate stock.

#### **"Sec. 4501. Repurchase of corporate stock**

"(a) GENERAL RULE.— There is hereby imposed on each covered corporation a tax equal to 1 percent of the fair market value of any stock of the corporation which is repurchased by such corporation during the taxable year.

"(b) COVERED CORPORATION.— For purposes of this section, the term 'covered corporation' means any domestic corporation the stock of which is traded on an established securities market (within the meaning of section 7704(b)(1)).

"(c) REPURCHASE.— For purposes of this section—

"(1) IN GENERAL.— The term 'repurchase' means—

"(A) a redemption within the meaning of section 317(b) with regard to the stock of a covered corporation, and

"(B) any transaction determined by the Secretary to be economically similar to a transaction described in subparagraph (A).

"(2) TREATMENT OF PURCHASES BY SPECIFIED AFFILIATES.—

"(A) IN GENERAL.— The acquisition of stock of a covered corporation by a specified affiliate of such covered corporation, from a person who is not the covered corporation or a specified affiliate of such covered corporation, shall be treated as a repurchase of the stock of the covered corporation by such covered corporation.

(I)

"(B) SPECIFIED AFFILIATE.— For purposes of this section, the term 'specified affiliate' means, with respect to any corporation—

"(i) any corporation more than 50 percent of the stock of which is owned (by vote or by value), directly or indirectly, by such corporation, and

"(ii) any partnership more than 50 percent of the capital interests or profits interests of which is held, directly or indirectly, by such corporation.

"(3) ADJUSTMENT.— The amount taken into account under subsection (a) with respect to any stock repurchased by a covered corporation shall be reduced by the fair market value of any stock issued by the covered corporation during the taxable year, including the fair market value of any stock issued to employees of such covered corporation or a specified affiliate of such covered corporation during the taxable year, whether or not such stock is issued in response to the exercise of an option to purchase such stock.

"(d) SPECIAL RULES FOR FOREIGN-PARENTED DOMESTIC CORPORATIONS.—

"(1) IN GENERAL.— In the case of an acquisition of stock of an applicable foreign corporation by a specified affiliate of such corporation (other than a foreign corporation or a foreign partnership (unless such partnership has a domestic entity as a direct or indirect partner)) from a person who is not the applicable foreign corporation or a specified affiliate of such applicable foreign corporation, for purposes of this section—

"(A) such specified affiliate shall be treated as a covered corporation with respect to such acquisition,

"(B) such acquisition shall be treated as a repurchase of stock of a covered corporation by such covered corporation, and

"(C) the adjustment under subsection (c)(3) shall be determined only with respect to stock issued by such specified affiliate to employees of the specified affiliate.

"(2) SURROGATE FOREIGN CORPORATIONS.— In the case of a repurchase of stock of a covered surrogate foreign corporation by such covered surrogate foreign corporation, or an acquisition of stock of a covered surrogate foreign corporation by a specified affiliate of such corporation, for purposes of this section—

"(A) the expatriated entity with respect to such covered surrogate foreign corporation shall be treated as a covered corporation with respect to such repurchase or acquisition,

"(B) such repurchase or acquisition shall be treated as a repurchase of stock of a covered corporation by such covered corporation, and

"(C) the adjustment under subsection (c)(3) shall be determined only with respect to stock issued by such expatriated entity to employees of the expatriated entity.

"(3) DEFINITIONS.— For purposes of this subsection—

"(A) APPLICABLE FOREIGN CORPORATION.— The term 'applicable foreign corporation' means any foreign corporation the stock of which is traded on an established securities market<sup>(1)</sup> (within the meaning of section 7704(b)(1)).

"(B) COVERED SURROGATE FOREIGN CORPORATION.— The term 'covered surrogate foreign corporation' means any surrogate foreign corporation (as determined under section 7874(a)(2)(B) by substituting 'September 20, 2021' for 'March 4, 2003' each place it appears) the stock of which is traded on an established securities market (within the meaning of section 7704(b)(1)), but only with respect to taxable years which include any portion of the applicable period with respect to such corporation under section 7874(d)(1).

"(C) EXPATRIATED ENTITY.— The term 'expatriated entity' has the meaning given such term by section 7874(a)(2)(A).

"(e) EXCEPTIONS.— Subsection (a) shall not apply—

"(1) to the extent that the repurchase is part of a reorganization (within the meaning of section 368(a)) and no gain or loss is recognized on such repurchase by the shareholder under chapter 1 by reason of such reorganization,

"(2) in any case in which the stock repurchased is, or an amount of stock equal to the value of the stock repurchased is, contributed to an employer-sponsored retirement plan, employee stock ownership plan, or similar plan,

"(3) in any case in which the total value of the stock repurchased during the taxable year does not exceed \$1,000,000,

"(4) under regulations prescribed by the Secretary, in cases in which the repurchase is by a dealer in securities in the ordinary course of business,

"(5) to repurchases by a regulated investment company (as defined in section 851) or a real estate investment trust, or

"(6) to the extent that the repurchase is treated as a dividend for purposes of this title.

"(f) REGULATIONS AND GUIDANCE.— The Secretary shall prescribe such regulations and other guidance as are necessary or appropriate to administer and to prevent the avoidance of the purposes of this section, including regulations and other guidance—

"(1) to prevent the abuse of the exceptions provided by subsection (e),

"(2) to address special classes of stock and preferred stock, and

"(3) for the application of the rules under subsection (d)."

(b) TAX NOT DEDUCTIBLE.— Paragraph (6) of section 275(a) is amended by inserting "37," before "41".

(c) CLERICAL AMENDMENT.—

The table of chapters for subtitle D is amended by inserting after the item relating to chapter 36 the following new item:

**"CHAPTER 37—REPURCHASE OF CORPORATE STOCK".**

(d) EFFECTIVE DATE.— The amendments made by this section shall apply to repurchases (within the meaning of section 4501(c) of the Internal Revenue Code of 1986, as added by this section) of stock after December 31, 2021.

**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 clauses (i) and (ii) of subparagraph (A), all domestic corporations which are members of the same international financial reporting group shall be treated as a single corporation.**

**"(C) FOREIGN CORPORATIONS ENGAGED IN TRADE OR BUSINESS WITHIN THE UNITED STATES.— For purposes of this subsection, if a foreign corporation is engaged in a trade or business within the United States, such foreign corporation shall be treated as a domestic corporation with respect to the items that are effectively connected with such trade or business.**

**"(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) ELECTION TO INCLUDE ELIGIBLE CORPORATIONS IN GROUP.—

"(i) IN GENERAL.— To the extent provided by the Secretary in regulations or other guidance, an international financial reporting group may elect (at such time and in such manner as the Secretary may provide) to treat all eligible corporations with respect to such group as members of such group for purposes of this subsection. As a condition of such election, all such eligible corporations must maintain (and provide such group 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 corporations. Such election may be revoked only with the consent of the Secretary.

"(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 (directly or indirectly) by members of such international financial reporting group (determined without regard to this subparagraph).

"(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) 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.

"(ii) TREATMENT OF INTRA-GROUP DISTRIBUTIONS.— The EBITDA of any specified domestic corporation shall be determined without regard to any distribution received by such corporation from any other member of the international financial reporting group.

"(E) SPECIAL RULES FOR NON-POSITIVE EBITDA.—

"(i) NON-POSITIVE GROUP EBITDA.— In the case of any international financial reporting group the EBITDA of which is zero or less, paragraph (1) shall not apply to any specified domestic corporation which is a member of such group.

"(ii) NON-POSITIVE ENTITY EBITDA.— In the case of any specified domestic corporation the EBITDA of which is zero or less, the allowable percentage shall be 0 percent.

"(5) APPLICABLE FINANCIAL STATEMENT.— For purposes of this subsection, the term 'applicable financial statement' has the meaning given such 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) 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 purposes of any determination or calculation under this subsection,

"(C) treats subpart F income of a controlled foreign corporation, and any interest expense of such corporation which is related to such income, as income and interest expense, respectively, of a specified domestic corporation for purposes of this section,

"(D) prevents the omission, inclusion, or duplication of any item or amount of interest income or interest expense, and

"(E) 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,

"(ii) a domestic corporation that owns (directly or indirectly) an interest in an entity that is fiscally transparent in one or more jurisdictions, and

"(iii) a foreign corporation to which this subsection applies by reason of paragraph (2)(C)."

(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.—

"(A) IN GENERAL.— Except as otherwise provided in subparagraph (B), in the case of any partnership or S corporation, this subsection shall be applied at the partner or shareholder level, respectively.

"(B) APPLICATION OF EXEMPTION FOR CERTAIN SMALL BUSINESSES.—

"(i) PARTNERSHIPS.— In the case of any partner to which paragraph (3) applies (determined without regard to this subparagraph), paragraph (1) shall apply by only taking into account such partner's distributive share of items from any partnership not described in paragraph (3).

"(ii) S CORPORATIONS.— In the case of any S corporation shareholder to which paragraph (3) applies (determined without regard to this subparagraph), paragraph (1) shall apply with respect to such shareholder under rules similar to the rules of clause (i).

"(C) 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—



"(i) for requiring or restricting the allocation of items and business interest under this subsection,

"(ii) to provide for such reporting requirements as the Secretary determines appropriate, and

"(iii) for the application of this subsection in the case of tiered structures or trades or businesses described in paragraph (2)(C)."

(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.— The amount of any interest not allowed as a deduction for any taxable year by reason of subsection (j) 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)) to the extent such amount is properly attributable to a trade or business as defined in subsection (j)(7) paid or accrued in the succeeding taxable year."

(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, 2022.

(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, 2022, 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. A rule similar to the rule in the preceding sentence shall apply in the case of an S corporation and its shareholders. For carryover of any such interest disallowed for such taxable year, see section 163(o) of such Code, as amended by this section.

(l)

**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) ~~24.875~~ percent of the foreign-derived intangible income of such domestic corporation for such taxable year, plus

"(2) ~~37.28.5~~ 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 described in clause (i) or (ii) of section 904(d)(2)(B), determined which would be foreign personal holding company income (as defined in section 954(e));~~  
~~"(VIII) any amount included in the gross income of such corporation under section 1293 without regard to clause (iii)(II) thereof.~~

~~"(VIII) except as otherwise provided by the Secretary, gains from the sale or other disposition of property giving rise to rents or royalties derived in the active conduct of a trade or business, 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 (or, in the case of a common parent which is not required to file a return of tax under this chapter, the delegate of such common parent) 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."

(C) Section 250(b)(5)(E) is amended by inserting "(other than paragraph (3)(A)(i)(VIII))" after "For purposes of this subsection".

(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~~ paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2024~~2~~.

(2) CERTAIN ~~OTHER~~ MODIFICATIONS.— The amendments made by subsection (c) shall apply to taxable years beginning after ~~December 31, 2017~~ the date of the enactment of this Act.

(e) NO INFERENCE REGARDING CERTAIN MODIFICATIONS.— The amendments made by subsection (c) shall not be construed to create any inference with respect to the proper application of any provision of the Internal Revenue Code of 1986 with respect to any taxable year beginning before the taxable years to which such amendments apply.

(~~ef~~) TRANSITIONAL RULE FOR ACCELERATED PERCENTAGE REDUCTION.—

(1) IN GENERAL.— In the case of any taxable year which includes December 31, 2024~~2~~ (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 24~~4.875~~ 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~~28.5~~ 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~~number of days in such taxable year which ~~precedes~~precedes before January 1, 2022~~3~~, bears to the ~~entire~~number of days in such taxable year, and

(B) the term "post-effective date percentage" means the ratio that the ~~remainder of such taxable year bears to the entire~~number of days in such taxable year which are after December 31, 2022, bears to the number of days in such 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, 2024~~2~~.

(c) TRANSITION RULE.— ~~A taxpayer~~In the case of a corporation that is a specified foreign corporation as of November 30, 2022, such corporation's first taxable year beginning after ~~November 30, 2024, such date~~ 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. If any specified foreign corporation is required by this section (or the amendments made by this section) to change its taxable year for its first taxable year beginning after November 30, 2022—

(1) such change shall be treated as initiated by such corporation,

(2) such change shall be treated as having been made with the consent of the Secretary, and

(3) the Secretary (including the Secretary's delegate in the case of any reference to the Secretary in this paragraph) shall issue regulations or other guidance for allocating foreign taxes that accrue in such first taxable year between such taxable

year and the prior taxable year, including such adjustments as the Secretary determines are necessary or appropriate in applying sections 959, 960, and 961 of such Code in connection with the allocation of such taxes, and providing for such other adjustments as the Secretary determines necessary or appropriate to carry out the purposes of this section.

**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 (or any political subdivision, agency, or instrumentality thereof).

"(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 country 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~~ amounts paid or accrued after December 31, 2021.

**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 Subsection (d) (and the provisions of this title referred to in paragraph (d1) and sections 907 and 960 of such subsection)~~ 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 (or, in the case of a branch, is located in) 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~~ PERTAIN 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 foreign corporation (as the case may be) is a tax resident.

"(iv) BRANCHES.— Each branch (or portion thereof) the activities of which are directly or indirectly carried on by the taxpayer or any controlled foreign corporation referred to in clause (ii) and which give rise to a taxable presence in a country other than the country in with respect to which the ~~such~~ taxpayer or ~~any such~~ controlled foreign corporation (as the case may be) is a tax resident.

"(3) DEFINITIONS AND SPECIAL RULES.— For purposes of this subsection—

"(A) TAX RESIDENT ~~(A)~~— Except as otherwise provided by the Secretary, the term "tax resident" means a person or ~~arrangement~~ ity subject to tax under the

tax law of a country as a resident, ~~or a person or arrangement that gives rise to a taxable presence by reason of its activities in such country.~~ If an entity is organized under the law of a country, or resident in a country, that does not impose an income tax with respect to such entity~~ies~~, such entity shall, except as 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 give rise to a 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 a separate country. ~~For purposes of the preceding sentence, t~~

"(E) POSSESSION OF THE UNITED STATES.— 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 an entities, y or arrangements, ~~and branches that are otherw~~ that ise considered a tax resident of more than one country or of 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 "<sup>(1)</sup>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.—

(A) IN GENERAL.—

Section 904(f)(5)(B) is amended by adding at the end the following new subparagraph: "~~(C) Special rule with respect to global intangible low-taxed income.—The amount of the~~ to read as follows:

"(B) ALLOCATION OF LOSSES.— Except as otherwise provided in this subparagraph, the separate limitation losses for any taxable year (to the extent such losses do not exceed the separate limitation incomes for such year) shall be allocated among (and operate to reduce) such incomes on a proportionate basis. In the case of a separate limitation losses for any taxable year shall reduce income described in subparagraph (d)(1)(A) for such taxable year in any category other than subparagraph (d)(1)(A), the amount of such separate limitation loss shall be allocated among (and operate to reduce) separate limitation income in any category other than income described in subparagraph (d)(1)(A) on a proportionate basis (without regard to income described in subparagraph (d)(1)(A)), and only to the extent the aggregate amount of such losses exceeds the aggregate amount of the separate limitation incomes for such taxable year. For purp~~(other than income described in subparagraph (d)(1)(A))~~ for such taxable year, shall any amount of separate limitation losses of this subparagraph, separate limitation income shall exclude income described in subparagraph (d)(1)(A) for the taxable year reduce separate limitation income described in subparagraph (d)(1)(A)."

(B) SEPARATE LIMITATION LOSS.—

Section 904(f)(5)(E)(iii) is amended to read as follows:

"(iii) SEPARATE LIMITATION LOSS.— The term 'separate limitation loss' means, with respect to any income category, the amount by which the gross income from sources outside the United States is exceeded by the sum of the deductions properly allocated and apportioned thereto."

(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 2050(b)(3)(A) is amended—

(A) by striking subclause (VI) of clause (i) and inserting the following new subclause:

"(VI) the income of ~~(f) a United States person~~ which is attributable to 1 or more branches (which would be referred to in clause (iv) within the meaning of



section 904(e)(23)(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)(C)) or pass-through entities (within the meaning of section 904(e)(23)(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 aAMENDMENTS.—

(A) Section 904(d)(2)(A)(ii) is amended by striking ", foreign branch income,".

(B) Section 904(d)(2)(H) 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(e) is amended by striking "10 succeeding taxable years" and inserting "5 succeeding taxable years". (B) Conforming amendment.— Section 6514(d)(3)(A) is amended by striking "40 years" and inserting "5 years". to read as follows:

"(H) TREATMENT OF INCOME TAX BASE DIFFERENCES.— The Secretary shall issue regulations or other guidance assigning to the proper category of income any tax imposed under the law of a foreign country or possession of the United States on an amount which does not constitute income under United States tax principles."

(C) Section 904(d)(2) is amended by striking subparagraph (J).

(c) MODIFICATION OF FOREIGN TAX CREDIT CARRYBACK AND CARRYFORWARD.—

(21) 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.

(22) Carryover applicableAPPLICATION TO LIMITATION ON FOREIGN OIL AND GAS TAXES.— Section 907(f)(1) is amended by striking "in the first preceding taxable year and".

(3) APPLICATION OF CARRYFORWARD TO TAXES ON GLOBAL INTANGIBLE LOW-TAXED INCOME.—

(A) IN GENERAL.— Section 904(c) is amended by striking the last sentence.

(4B) Application to limitation on foreign oil and gas taxes.— Section 907(f)

(4) TEMPORARY LIMITATION OF CARRYFORWARD TO 5 TAXABLE YEARS.— Section 904(c), as amended by the preceding provisions of this Act, is amended—

(A) by striking "in the first preceding taxable year and Any amount by which all taxes" and all that precedes it and inserting the following:

"(c) CARRYBACK AND CARRYOVER OF EXCESS TAX PAID.—

"(1) IN GENERAL.— Any amount by which all taxes", and  
(Bii) by striking "first 10" and inserting "first 5 adding at the end the  
following new paragraph:

"(2) TEMPORARY LIMITATION ON CARRYFORWARD OF TAXES ON  
GLOBAL INTANGIBLE LOW-TAXED INCOME.— In the case of taxes paid or  
accrued during any taxable year beginning after December 31, 2022,  
and before January 1, 2031, and with respect to amounts described in  
subsection (d)(1)(A), paragraph (1) shall be applied by substituting '5  
succeeding taxable years' for '10 succeeding taxable years'."

(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) by allocating *and apportioning* 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 (a)(1)(B) (and any deduction allowed under section  
164(a)(3) for taxes imposed on amounts described in section 250(a)(1)(B)) to  
such income, and

"(B) by allocating and apportioning any other deduction to such income only if  
the Secretary determines that such deduction is directly allocable to such income.  
Any deduction which would (but for subparagraph (B)) have been allocated or  
apportioned to such income shall only be allocated or apportioned to income which  
is from sources within the United States."

(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)(4) is amended—

(A) in paragraph (1), 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."

(2B) 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 in paragraph (2)(B), by striking "Any such taxes" and inserting "Except as otherwise provided by the Secretary, any such taxes".

(C) in paragraph (2)(B)(i), by striking "for the taxable year to which such taxes relate" and inserting "for the taxable year in which paid", and

(D) by striking "accrued" in the heading thereof.

(2) MODIFICATION TO TIME FOR CLAIMING CREDIT OR DEDUCTION.— Section 901(a) is amended by striking the second sentence and inserting the following: " Such choice for any taxable year may be made or changed at any time before the expiration of the applicable period prescribed by section 6511(a); for making a claim for refund or credit or refund of an overpayment of the tax imposed by this chapter for such taxable year, or such later period prescribed by section 6511(e) if the period is extended by agreement that is attributable to such amounts."

(3) MODIFICATION TO SPECIAL PERIOD OF LIMITATION.— Section 6511(d)(3)(A) is amended—

(A) in subparagraph (A),

(i) by inserting "change in the liability for" before "any taxes paid or accrued",

(Bii) by striking "actually paid" and inserting "paid (or deemed paid under section 960)", and

(Giii) by inserting "change in the liability for" before "foreign taxes" in the heading thereof, and

(B) in subparagraph (B), by inserting "an additional credit by reason of the change in liability for taxes" after "the allowance of".

(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, 2024~~2~~.

(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, 2024~~2~~.

~~Certain modifica~~ TREATMENT OF CERTAIN ASSET DISPOSITIONS.— The amendment made by subsection (e)(4)(Bf) 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 claimransactions after the date of the enactment of this Act.

(4) REDETERMINATION OF FOREIGN TAXES AND RELATED CLAIMS.—

(A) IN GENERAL.— Except as provided in subparagraph (B), 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.

(B) CERTAIN CHANGES.— The amendments made by subsection (g)(1)(A) shall take effect ~~on~~ apply to changes that occur on or after 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), and subsections (f) and (g) of such 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 ~~(ing)~~ 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 (or, in the case of a branch, is located in) 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 (or, in the case of a branch, is located in)—

"(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 such 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 in clause (ii), (iii), or (iv) of section 904(e)(2)(B) ~~(determined, determined—~~

"(i) by substituting 'Each controlled foreign corporation' for 'Each foreign corporation' in clause (ii) of such section, and

"(ii) 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 904(e).

"(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: appropriate adjustments to the basis of stock and other ownership interests, and to earnings and profits, to reflect tested losses (whether or not taken into account in determining global intangible low-taxed income).

"(4) rules similar to the rules provided under the regulations or guidance issued under section 904(e)(54),

"(54) other appropriate basis adjustments, and

"(65) appropriate adjustments to be made, and appropriate tax attributes and records to be maintained, separately with respect to CFC taxable units."

(2) CONFORMING AMENDMENT.— Section 951A(d) is amended—

(A) by striking paragraph (4), and

(B) by redesignating the second paragraph (3) (relating to partnership property) as paragraph (4).

(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 with respect to amounts arising in preceding taxable years) 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 ~~sect~~provisions 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, 2024<sup>2</sup>, and to taxable years of United States shareholders in which or with which such taxable years of foreign corporations end.

(2) ~~Certain related modification~~ REGULATORY AUTHORITY AND COORDINATION WITH OTHER PROVISIONS.— The amendments made by subsections (b)(1), (b)(2), and (f) shall apply to taxable years of foreign corporations beginning after ~~December 31, 2017~~ the date of the enactment of this Act, and to taxable years of United States shareholders in which or with which such taxable years of foreign corporations end.

(h) NO INFERENCE REGARDING CERTAIN MODIFICATIONS.— The amendments made by subsections (b) and (f) shall not be construed to create any inference with respect to the proper application of any provision of the Internal Revenue Code of 1986 with respect to any taxable year beginning before the taxable years to which such amendments apply.

**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.—

(1) IN GENERAL.— 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—

"(A) the foreign income taxes paid or accrued by such foreign corporation which are properly attributable to the tested income or tested loss of such foreign corporation taken into account by such domestic corporation 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."



(2) CONFORMING AMENDMENT.— Section 960(d)(2)(B) is amended by striking "the aggregate amount described in section 951A(c)(1)(A)" and inserting "the net CFC tested income (as defined in section 951A(c)(1))".

(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~~DISALLOWANCE OF FOREIGN TAX CREDIT AND DEDUCTION WITH RESPECT TO DISTRIBUTIONS OF PREVIOUSLY TAXED GLOBAL INTANGIBLE LOW-TAXED INCOME.—

Section 960(d) is amended by adding at the end the following new paragraph:

"(4) DISALLOWANCE OF FOREIGN TAX CREDIT AND DEDUCTION WITH RESPECT TO DISTRIBUTIONS OF PREVIOUSLY TAXED GLOBAL INTANGIBLE LOW-TAXED INCOME.— No credit shall be allowed under section 901 for 5 percent of any foreign income taxes paid or accrued (or treated as paid or accrued) with respect to any amount excluded from gross income under section 959(a) by reason of an inclusion in gross income under section 951A(a)."

(e) 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, 2024~~2~~, 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~~see~~SUBSECTIONS (C) AND (D).— The amendments made by subsections (c) and (d) shall apply to taxable years of foreign corporations beginning after the date of the enactment of this Act, and to taxable years of United States shareholders in which or with which such taxable years of foreign corporations end.

(f) NO INFERENCE REGARDING CERTAIN MODIFICATION—78S.— The amendments made by subsections (c) shall apply to and (d) shall not be construed to create any inference with respect to the proper application of any provision of the Internal Revenue Code of 1986 with respect to any taxable years beginning after December 31, 2017 before the taxable years to which such amendments apply.

(l)

**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)(1) 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 foreign corporation shall be treated as a controlled foreign corporation with respect to all for purposes of this title.

"(B) EXCEPTIONS.— Notwithstanding any other provision of this paragraph—

"(i) COORDINATION WITH RULES FOR FOREIGN CONTROLLED UNITED STATES SHAREHOLDERS OF SUCH FOREIGN CONTROLLED FOREIGN CORPORATION: S.—

"(B) Exceptions.— Notwithstanding IN GENERAL.— Except as provided in subparagraph (A), such clause (i), a foreign corporation shall not be treated as a controlled foreign corporation by reason of this paragraph for purposes of section 951B(c) or for any other purpose.

"(ii) EXCEPTION FOR UNITED STATES SHAREHOLDERS.— Subclause (i) shall not apply with respect to any United States shareholder of such foreign corporation.

"(ii) SECRETARIAL AUTHORITY.— A foreign corporation shall not be treated as a controlled foreign corporation by reason of this paragraph for purposes of any provision of this title if the Secretary determines that treatment of such foreign corporation as a controlled foreign corporation for such purposes of such provision 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~~ with respect to 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) Section 959(b) is amended—

(A) by striking "the earnings and profits of a controlled foreign corporation" and inserting "the earnings and profits of a foreign corporation".

(B) by striking "another controlled foreign corporation" and inserting "a controlled foreign corporation".

(C) by striking "such other controlled foreign corporation" and inserting "such controlled foreign corporation", and

(D) by striking "of such United States shareholder in the controlled foreign corporation" and inserting "of such United States shareholder in the foreign corporation".

(5) 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". (42)~~ 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 ~~provision~~purposes 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 ~~disposit~~transactions to~~with~~ related parties which—

"(i) ~~are do~~ not ~~made~~occur in the ordinary course of a trade or business, and

"(ii) ~~are made~~occur 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~~a United States shareholder's pro rata share of a controlled foreign corporation's subpart F income or tested income (as defined in section 951A)."

~~(5d) CONFORMING AMENDMENTS.—~~

~~(1) Section 246(b)(1)91 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) —~~

(A) in subsection (a)~~(1)~~, by striking "specified 10-percent owned foreign corporation (as defined in section 245A)" and inserting "controlled foreign corporation", and

(B) in subsection (e), by striking "specified 10-percent owned foreign corporation" and subsection (a) and "controlled foreign corporation".

(b2) of section 245 shall not exceed the percentage determined under paragraph

(A) The heading of section 245A is amended by striking "specified 10-percent owned foreign corporations" and inserting "controlled foreign corporations".

(3B) of The item relating to section 245A in the taxable income computed without regard to the deductions allowed by section 172, section 243(a)(1), subsections (a) and (b) of section 245, of sections for part VIII of subchapter B of chapter 1 is amended by striking "specified 10-percent owned foreign corporations" and inserting "controlled foreign corporations".

(3) Section 246(c)(5) is amended—

(A) in subparagraph (B), by striking "specified 10-percent owned foreign corporation" each place it appears and insertion 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(e)(1) is amended by striking "ng "controlled foreign corporation", and

(B) by striking "specified 10-percent owned foreign corporation" in the heading and inserting "controlled foreign corporation".

(4) Section 904 is amended—

(A) in subsection (b)(4), by striking "specified 10-percent owned foreign corporation" both places it appears and inserting "controlled foreign corporation", and

(B) in subsection (d)(2)(E)—

(i) in clause (i)(I), by striking "(as defined in section 2435A(b))", and all that follows through "245A" and inserting—

(ii) by redesignating clause (ii) as clause (iii) and by inserting after clause (i) the following new clause:

"(ii) SPECIFIED 10-PERCENT OWNED FOREIGN CORPORATION.— For purposes of this subparagraph—

"(I) IN GENERAL.— The term 'specified 10-percent owned foreign corporation' means any foreign corporation with respect to which any domestic corporation is a United States shareholder with respect to such corporation.

"(II) EXCLUSION OF PASSIVE FOREIGN INVESTMENT COMPANIES.— Such term shall not include any corporation which is a passive foreign investment company (as defined in section 1297;) with respect to taxable years of foreign corporations beginning before January 1, 2018, and ending after December 31, 2017, any refhe shareholder and which is not a controlled foreign corporation."

(5) Section 909(b) is amended by striking "(as defined in section 245A(b) without regard to paragraph (2) thereof)" and inserting "(as defined in section 904(d)(2)(E)(ii) without regard to subclause (II) thereof)".

(6) Section 961(d) is amended—

(A) by striking "specified 10-percentage 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) owned foreign corporation (as defined in section 245A)" and inserting "controlled foreign corporation", and

(B) by striking "specified 10-percent owned foreign corporation" in the heading and inserting "controlled foreign corporation".

(de) EFFECTIVE DATES.—

(1) IN GENERAL.— ~~Except as otherwise provided in this subsection,~~ the amendments made by ~~sub~~this section ~~(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 years of foreign corporations beginning before January 1, 2018, and each subsequent taxable year of such foreign corporations after the date of the enactment of this Act, and (B) taxable years of United States persons in which or with which such taxable years of foreign corporations end.

(3f) ~~Certain other~~ **NO INFERENCE REGARDING CERTAIN** MODIFICATIONS.— The amendments made by subsection ~~(c)~~ shall apply to distributions made after December 31, 2017 s (b)(1), (b)(3), (b)(5), and (c) shall not be construed to create any inference with respect to the proper application of any provision of the Internal Revenue Code of 1986 with respect to distributions made, or taxable years beginning, respectively, before the distributions or taxable years, respectively, to which such amendments apply.

## **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 **AND REGULATORY AUTHORITY.**—

"(A) IN GENERAL.— For purposes of this subsection, the term 'related person' shall not include any person unless such person is—

"(i) a taxable unit (within the meaning of section 904(e)) which is a tax resident of which is a tax resident of (or, in the case of a branch, is located in) the United States, or

"(ii) is subject to tax under this chapter by reason of such person's activities in the United States.

"(B) REGULATIONS.— <sup>(f)</sup> The Secretary shall issue such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this

~~paragraph subsection (and subsection (e)), including—~~

~~“(j) regulations or other guidance providing for the proper application of subparagraph (A) in the case of a transaction (or series of transactions) in which a person described in subparagraph (A) is a party, and~~

~~“(ii) regulations or other guidance providing that, for purposes of determining foreign base company sales income in situations in which any activity (including a transaction) or the legal status of a pass-through entity or branch held directly or indirectly by a controlled foreign corporation and that is located outside the country in which the controlled foreign corporation is a tax resident, the pass-through entity or branch shall be treated as a wholly owned subsidiary of the controlled foreign corporation.~~

~~“(C) CERTAIN TERMS.— Any term used in this paragraph which is also used in section 904(e) shall have the same meaning as when used in such section.”.~~

(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)~~78 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 "(b)".

(2).

(A) Section 951(a) is amended to read as follows:

“(a) AMOUNTS INCLUDED.—

“(1) IN GENERAL.— If a foreign corporation is a controlled foreign corporation for any taxable year, every person who is a United States shareholder of such corporation, and who owns (within the meaning of section 958(a)) stock in such corporation at any time during such taxable year of such corporation, shall include in such shareholder's gross income for such shareholder's taxable year in which or with which such taxable year of such corporation ends—

“(A) his pro rata share (determined under paragraph (2)) of the corporation's subpart F income for such year, and

“(B) 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 taxable year,” before “the amount” in subparagraph (B). (B) Section 951(a) is amended by striking paragraph (2) and inserting the following new paragraphs: the amount determined under section 956 with respect to such shareholder for such year (but only to the extent not excluded from gross income under section 959(a) (2)).

“(2) PRO RATA SHARE OF SUBPART F INCOME.— In the case of any United States shareholder with respect to a foreign corporation, the pro rata share



referred to in paragraph (1)(A) is the sum of—

"(A) 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 taxable year, such shareholder's general pro rata share determined under paragraph (3), plus

"(B) if such shareholder owns (within the meaning of section 958(a)) stock of such foreign corporation during such taxable year but does not own (within the meaning of section 958(a)) such stock as of the close of such last relevant day, such shareholder's nontaxed current dividend share determined under paragraph (4).

"(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."

~~(E)~~ Section 951A(e)(1a) 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 to read as follows:

"(a) IN GENERAL.— If a foreign corporation is a controlled foreign corporation for any taxable year, every person who is a United States shareholder of such corporation, and who owns (within the meaning 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 corporation) stock in such corporation at any time during such taxable year of such corporation, shall include in such shareholder's gross income for such shareholder's taxable year in which or with which such taxable year of such corporation ends, such shareholder's global intangible low-taxed income for any such taxable year of such person if such person—."~~

(C) Section 951A(e) is amended to read as follows:

~~"(Ae) is a United States shareholder of such foreign corporation on any day in such taxable year, and "(B) owns (within the meaning DETERMINATION OF PRO RATA SHARES.— For purposes of this section, the pro rata shares referred to in subsections (b), (c)(1)(A), and (c)(1)(B), respectively, shall be determined under rules similar to the rules of section 9581(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(2) and shall be taken into account in the taxable year of the United States shareholder in which or with which the taxable year of the controlled foreign corporation ends."~~

(ED) 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).

(23) Section 78959 is amended by striking adding at the end the following:

"(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."

~~(b),". (d) Certain related prospective modifications.—4) Section 961(b) is amended by inserting after the first sentence the following: "The Secretary shall prescribe such other reductions to basis as are necessary or appropriate to carry out the purposes of this section."~~

(5) Section 961(c) is amended—

(4A) by striking "Basis adjustments in" in the heading of such subsection and inserting "Application of rules to", and

(2B) 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),

but only for purposes of determining the amount included under section 951 in the gross income of such United States shareholder (or any other United States shareholder who acquires from any person any portion of the interest of such United States shareholder by reason of which such shareholder was treated as owning such stock, but only to the extent of such portion, and subject to such proof of identity of such interest as the Secretary may prescribe by regulations).

The preceding sentence shall not apply with respect to any stock or property to which subsection (a) or (b) applies.

~~(ed)~~ 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.

~~(2e) Certain other~~ NO INFERENCE REGARDING CERTAIN MODIFICATIONS.— ~~(A) The amendments made by paragraphs (1) and (2) of subsection (c)(4) shall apply to distributions made after December 31, 2017. (B) The amendment made by subsection (e) (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~~ not be construed to create any inference with respect to the proper application of any provision of the Internal Revenue Code of 1986 with respect to any taxable year beginning before the taxable years to which such amendments apply.

### **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, 2022, and before January 1, 2024, 12.5 percent,

"(C) in the case of any taxable year beginning after December 31, 2023, 15 percent, and

"(E) 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) TERMINATION OF INCREASED RATE FOR BANKS AND SECURITIES DEALERS.— Section 59A(b)(3) is amended by adding at the end the following new subparagraph:

"(C) TERMINATION.— Subparagraph (A) shall not apply to any taxable year beginning after December 31, 2024."

(6) 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".

(6Z) 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 PAYMENTS.—~~ Taxable income shall be determined without regard to any base erosion payment described in paragraphs (1) through (4) of ~~subsection (d)~~ tax benefit, including for purposes of determining the adjusted basis of property described in subsection (d)(2).

"(B) ~~Base erosion basis a~~ 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~~determined—

"(i) by substituting 'modified taxable income (as determined under section 59A(c)(1) without regard to subparagraph (C) thereof)' for 'taxable income' in ~~subsection 172(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 172(b)(2) thereof~~ to take into account clauses (i) and (ii) 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~~incurred 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~~incurred 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~~incurred 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 ~~sub~~chapter.

"(C) APPLICATION TO ~~REFERRED~~ 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—

"(i) paid or ~~accrued~~incurred (directly or indirectly) 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 chapter.

"(D) SAFE HARBOR WITH RESPECT TO 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 <sup>(7)</sup> 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.



"(E) APPLICATION OF CERTAIN RULES.— Rules similar to the rules of subparagraphs (B) and (C) of subsection (i)(1) shall apply for purposes of determining whether any amount is treated as subject to the tax imposed by this chapter for purposes of subparagraph (B) or (C) of this paragraph."

(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.—

"(A) IN GENERAL.— An amount shall not be treated as a base erosion payment if tax is imposed by this subtitle with respect to ~~chapter~~ with respect to such amount (other than by this section).

"(B) TREATMENT OF CERTAIN DEDUCTIONS.— For purposes of subparagraph (A), tax shall be treated as imposed by this chapter without regard to any deduction allowed under part VIII of subchapter B.

"(C) APPLICATION OF CERTAIN RULES.— The amount not treated as a base erosion payment by reason of the preceding sentence ~~is paragraph~~ 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 not made to a foreign person which is a related party of the taxpayer that is subject to an effective rate of foreign income tax (as defined in section 904(d)(2)(F)) which is not less than the lesser of—

"(i) 15 percent, or

"(ii) the applicable percentage in effect under subsection (b)(2) (determined without regard to subsection (b)(3)), for the taxable year in which such amount is paid or accrued.

"(B) CERTAIN PAYMENTS TO RELATED PARTIES.— To the extent provided by the Secretary in regulations, an amount paid to a foreign person which is a related party of the taxpayer shall be treated as paid to another foreign person which is a related party of the taxpayer if such second foreign person is subject to an effective rate of foreign income tax (as defined in <sup>(1)</sup>section 904(d)(2)(E)) which is less than the lesser of 15 percent or the percentage described in subparagraph (A)(ii), to the

extent the amount so paid directly or indirectly funds a payment to such second foreign person.

"(C) DETERMINATION ON BASIS OF APPLICABLE FINANCIAL STATEMENTS.— 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) Repeat ~~TERMINATION~~ 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" ~~striking "the base erosion percentage (as determined under subsection (c)(4))" and inserting "in the case of any taxable year beginning before January 1, 2024, the base erosion percentage (as determined under subsection (c)(4) as in effect before the date of the enactment of the Act enacted during the 117th Congress which is entitled 'An Act to provide for reconciliation pursuant to title II of S. Con. Res. 14.')~~".

(d) TREATMENT OF APPLICABLE TAXPAYERS.—

Section 59A(e) is amended by adding at the end the following new paragraph:

"(4) CONTINUATION OF TREATMENT AS APPLICABLE TAXPAYER.— If a taxpayer is an applicable taxpayer with respect to any taxable year beginning after December 31, 2021 (other than by reason of this paragraph), such taxpayer (and any successor of such taxpayer) shall be an applicable taxpayer with respect to each of the 10 succeeding taxable years."

**(de) OTHER MODIFICATIONS.—**

(1) Section 59A(b)(1) is amended by striking "Except as provided in paragraphs (2) and (3), the" and inserting "The".

(2) Section 59A(h)(2)(B) is amended by striking "section 6038B(b)(2)" and inserting "section 6038A(b)(2)".

(23) Section 59A(j)(2), as redesignated by subsection (b), is amended by striking "subsection (g)(3)" and inserting "subsection (h)(3)".

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

**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 ABANDONMENT.— Section 165(g) is amended by adding at the end the following new paragraph:

"(4) TREATMENT OF ABANDONMENT.— For purposes of this subsection and subsection (m), abandonment shall be treated as an identifiable event establishing worthlessness."

(4) 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 any specified controlled group liquidation, no loss shall be recognized by any member of the controlled group on any stock or securities of the liquidating corporation in a complete liquidation to which section 331 applies until the other corporation receiving 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)) until all members of the controlled group which received property in connection with such liquidation have transferred such property to one or more persons who are not related (within the meaning of subsection (b)(3) or section 707(b)(1)) to the member which received such property.~~

"(2) SPECIFIED CONTROLLED GROUP LIQUIDATION.— For purposes this subsection, the term 'specified controlled group liquidation' means, with respect to any corporation which is member of a controlled group, one or more distributions in complete liquidation (within the meaning of section 346) of such corporation or any other transfer (including any series of transfers) of property of such corporation if any stock or security of such corporation becomes worthless in connection with such transfer.

"(23) REGULATIONS.— The Secretary shall issue such regulations or other guidance as the Secretary determines ~~is~~ may be 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 in 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—~~

~~"(A) subsection (e)(3) shall not apply to so much of the money and other property transferred to creditors as equals an amount equal to amount described in clause (i)(II) as does not exceed 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), and~~

~~"(II) 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), transferred to the creditors, over(I)~~

"(ii) the total adjusted bases of the assets transferred by the distributing corporation to the controlled corporation, and

"(B) subsection (c)(3) shall not apply to so much of the amount described in clause (i)(II) as does not exceed the excess (if any) of—

"(i) the sum of—

"(I) the total amount of the liabilities assumed (within the meaning of section 357(c)) by the controlled corporation, and

"(II) the fair market value of the stock described in section 354(a)(2)(C) and the total principal amount of securities obligations of the controlled corporation described in subsection (c)(2)(B), which are qualified property (as defined in subsection (c)(2)(B)) transferred to the creditors, over

"(Bii) 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 or other guidance as may be necessary or appropriate to carry out the purposes of this subsection and to prevent avoidance of tax through abuse or circumvention 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.

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

(1) made pursuant to a written agreement which was binding on the date of the enactment of this Act, and at all times thereafter,

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

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

**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. For purposes of the preceding sentence, income or gain includes any income or gain from the deemed disposition of such interest as a result of the termination of such contract (determined in the same manner as under section 864(c)(8)).

"(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(b)~~) 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 contract~~ CERTAIN PAYMENTS.— Subparagraph (A) shall not apply to any ~~contract or transaction~~ payment 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~~ the extent determined by reference to income or gain in respect of an interest in a specified partnership which would be, if earned by a nonresident alien individual—

"(I) exempt from taxes under this ~~subchapter~~ chapter, or

"(II) ~~treated as income from sources without the United States if paid to a nonresident alien individual~~ and not effectively connected with the conduct of a trade or business within the United States.

"(D) TREATMENT OF DEFINITIONS AND SPECIAL RULES WITH RESPECT TO PARTNERSHIPS.— 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.

~~"(9E) Other rules relating to treatment of dividend equivalents.—~~ "(A) In general.— ~~A dividend equivalent amount under~~ REGULATIONS.— The Secretary shall issue such regulations or ~~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 corporaer~~ guidance as the Secretary determines is necessary or appropriate to carry out the purposes of this paragraph, including to apply this paragraph to payments determined under sale-repurchase agreements or securities lending transactions with respect to such payment shall not be less ~~the~~ the rate that would be imposed had such individual or foreign cor interests in specified partnerships, to determine the amount of a distribution by a specified partnership that is income or gain of the partnership (including the ~~poration, as the~~



~~case may be, received a dividend from a domestic corporation in which such individual or foreign corp thereof that is excepted under subparagraph (C)) in a manner consistent with section 1441(g), and to require the provision of information owned less than 1 percent (by vote or value) of the stock by specified partnerships necessary to determine such amount."~~

(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 SPECIFIED 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) amount of a payment in respect of income and gain of a specified partnership (as defined in 871(m)(8)) which is a dividend equivalent."

(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~~ after December 31, 2022.

#### **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~~ ending after ~~December 31, 2021~~ the date of the enactment of this Act, 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.—(f)~~

"(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, ~~t—~~

~~"(A) IN GENERAL.— 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) the extent such dividend is attributable to earnings and profits which—~~

~~"(i) were earned during any period that such corporation was not a controlled foreign corporation, or~~

~~"(ii) are attributable to disqualified CFC dividends received by such controlled foreign corporation from another controlled foreign corporation.~~

~~"(B) APPLICATION TO CORPORATIONS NOT WHOLLY OWNED BY UNITED STATES SHAREHOLDERS.— If not all of the stock of any controlled foreign corporation is owned (within the meaning of section 958(a)) by one or more United States shareholders at the time that any earnings and profits referred to in subparagraph (A) are earned, the portion of such earnings and profits which is properly attributable to stock not so owned by United States shareholder shall be treated for purposes of subparagraph (A) as earned during a period that such corporation was not a controlled foreign corporation.~~

~~"(C) SPECIAL RULE RELATED TO CONSTRUCTIVE OWNERSHIP.— In the case of the last taxable year of a foreign corporation beginning before January 1, 2018, and each subsequent taxable year of such foreign corporation which begins before the date of the enactment of this subsection, if such foreign corporation was could not have been a controlled foreign corporation; for ~~"(B) any~~ such stock was not owned by a United States shareholder taxable year if section 958(b)(4) (as applicable to taxable years beginning after the date of the enactment of this subsection) had applied to such taxable year, such corporation shall not be treated as a controlled foreign corporation for such taxable year for purposes of this subsection."~~

(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 (l)

(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~~ dividends paid (or amounts treated as dividends) after the date of the enactment of this Act.

[NOTE-- DELETED /tXIII/stl/p1/spE/s138149: ~~Sec. 138149. Modification of rules for partnership interests held in connection with the performance of services~~]

**Sec. 13815049. 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 contract which was in effect on September 12~~3~~, 2021, and is not modified in any material respect thereafter.

**Sec. 1381510. 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) EXCEPTION FOR SALES OF NONPUBLICLY TRADED PROPERTY.— Section 1259(c)(2) is amended by adding at the end the following: "A similar rule shall apply in the case of a contract for sale of any digital asset."

(3) DIGITAL ASSET.— Section 1259(d) is amended by adding at the end the following new paragraph: (f)

"(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. 1381521. 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) (determined without regard to the phrase 'To the extent provided in regulations' in such paragraph (6))."

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

### **Sec. 1381532. Wash sales by related parties; Modification of wash sale rules**

(a) IN GENERAL.—

Section 1091 is amended to read as follows:

#### **"Sec. 1091. Loss from 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 to DISALLOWANCE OF LOSS DEDUCTION.— In the case of any loss claimed to have been sustained from any sale, disposition, or termination of specified assets where it appears that, within a period beginning 30 days before the date of such sale or disposition and ending 30 days after such date, the taxpayer (or related party) has acquired (by purchase or by an exchange on which the entire amount of gain or loss was recognized by law), or has entered into, or has entered into a contract or option so to acquire or a long principal contract in respect of, substantially identical specified assets, then no deduction shall be allowed under section 165 unless the taxpayer is a dealer in specified assets and the loss is sustained in a transaction made in the ordinary course of such business.

"(b) AMOUNT OF SPECIFIED ASSETS DIFFERENT FROM AMOUNT OF SPECIFIED ASSETS SOLD.— If the amount of specified assets acquired (or covered by the contract or option to

acquire or long notional principal contract in respect of) is different from the amount of specified assets to related parties.— Section 1091(d) is amended to read as follows: sold or otherwise disposed of, then the particular specified assets the acquisition of which (or the contract or option to acquire or long notional principal contract which) resulted in the nondeductibility of the loss shall be determined under regulations prescribed by the Secretary.

"(dc) ADJUSTMENT TO BASIS IN CASE OF WASH SALE.— If the taxpayer (or the taxpayer's spouse) acquires or enters into 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: (d) CERTAIN SHORT SALES OF SPECIFIED ASSETS AND CONTRACTS TO SELL.— Rules similar to the rules of subsection (a) shall apply to any loss realized on the closing of a short sale of (or the sale, exchange, or termination of a contract to sell or a short notional principal contract in respect of) specified assets if, within a period beginning 30 days before the date of such closing and ending 30 days after such date—~~

"(1) substantially identical specified assets were sold or terminated by the taxpayer (or a related party), or

"(2) another short sale of (or contract to sell or short notional principal contract in respect of) substantially identical specified assets was entered into by the taxpayer (or related party).

"(e) CASH SETTLEMENT.— This section shall not fail to apply to a contract or option to acquire or sell specified assets solely by reason of the fact that the contract or option settles in (or could be settled in) cash or property other than such specified assets.

"(gf) 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 <sup>(1)</sup>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 (or entering into a contract, option, or notional principal contract) 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 (or entering into).

"(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:~~

"(hg) 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) ~~A~~Except as otherwise provided by the Secretary, 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~~

~~"(h) 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.~~ CLERICAL AMENDMENT.—

The table of sections for part VII of subchapter O of chapter 1 is amended by striking the item relation to section 1091 and inserting the following new item:

"Sec. 1091. Loss from wash sales of specified assets."

(c) EFFECTIVE DATE.— The amendments made by this section shall apply to sales, dispositions, and terminations after December 31, 2021.

(d) 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 treatment of related parties under section 1091 of the Internal Revenue Code of 1986 with respect to sales, dispositions, and terminations before January 1, 2022.

[NOTE-- DELETED /XIII/stl/p2/s138201: ~~Sec. 138201. Increase in top marginal individual income tax rate]~~

[NOTE-- DELETED /tXIII/stl/p2/s138202: ~~Sec. 138202. Increase in capital gains rate for certain high income individuals]~~

[NOTE-- DELETED /tXIII/stl/p5/s138508: ~~Sec. 138508. Access to self-employment income information for paid leave administration]~~

[NOTE-- DELETED /tXIII/stl/p5/s138509: ~~Sec. 138509. Temporary rule to allow certain S corporations to reorganize as partnerships without tax]~~

[NOTE-- DELETED /tXIII/stl/p5/s138510: ~~Sec. 138510. Treatment of certain qualified sound recording productions]~~

[NOTE-- DELETED /tXIII/stl/p5/s138511: ~~Sec. 138511. Payment to certain individuals who dye fuel]~~

[NOTE-- DELETED /tXIII/stl/p5/s138512: ~~Sec. 138512. Extension of credit for portion of employer social security taxes paid with respect to employee tips to beauty service establishments]~~

[NOTE-- DELETED /tXIII/stl/p5/s138513: ~~Sec. 138513. Enhancement of work opportunity credit during COVID-19 recovery period]~~

[NOTE-- DELETED /tXIII/stl/p5/s138514: ~~Sec. 138514. Allowance of deduction for certain expenses of the trade or business of being an employee]~~

[NOTE-- DELETED /tXIII/stl/p5/s138515: ~~Sec. 138515. Cover over of certain distilled spirits taxes]~~

[NOTE-- MOVED /tXIII/stl/p5/s138516 to /tXIII/stG/p1/spE/s138153 ]

**Sec. 138516153. 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.

[NOTE-- DELETED /tXIII/stl/p5/s138517: ~~Sec. 138517. Payroll credit for compensation of local news journalists]~~

[NOTE-- DELETED /tXIII/stl/p5/s138518: ~~Sec. 138518. Treatment of financial guaranty insurance companies as qualifying insurance corporations under passive foreign investment company rules]~~

[NOTE-- DELETED /tXIII/stl/p5/s138519: ~~Sec. 138519. Credit for qualified access technology for the blind]~~



- [NOTE-- DELETED /tXIII/stI/p5/s138520: ~~Sec. 138520. Modification of REIT Constructive ownership rules~~]
- [NOTE-- DELETED /tXIII/stJ: ~~Subtitle J— Drug Pricing~~]
- [NOTE-- DELETED /tXIII/stJ/p1/s139001: ~~Sec. 139001. Providing for lower prices for certain high-priced single source drugs~~]
- [NOTE-- DELETED /tXIII/stJ/p1/s139002: ~~Sec. 139002. Selected drug manufacturer excise tax imposed during noncompliance periods~~]
- [NOTE-- DELETED /tXIII/stJ/p1/s139003: ~~Sec. 139003. Fair Price Negotiation Implementation Fund~~]
- [NOTE-- DELETED /tXIII/stJ/p2/s139101: ~~Sec. 139101. Medicare part B rebate by manufacturers~~]
- [NOTE-- DELETED /tXIII/stJ/p2/s139102: ~~Sec. 139102. Medicare part D rebate by manufacturers~~]
- [NOTE-- DELETED /tXIII/stJ/p3/s139201: ~~Sec. 139201. Medicare part D benefit redesign~~]
- [NOTE-- DELETED /tXIII/stJ/p3/s139202: ~~Sec. 139202. Allowing certain enrollees of prescription drug plans and MA-PD plans under Medicare program to spread out cost-sharing under certain circumstances~~]
- [NOTE-- DELETED /tXIII/stJ/p4/s139301: ~~Sec. 139301. Prohibiting implementation of rule relating to eliminating the anti-kickback statute safe harbor protection for prescription drug rebates~~]

**Sec. 138203~~1~~. 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 <sup>(1)</sup> in paragraph (1), bears to

"(B) \$100,000 (1/2 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, 1/2 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 ordinary 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 OR RRTA NOT TAKEN INTO ACCOUNT.— Section 1411(c)(6) is amended by inserting "or wages received with respect to employment on which a tax is imposed under section 3101(b) or 3201(a)" 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 purposes 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.

[NOTE-- DELETED /tXIII/stl/p2/s138204: ~~Sec. 138204. Limitation on deduction of qualified business income for certain high income individuals~~]

**Sec. 1382052. 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. 1382063. 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. 14. 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 the

sum of—

"(1) 5 percent of so much of the modified adjusted gross income of the taxpayer as exceeds—

"(A) \$10,000,000, in the case of any taxpayer not described in subparagraph (B) or (C),

"(B) \$5,000,000, in the case of a married individual filing a separate return,  
and

"(C) \$200,000, in the case of an estate or trust, plus

"(2) 3 percent of so much of the modified adjusted gross income of the taxpayer as exceeds—

"(4A) \$25,000,000, in the case of any taxpayer not described in subparagraph (2B) or (3C),

"(2B) \$12,500,000, in the case of a married individual filing a separate return,  
and

"(3C) \$4,500,000, 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 deduction (not taken into account in determining adjusted gross income) allowed for investment interest (as defined in section 163(d)). In the case of an estate or trust, adjusted gross income shall be determined as provided in section 67(e).

"(c) SPECIAL RULES.—

"(1) NONRESIDENT ALIEN.— In the case of a nonresident alien individual, only amounts taken into account in connection with the tax imposed under section 871(b) shall be taken into account under this section.

"(2) CITIZENS AND RESIDENTS LIVING ABROAD.— The dollar amount applicable to any taxpayer under paragraph (1), (2), or (3) of subsection (a) (as the case may be) shall be decreased (but not below zero) by the excess (if any) of—

"(A) the amounts excluded from the taxpayer's gross income under section 911, over

"(B) the amounts of any deductions or exclusions disallowed under section 911(d)(6) with respect to the amounts described in subparagraph (A).

"(3) CHARITABLE TRUSTS.— Subsection (a) 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.— (l)

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.

[NOTE-- DELETED /tXIII/stl/p2/s138207: ~~Sec. 138207. Termination of temporary increase in unified credit]~~

[NOTE-- DELETED /tXIII/stl/p2/s138208: ~~Sec. 138208. Increase in limitation on estate tax valuation reduction for certain real property used in farming or other trades or businesses]~~

[NOTE-- DELETED /tXIII/stl/p2/s138209: ~~Sec. 138209. Certain tax rules applicable to grantor trusts]~~

[NOTE-- DELETED /tXIII/stl/p2/s138210: ~~Sec. 138210. Valuation rules for certain transfers of nonbusiness assets]~~

[NOTE-- DELETED /tXIII/stl/p3/spA/s138301: ~~Sec. 138301. Contribution limit for individual retirement plans of high-income taxpayers with large account balances]~~

[NOTE-- DELETED /tXIII/stl/p3/spA/s138302: ~~Sec. 138302. Increase in minimum required distributions for high-income taxpayers with large retirement account balances]~~

[NOTE-- DELETED /tXIII/stl/p3/spB/s138311: ~~Sec. 138311. Tax treatment of rollovers to Roth IRAs and accounts]~~

[NOTE-- MOVED /tXIII/stl/p3/spB/s138312 to /tXIII/stG/p4/s138403 ]

**Sec. 138301. Enhancement of Internal Revenue Service resources**

(a) APPROPRIATIONS.—

(1) IN GENERAL.— The following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2022:

(A) INTERNAL REVENUE SERVICE.—

(i) IN GENERAL.—

(I) TAXPAYER SERVICES.— For necessary expenses of the Internal Revenue Service to provide taxpayer services, including pre-filing assistance and education, filing and account services, taxpayer advocacy services, and other services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner, \$1,931,500,000, to remain available until September 30, 2031: Provided,

That these amounts shall be in addition to any other funds made available for this purpose.

(II) ENFORCEMENT.— For necessary expenses for tax enforcement activities of the Internal Revenue Service to determine and collect owed taxes, to provide legal and litigation support, to conduct criminal investigations (including investigative technology), to provide cryptocurrency monitoring and compliance activities, to enforce criminal statutes related to violations of internal revenue laws and other financial crimes, to purchase and hire passenger motor vehicles (31 U.S.C. 1343(b)), and to provide other services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner, \$44,887,500,000, to remain available until September 30, 2031: Provided, That these amounts shall be in addition to any other funds made available for this purpose.

(III) OPERATIONS SUPPORT.— For necessary expenses of the Internal Revenue Service to support taxpayer services and enforcement programs, including rent payments; facilities services; printing; postage; physical security; headquarters and other IRS-wide administration activities; research and statistics of income; telecommunications; information technology development, enhancement, operations, maintenance, and security; the hire of passenger motor vehicles (31 U.S.C. 1343(b)); the operations of the Internal Revenue Service Oversight Board; and other services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner, \$27,376,300,000, to remain available until September 30, 2031: Provided, That these amounts shall be in addition to any other funds made available for this purpose.

(IV) BUSINESS SYSTEMS MODERNIZATION.— For necessary expenses of the Internal Revenue Service's business systems modernization program, including development of callback technology and other technology to provide a more personalized customer service but not including the operation and maintenance of legacy systems, \$4,750,700,000, to remain available until September 30, 2031: Provided, That these amounts shall be in addition to any other funds made available for this purpose.

(ii) TASK FORCE TO DESIGN AN IRS-RUN FREE "DIRECT EFILE" TAX RETURN SYSTEM.— For necessary expenses of the Internal Revenue Service to deliver to Congress a report on (I) the cost (including options for differential coverage based on taxpayer adjusted gross income and return complexity) of developing and running a free direct efile tax return system, including costs to build and administer each release, with a focus on multi-lingual and mobile-friendly features and safeguards for taxpayer data; (II) taxpayer opinions, expectations, and level of trust, based on surveys, for such a free direct efile

system; and (III) the opinions of an independent third-party on the overall feasibility, approach, schedule, cost, organizational design, and Internal Revenue Service capacity to deliver such a direct efile tax return system, \$15,000,000, to remain available until September 30, 2023: Provided, That these amounts shall be in addition to any other funds made available for this purpose.

(B) TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION.— For necessary expenses of the Treasury Inspector General for Tax Administration in carrying out the Inspector General Act of 1978, as amended, including purchase and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services authorized by 5 U.S.C. 3109, at such rates as may be determined by the Inspector General for Tax Administration, \$403,000,000, to remain available until September 30, 2031: Provided, That these amounts shall be in addition to any other funds made available for this purpose.

(C) OFFICE OF TAX POLICY.— For necessary expenses of the Office of Tax policy of the Department of the Treasury to carry out functions related to promulgating regulations under the Internal Revenue Code of 1986, \$104,533,803, to remain available until September 30, 2031: Provided, That these amounts shall be in addition to any other funds made available for this purpose.

(D) UNITED STATES TAX COURT.— For necessary expenses, including contract reporting and other services as authorized by 5 U.S.C. 3109, and not to exceed \$3,000 for official reception and representation expenses; \$153,000,000, to remain available until September 30, 2031: Provided, That these amounts shall be in addition to any other funds made available for this purpose.

(2) MULTI-YEAR OPERATIONAL PLAN.—

(A) IN GENERAL.— Not later than 6 months after the date of the enactment of this Act, the Commissioner of Internal Revenue shall submit to Congress a plan detailing how the funds appropriated under paragraph (1)(A)(i) will be spent over the ten-year period ending with fiscal year 2031.

(B) QUARTERLY UPDATES.—

(i) IN GENERAL.— Not later than the last day of each calendar quarter beginning during the applicable period, the Commissioner of Internal Revenue shall submit to Congress a report on the plan established under subparagraph (A), including—

(I) any updates to the plan;

(II) progress made in implementing the plan; and

(III) any changes in circumstances or challenges in implementing the plan.

(ii) APPLICABLE PERIOD.— For purposes of clause (i), the applicable period is the period beginning 1 year after the date the report under subparagraph (A) is due and ending on September 30, 2031.

(C) REDUCTION IN APPROPRIATION.—

(i) IN GENERAL.— In the case of any failure to submit a plan required under subparagraph (A) or a report required under subparagraph (B) by the required date, the amounts made available under paragraph (1)(A)(i) shall be reduced by \$100,000 for each day after such required date that report has not been submitted to Congress.

(ii) REQUIRED DATE.— For purposes of clause (i), the required date is the date that is 60 days after the date the plan or report is required to be submitted under subparagraph (A) or (B), as the case may be.

(3) NO TAX INCREASES ON CERTAIN TAXPAYERS.— Nothing in this subsection is intended to increase taxes on any taxpayer with a taxable income below \$400,000.

(b) PERSONNEL FLEXIBILITIES.— The Secretary of the Treasury (or the Secretary's delegate) may use the funds made available under subsection (a)(1)(A), subject to such policies as the Secretary (or the Secretary's delegate) may establish, to take such personnel actions as the Secretary (or the Secretary's delegate) determines necessary to administer the Internal Revenue Code of 1986, including—

(1) utilizing direct hire authority to recruit and appoint qualified applicants, without regard to any notice or preference requirements, directly to positions in the competitive service;

(2) in addition to the authority under section 7812(1) of the Internal Revenue Code of 1986, appointing not more than 200 individuals to positions in the Internal Revenue Service under streamlined critical pay authority, except that—

(A) the authority to offer streamlined critical pay under this paragraph shall expire on September 30, 2031; and

(B) the positions for which streamlined critical pay is authorized under this paragraph may include positions critical to the purposes described in subclauses (I), (II), and (III) of subsection (a)(1)(A)(i); and

(3) appointing, without approval of the Office of Personnel Management, not more than 300 individuals to critical pay positions in the Internal Revenue Service for which

=

(A) the rate of basic pay may not exceed the salary set in accordance with section 104 of title 3, United States Code; and

(B) the total annual compensation paid to an employee in such a position, including allowances, differentials, bonuses, awards, and similar cash payments, may not exceed the maximum amount of total annual compensation payable at the salary set in accordance with section 104 of title 3, United States Code.

[NOTE-- DELETED /tXIII/stl/p3/spB/s138313: Sec. 138313. Statute of limitations with respect to IRA noncompliance]

[NOTE-- DELETED /tXIII/stl/p3/spB/s138314: Sec. 138314. Prohibition of investment of IRA assets in entities in which the owner has a



substantial interest]

[NOTE-- DELETED /tXIII/stl/p3/spB/s138315: ~~Sec. 138315. IRA owners treated as disqualified persons for purposes of prohibited transaction rules]~~

[NOTE-- DELETED /tXIII/stl/p4/s138401: ~~Sec. 138401. Funding of the Internal Revenue Service]~~

**Sec. 1384302. 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.

[NOTE-- DELETED /tXIII/stl/p4/s138403: ~~Sec. 138403. Limitation on deduction for qualified conservation contributions made by pass-through entities, etc]~~

**Sec. 138404303. Modification of procedural requirements relating to assessment of penalties**

(f)

(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.

**Sec. 1385401. 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, 2024".~~ (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. 1385402. 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.

[NOTE-- DELETED /tXIII/stl/p5/s138503: ~~Sec. 138503. Prohibited transactions relating to holding DISC or FSC in individual retirement account~~]

[NOTE-- DELETED /tXIII/stl/p5/s138504: ~~Sec. 138504. Increase in tax on certain tobacco products and imposition of tax on nicotine~~]

[NOTE-- DELETED /tXIII/stl/p5/s138505: ~~Sec. 138505. Clarification of rules regarding tobacco drawback~~]

[NOTE-- DELETED /tXIII/stl/p5/s138506: ~~Sec. 138506. Termination of employer credit for paid family and medical leave~~]

**Sec. 138312403. Prohibition of IRA investments conditioned on account holder's status (a) In general.— Subsection (a) of sed 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) investment, at the direction of a disqualified person, by an individual retirement account in an interest in 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 the account is maintained."

(b) SPECIAL RULES OF APPLICATION.—

Section 408975(c) is amended by adding at the end the following new paragraph:

"(78) No part of the trust funds will be invSPECIAL RULES OF APPLICATION FOR DISC AND FSC INVESTMENTS.—

"(A) INDIRECT HOLDING OF DISC OR FSC.— For purposes of paragraph (1) (G), investment by an individual retirement account in an interested 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 e entity that owns (directly or indirectly) an interest in a DISC or FSC shall be treated as investment by such account in 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 this 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 TO THE ISSUER OR SUCH OTHER PERSON THAT SUCH INDIVIDUAL — "(A) HAS A SPECIFIED MINIMUM AMOUNT OF INCOME OR ASSETS, "(B) HAS COMPLETED A SPECIFIED MINIMUM LEVEL OF EDUCATION, OR "(C) HOLDS A SPECIFIC LICENSE OR CREDENTIAL 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) RELATED RULES FOR INDIVIDUAL RETIREMENT ACCOUNTS.—

(1) IN GENERAL.— Section 408(a) is amended by inserting after paragraph (6) the following new paragraph:

"(7) No part of the trust funds will be invested in any interest in a DISC or a 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 the trust is maintained. For purposes of the preceding sentence, the definitions and rules of section 4975(c)(8) shall apply."

(b) LOSS OF EXEMPTION OF ACCOUNT.— Paragraph (2) of Section 408(e)(2) is amended—

(1) by striking "*established*" each place it appears in subparagraph (A) and inserting "maintained",

(2) by redesignating subparagraph (B) as subparagraph (C),

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) PROHIBITED INVESTMENT.— If, during any taxable year of the individual for whose benefit any individual retirement account is maintained, the investment of any part of the funds of such individual retirement account does not comply with subsection (a)(7), such account ceases to be an individual retirement account as of the first day of such taxable year. Rules similar to the rules of clauses (i) and (ii) of subparagraph (A) shall apply for purposes of 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)".

(ef) CONFORMING AMENDMENTS.—

(1) Paragraph (4) of Section 408(c)(1) is amended by striking "(1) through (6)" and inserting "(1) through (7)".

(2) Paragraph (3) of Section 4975(c)(3) is amended—

(A) striking "*established*" 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)".

(dg) 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~~ The amendments made by this section shall apply to stock and other interests acquired or held on or after December 31, 2021.

**Sec. 138507404. 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 Extraterritorial Income Exclusion Act of 2000) shall be applied by substituting "deemed to be had by such shareholder" for "of such shareholder".

**Subtitle H— Supplemental Security Income for the Territories**

**Section 131001. Extension of the supplemental security income program to Puerto Rico, the United States Virgin Islands, Guam, and American Samoa**

(a) IN GENERAL.— Section 303 of the Social Security Amendments of 1972 (86 Stat. 1484) is amended by striking subsection (b).

(b) CONFORMING AMENDMENTS.—

(1) DEFINITION OF STATE.— Section 1101(a)(1) of the Social Security Act (42 U.S.C. 1301(a)(1)) is amended by striking the 5th sentence and inserting the following: "Such term when used in title XVI includes Puerto Rico, the United States Virgin Islands, Guam, and American Samoa."

(2) ELIMINATION OF LIMIT ON TOTAL PAYMENTS TO THE TERRITORIES.— Section 1108 of such Act (42 U.S.C. 1308) is amended—

(A) in the section heading, by striking "; limitation on total payments";

(B) by striking subsection (a); and

(C) in subsection (c), by striking paragraphs (2) and (4) and redesignating paragraphs (3) and (5) as paragraphs (2) and (3), respectively.

(3) UNITED STATES NATIONALS TREATED THE SAME AS CITIZENS.— Section 1614(a)(1)(B) of such Act (42 U.S.C. 1382c(a)(1)(B)) is amended—

(A) in clause (i)(I), by inserting "or national of the United States," after "citizen";

(B) in clause (i)(II), by adding "; or" at the end; and

(C) in clause (ii), by inserting "or national" after "citizen".

(4) TERRITORIES INCLUDED IN GEOGRAPHIC MEANING OF UNITED STATES.— Section 1614(e) of such Act (42 U.S.C. 1382c(e)) is amended by striking "and the District of Columbia" and inserting ", the District of Columbia, Puerto Rico, the United States Virgin Islands, Guam, and American Samoa".

(c) WAIVER AUTHORITY.— The Commissioner of Social Security may waive or modify any statutory requirement relating to the provision of benefits under the Supplemental Security Income Program under title XVI of the Social Security Act in Puerto Rico, the United States Virgin Islands, Guam, or American Samoa, to the extent that the Commissioner deems it necessary in order to adapt the program to the needs of the territory involved.

(d) EFFECTIVE DATE.— This section and the amendments made by this section shall take effect on January 1, 2024.

## Deleted Provisions

### \* ~~Sec. 20003. Impact aid construction grants~~

~~In addition to amounts otherwise available, there is appropriated to the Department of Education for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, \$410,000,000, to remain available until September 30, 2026, for making payments to local educational agencies in accordance with the same terms and conditions as the terms and conditions of section 7007 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7707), except that —~~

~~(1) subsection (a)(2)(A) of such section shall be applied by substituting "20 percent" for "50 percent";~~

~~(2) subsection (a)(2)(B) of such section shall be applied by substituting "20 percent" for "50 percent"; and~~

~~(3) clauses (i) and (vi) of subsection (b)(5)(A) of such section shall not apply to funds provided or received under this section.~~

**\* ~~Sec. 20004. Bureau of Indian Education~~**

~~In addition to amounts otherwise available, there is appropriated to the Bureau of Indian Education for fiscal year 2022, out of any money in the Treasury not otherwise appropriated —~~

~~(1) \$369,810,000, to remain available until September 30, 2026, for necessary expenses related to construction, repair, improvement, and maintenance of buildings, utilities, and other facilities necessary for the operation of Indian education programs, including architectural and engineering services by contract, acquisition of lands, and interests in lands, of which no more than 3 percent shall be used for administrative costs to carry out this section; and~~

~~(2) \$41,090,000, to remain available until September 30, 2026, for digital infrastructure to improve access to high-speed broadband sufficient for digital learning and related digital infrastructure activities or programs operated or funded by the Bureau of Indian Education, for Bureau-funded schools (as defined in section 1141(3) of the Education Amendments of 1978 (25 U.S.C. 2021(3))).~~

**\* ~~Sec. 20005. Gallaudet University~~**

~~In addition to amounts otherwise available, there is appropriated to the Department of Education for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, \$150,000,000, to remain available until September 30, 2026, for the Kendall Demonstration Elementary School and the Model Secondary School for the Deaf at Gallaudet University for construction, as defined in section 204(2) of the Education of the Deaf Act of 1986 (20 U.S.C. 4351(2)).~~

**\* ~~Sec. 20023. Tuition Assistance for Students at Historically Black Colleges and Universities, Tribal Colleges and Universities, and Minority-serving Institutions~~**

~~Part F of title VII of the Higher Education Act of 1965 (20 U.S.C. 1133 et seq.), as added and amended by this Act, is further amended by adding at the end the following:~~

~~"Subpart 3—Tuition Assistance for Students at Historically Black Colleges and Universities, Tribal Colleges and Universities, and Minority-serving Institutions~~

**~~"Sec. 796. Tuition assistance for historically black colleges and universities~~**

~~Beginning with award year 2023–2024, from amounts appropriated to carry out this subpart for any fiscal year, the Secretary shall award grants to participating historically Black colleges and universities that are eligible institutions.~~

**~~"Sec. 796A. Tuition assistance for tribal colleges and universities~~**

~~Beginning with award year 2023–2024<sup>(1)</sup>, from amounts appropriated to carry out this subpart for any fiscal year, the Secretary shall award grants to participating Tribal Colleges and~~

Universities that are eligible institutions:

**~~"Sec. 796B. Tuition assistance for Alaska native-serving institutions, Asian American and native American-pacific islander-serving institutions, Hispanic-serving institutions, native American-serving nontribal institutions, native Hawaiian-serving institutions, and predominantly black institutions~~**

~~"(a) IN GENERAL.—Beginning with award year 2023–2024, from amounts appropriated to carry out this subpart for any fiscal year, the Secretary shall award grants to participating Alaska Native-serving institutions, Asian American and Native American Pacific Islander-serving institutions, Hispanic-serving institutions, Native American-serving nontribal institutions, Native Hawaiian-serving institutions, and Predominantly Black institutions that are eligible institutions.~~

~~"(b) STATUS OF INSTITUTION.—An institution's status as an eligible institution described in subsection (a) shall—~~

~~"(1) be based on the most recent data available; and~~

~~"(2) be reviewed annually to ensure that the institution continues to meet the requirements for status as an institution described in subsection (a).~~

**~~"Sec. 796C. Grant terms~~**

~~"(a) GRANT AMOUNT.—~~

~~"(1) IN GENERAL.—For each year for which an eligible institution participates in the grant program under this subpart, such eligible institution shall receive a grant in an amount equal to the product of—~~

~~"(A) the number of eligible students enrolled at the institution for such year; and~~

~~"(B)~~

~~"(i) for the 2023–2024 award year, the median resident community college tuition and fees per student in all States, not weighted for enrollment, for the most recent award year for which data are available; and~~

~~"(ii) for the 2024–2025 award year and each subsequent award year, the amount determined under this subparagraph for the preceding award year, increased by the lesser of—~~

~~"(I) a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) since the date of such determination; or~~

~~"(II) 3 percent.~~

~~"(2) FIRST-YEAR TUITION AND FEES.—As a condition of receiving a grant under this subpart, an eligible institution shall not increase tuition and fees during the first year of participation in the grant program under this subpart at a rate greater than the average annual increase at the eligible institution in the previous 5 years.~~

~~"(3) STUDENTS ENROLLED LESS THAN FULL-TIME.—The Secretary shall develop and implement a formula for making adjustments to grant amounts under this subpart based on the number of eligible students at each eligible institution enrolled less than full-time~~



and the associated tuition and fees charged to such students in proportion to the degree to which each such student is not attending on a full-time basis.

~~"(4) DATA ADJUSTMENTS.—~~

~~"(A) IN GENERAL.— The Secretary shall establish a process through which each eligible institution that participates in the program under this section—~~

~~"(i) provides the necessary eligible student enrollment data at the start of the award year; and~~

~~"(ii) initially receives grant funds, as calculated under this subsection, based on such data.~~

~~"(B) ADJUSTMENT OF GRANT AMOUNT.— For each year for which an eligible institution receives a grant under this subpart, the Secretary shall, once final enrollment data for such year are available—~~

~~"(i) in consultation with the eligible institution concerned, determine the actual number of eligible students for the year covered by the grant; and~~

~~"(ii) adjust the grant amount received by the eligible institution to reflect the actual number of eligible students, which may include applying the relevant adjustment to such grant amount in the subsequent award year.~~

~~"(b) DUPLICATE GRANTS PROHIBITED.— An institution shall not receive more than one grant at a time under this subpart.~~

~~"(c) APPLICATION.— An eligible institution that desires a grant under this subpart shall submit an application to the Secretary that includes—~~

~~"(1) an assurance that the institution commits to maintaining, expanding, or adopting and implementing evidence-based institutional reforms or practices to improve student outcomes, which shall include one or more of the practices described in section 795D(b)(1); and~~

~~"(2) in the case of an eligible institution that enrolls students who transfer from another institution, an assurance that the institution—~~

~~"(A) commits to increasing the transferability of individual courses within certificate or associate programs offered by community colleges in the State to related baccalaureate programs offered by such institution to maximize the transferability of credits for students who transfer before completing an associate degree;~~

~~"(B) will ensure that students attending community colleges in the State have access to comprehensive counseling and other easily accessible tools regarding the process for transferring to such institution; and~~

~~"(C) has a formal, statewide articulation agreement with community colleges in the State in which such institution operates that, at a minimum, ensures that associate degrees awarded by community colleges in the State are fully transferable to, and credited as, the first 2 years of related baccalaureate programs at such institution.~~

~~"(d) USE OF FUNDS.—~~

~~"(1) REQUIRED USE.—Funds awarded under this subpart to a participating eligible institution shall be used to reduce tuition and fees for eligible students by an amount that is not less than the minimum per-student amount described in paragraph (2), unless the actual cost of tuition and fees at such institution is not more than such per-student amount, in which case such institution shall use such funds to waive all such tuition and fees charged to such students and use any remaining funds in accordance with paragraph (3).~~

~~"(2) MINIMUM PER-STUDENT AMOUNT.—The minimum per-student amount described in this paragraph shall be equal to—~~

~~"(A) for the 2023–2024 award year, the median resident community college tuition and fees per student in all States, not weighted for enrollment, for the most recent award year for which data are available; and~~

~~"(B) for the 2024–2025 award year and each subsequent award year, the amount determined under this paragraph for the preceding award year, increased by the lesser of—~~

~~"(i) a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) since the date of such determination; or~~

~~"(ii) 3 percent.~~

~~"(3) ADDITIONAL USES.—A participating eligible institution shall use any grant funds remaining after meeting the requirements of paragraph (1) to provide financial aid to eligible students that may be used by such students to pay for any component of cost of attendance other than tuition and fees, which may include emergency financial aid grants.~~

~~"(e) SUPPLEMENT, NOT SUPPLANT.—Funds made available to carry out this subpart shall be used to supplement, and not supplant, other Federal, State, tribal, and local funds that would otherwise be expended to carry out activities under this subpart.~~

~~"(f) SIXTY CREDITS.—Funds under this subpart may only be used to waive or reduce tuition and fees for the first 60 credits for which an eligible student is enrolled in the participating eligible institution except that, when calculating the number of credits in which the student has been enrolled for the purpose of carrying out this subpart—~~

~~"(1) no student shall be considered to have been enrolled for more than 12 credits per semester (or the equivalent) during the period for which the student is receiving benefits under this subpart; and~~

~~"(2) the participating eligible institution may exclude any credits that a student enrolled in and did not complete at such institution if the institution determines that such exclusion would be in the best interest of the student, except that an institution may exclude no more than 15 credits under this paragraph for each individual student.~~

~~"(g) ELIGIBILITY FOR BENEFITS.—No individual shall be determined to be ineligible to receive benefits provided under this subpart (including reduction of tuition and fees and other aid provided under this subpart) on the basis of citizenship, alienage, or immigration status.~~

**~~"Sec. 796D. Definitions~~**

In this subpart:

~~"(1) ALASKA NATIVE-SERVING INSTITUTION.— The term 'Alaska Native-serving institution' has the meaning given such term in section 317(b).~~

~~"(2) ASIAN AMERICAN AND NATIVE AMERICAN PACIFIC ISLANDER-SERVING INSTITUTION.— The term 'Asian American and Native American Pacific Islander-serving institution' has the meaning given such term in section 374(c).~~

~~"(3) COST OF ATTENDANCE.— The term 'cost of attendance' has the meaning given such term in section 472.~~

~~"(4) ELIGIBLE INSTITUTION.—~~

~~"(A) IN GENERAL.— The term 'eligible institution' means a public or nonprofit 4-year institution of higher education that has an undergraduate student body of which not less than 35 percent are low-income students.~~

~~"(B) CONTINUING ELIGIBILITY.— The Secretary's determination of whether an institution meets the requirement under subparagraph (A) shall be based on the most recent data available, and shall be reviewed annually to ensure that the institution continues to meet the requirements for participation.~~

~~"(5) ELIGIBLE STUDENT.—~~

~~"(A) IN GENERAL.— The term 'eligible student' means a student, regardless of age, who—~~

~~"(i) is enrolled as an undergraduate student in an eligible program (as defined in section 481(b)) at a participating eligible institution, on at least a half-time basis;~~

~~"(ii) is a low-income student;~~

~~"(iii) has been enrolled at such participating eligible institution under this subpart for not more than 60 credits, subject to section 796C(f);~~

~~"(iv) has not been enrolled (whether full-time or less than full-time) for more than 6 semesters (or the equivalent) for which the student received a benefit under this subpart;~~

~~"(v) is not enrolled in a dual or concurrent enrollment program or early college high school;~~

~~"(vi) has not completed an undergraduate baccalaureate course of study; and~~

~~"(vii) in the case of a student who is a United States citizen, has filed a Free Application for Federal Student Aid described in section 483 for the applicable award year for which the student is enrolled.~~

~~"(B) CONTINUED ELIGIBILITY.— In the case of an eligible student who receives assistance under this subpart and attends an institution that loses status as an eligible institution or as an institution described in section 796B(a), the student may continue to receive such assistance for the period for which the student would have been eligible if the institution at which they are enrolled had retained such status.~~

~~"(6) HISPANIC-SERVING INSTITUTION.—The term 'Hispanic-serving institution' has the meaning given such term in section 502.~~

~~"(7) HISTORICALLY BLACK COLLEGE OR UNIVERSITY.—The term 'historically Black college or university' means a part B institution as defined in section 322.~~

~~"(8) LOW-INCOME STUDENT.—The term 'low-income student' means a student who meets the financial eligibility criteria for receiving a Federal Pell Grant under section 401, regardless of whether such student is otherwise eligible to receive such Federal Pell Grant.~~

~~"(9) NATIVE AMERICAN-SERVING NONTRIBAL INSTITUTION.—The term 'Native American-serving nontribal institution' has the meaning given such term in section 310.~~

~~"(10) NATIVE HAWAIIAN-SERVING INSTITUTION.—The term 'Native Hawaiian-serving institution' has the meaning given such term in section 317(b).~~

~~"(11) PREDOMINANTLY BLACK INSTITUTION.—The term 'Predominantly Black institution' has the meaning given such term in section 371(c).~~

~~"(12) TRIBAL COLLEGE OR UNIVERSITY.—The term 'Tribal College or University' has the meaning given such term in section 316(b)(3).~~

**"Sec. 796E. Sunset**

~~"(a) IN GENERAL.—The authority to make grants under this subpart shall expire at the end of award year 2029–2030.~~

~~"(b) INAPPLICABILITY OF GEPA CONTINGENT EXTENSION OF PROGRAMS.—Section 422 of the General Education Provisions Act (20 U.S.C. 1226a) shall not apply to this subpart.~~

**"Sec. 796F. Appropriation**

~~In addition to amounts otherwise available, there is appropriated for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary, to remain available until September 30, 2030, for carrying out this subpart."~~

**\* Sec. 20024. Northern Mariana Islands, American Samoa, United States Virgin Islands, and Guam college access**

~~Part F of title VII of the Higher Education Act of 1965 (20 U.S.C. 1133 et seq.), as added and amended by this Act, is further amended by adding at the end the following:~~

**"Sec. 798. Northern Mariana Islands, American Samoa, United States Virgin Islands, and Guam college access grants**

~~"(a) GRANTS.—~~

~~"(1) GRANT AMOUNTS.—~~

~~"(A) IN GENERAL.—Beginning with award year 2023–2024, from amounts appropriated to carry out this section, the Secretary shall provide such sums as may be necessary to the Governors of each outlying area for such Governors to award grants to eligible institutions that enroll eligible students to pay the difference between the tuition and fees charged for in-State students and the tuition and fees~~

~~charged for out-of-State students on behalf of each eligible student enrolled in the eligible institution.~~

~~"(B) MAXIMUM STUDENT AMOUNTS.— The amount paid on behalf of an eligible student under this section shall be—~~

~~"(i) not more than \$15,000 for any one award year (as defined in section 481); and~~

~~"(ii) not more than \$75,000 in the aggregate.~~

~~"(C) PRORATION.— The Governor shall prorate payments under this section with respect to eligible students who attend an eligible institution on less than a full-time basis.~~

~~"(2) APPLICATION.— Each eligible student desiring a payment under this section shall submit an application to the eligible institution at which such student is enrolled or plans to enroll.~~

~~"(3) ELIGIBILITY FOR BENEFITS.— No individual shall be determined to be ineligible to receive benefits provided under this subpart (including tuition payments and other aid provided under this subpart) on the basis of citizenship, alienage, or immigration status.~~

~~"(b) ADMINISTRATION OF PROGRAM.—~~

~~"(1) IN GENERAL.— Each Governor shall carry out the program under this section in consultation with the Secretary. Each Governor may enter into a grant, contract, or cooperative agreement with another public or private entity to administer the program under this section.~~

~~"(2) MEMORANDUM OF AGREEMENT.— Each Governor and the Secretary shall enter into a memorandum of agreement that describes—~~

~~"(A) the manner in which the Governor will consult with the Secretary with respect to administering the program under this section; and~~

~~"(B) any technical or other assistance to be provided to the Governor by the Secretary for purposes of administering the program under this section (which may include access to the information in the Free Application for Federal Student Aid described in section 483).~~

~~"(3) CONSTRUCTION.— Nothing in this section shall be construed to require an institution of higher education to alter the institution's admissions policies or standards in any manner to enable an eligible student to enroll in the institution.~~

~~"(4) GRANT AUTHORITY.— The authority to make grants under this section shall expire at the end of award year 2029–2030.~~

~~"(c) INAPPLICABILITY OF GEPA CONTINGENT EXTENSION OF PROGRAMS.— Section 422 of the General Education Provisions Act (20 U.S.C. 1226a) shall not apply to this section.~~

~~"(d) DEFINITIONS.— In this section:~~

~~"(1) ELIGIBLE INSTITUTION.— The term 'eligible institution' means an institution that—~~

~~"(A) is a public four-year institution of higher education located in one of the several States of the United States, the District of Columbia, Puerto Rico, or an~~

outlying area;

~~"(B) is eligible to participate in the student financial assistance programs under title IV; and~~

~~"(C) enters into an agreement with the Governor of an outlying area, or with two or more of such Governors (except that such institution may not enter into an agreement with the Governor of the outlying area in which such institution is located), containing such conditions as each Governor may specify, including a requirement that the institution use the funds made available under this section to supplement and not supplant assistance that otherwise would be provided to eligible students from outlying areas:~~

~~"(2) ELIGIBLE STUDENT.—The term 'eligible student' means an individual who—~~

~~"(A) was domiciled in an outlying area for not less than 12 consecutive months preceding the commencement of the freshman year at an institution of higher education;~~

~~"(B) has not completed an undergraduate baccalaureate course of study;~~

~~"(C) begins the individual's course of study at an eligible institution within 3 calendar years (excluding any period of service on active duty in the Armed Forces or service under the Peace Corps Act (22 U.S.C. 2501 et seq.) or subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.)) of—~~

~~"(i) graduation from secondary school, or obtaining the recognized equivalent of a secondary school diploma; or~~

~~"(ii) transfer from an institution of higher education located in an outlying area (including transfer following the completion of an associate degree or certificate at such institution); and~~

~~"(D) is enrolled or accepted for enrollment, on at least a half-time basis, in a baccalaureate degree or other program (including a program of study abroad approved for credit by the institution at which such student is enrolled) leading to a recognized educational credential at an eligible institution.~~

~~"(3) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 101.~~

~~"(4) GOVERNOR.—The term 'Governor' means the Governor of an outlying area.~~

~~"(5) OUTLYING AREA.—The term 'outlying area' means the Northern Mariana Islands, American Samoa, the United States Virgin Islands, and Guam.~~

~~"(e) APPROPRIATIONS.—In addition to amounts otherwise available, there is appropriated for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary, to remain available until September 30, 2030, for carrying out this section."~~

~~\* **Sec. 20033. Active duty deferment periods counted toward public service loan forgiveness**~~

~~(1)~~

~~Section 455(m) of the Higher Education Act of 1965 (20 U.S.C. 1087e(m)) is amended—~~

~~(1) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively; and~~

~~(2) in paragraph (1), in the matter preceding subparagraph (A), by striking "paragraph (2)" and inserting "paragraph (3)"; and~~

~~(3) by inserting after paragraph (1) the following:~~

~~"(2) ACTIVE DUTY DEFERMENT PERIODS.—~~

~~"(A) IN GENERAL.— Notwithstanding paragraph(1)(A) and subject to subparagraph (B), the Secretary shall deem each month for which a loan payment was in deferment under subsection (f)(2) of this section or for which a loan payment was in forbearance under section 685.205(a)(7) of title 34, Code of Federal Regulations, (or similar successor regulations), for a borrower described in subsection (f)(2)(C) as if the borrower of the loan had made a payment for the purpose of public service loan forgiveness under this subsection.~~

~~"(B) LIMITATION.— Subparagraph (A) shall apply only to eligible Federal Direct Loans originated before the first day of fiscal year 2031."~~

**\* Sec. 20041. Institutional aid**

~~(a) IN GENERAL.— In addition to amounts otherwise available, there is appropriated for fiscal year 2022, out of any money in the Treasury not otherwise appropriated—~~

~~(1) \$113,738,000, to remain available until September 30, 2022, for carrying out section 371(b)(2)(B) of the Higher Education Act of 1965 (20 U.S.C. 1067q(b)(2)(B)) in fiscal year 2022;~~

~~(2) \$113,738,000, to remain available until September 30, 2023, for carrying out section 371(b)(2)(B) of the Higher Education Act of 1965 (20 U.S.C. 1067q(b)(2)(B)) in fiscal year 2023;~~

~~(3) \$113,738,000, to remain available until September 30, 2024, for carrying out section 371(b)(2)(B) of the Higher Education Act of 1965 (20 U.S.C. 1067q(b)(2)(B)) in fiscal year 2024;~~

~~(4) \$113,738,000, to remain available until September 30, 2025, for carrying out section 371(b)(2)(B) of the Higher Education Act of 1965 (20 U.S.C. 1067q(b)(2)(B)) in fiscal year 2025;~~

~~(5) \$113,738,000, to remain available until September 30, 2026, for carrying out section 371(b)(2)(B) of the Higher Education Act of 1965 (20 U.S.C. 1067q(b)(2)(B)) in fiscal year 2026;~~

~~(6) \$113,738,000, to remain available until September 30, 2022, for carrying out section 371(b)(2)(C) of the Higher Education Act of 1965 (20 U.S.C. 1067q(b)(2)(C)) in fiscal year 2022;~~

~~(7) \$113,738,000, to remain available until September 30, 2023, for carrying out section 371(b)(2)(C) of the Higher Education Act of 1965 (20 U.S.C. 1067q(b)(2)(C)) in fiscal year 2023;~~

~~(8) \$113,738,000, to remain available until September 30, 2024, for carrying out section 371(b)(2)(C) of the Higher Education Act of 1965 (20 U.S.C. 1067q(b)(2)(C)) in fiscal year 2024;~~

~~(9) \$113,738,000, to remain available until September 30, 2025, for carrying out section 371(b)(2)(C) of the Higher Education Act of 1965 (20 U.S.C. 1067q(b)(2)(C)) in fiscal year 2025;~~

~~(10) \$113,738,000, to remain available until September 30, 2026, for carrying out section 371(b)(2)(C) of the Higher Education Act of 1965 (20 U.S.C. 1067q(b)(2)(C)) in fiscal year 2026;~~

~~(11) \$34,104,000, to remain available until September 30, 2022, for carrying out section 371(b)(2)(D)(i) of the Higher Education Act of 1965 (20 U.S.C. 1067q(b)(2)(D)(i)) in fiscal year 2022;~~

~~(12) \$34,104,000, to remain available until September 30, 2023, for carrying out section 371(b)(2)(D)(i) of the Higher Education Act of 1965 (20 U.S.C. 1067q(b)(2)(D)(i)) in fiscal year 2023;~~

~~(13) \$34,104,000, to remain available until September 30, 2024, for carrying out section 371(b)(2)(D)(i) of the Higher Education Act of 1965 (20 U.S.C. 1067q(b)(2)(D)(i)) in fiscal year 2024;~~

~~(14) \$34,104,000, to remain available until September 30, 2025, for carrying out section 371(b)(2)(D)(i) of the Higher Education Act of 1965 (20 U.S.C. 1067q(b)(2)(D)(i)) in fiscal year 2025;~~

~~(15) \$34,104,000, to remain available until September 30, 2026, for carrying out section 371(b)(2)(D)(i) of the Higher Education Act of 1965 (20 U.S.C. 1067q(b)(2)(D)(i)) in fiscal year 2026;~~

~~(16) \$17,052,000, to remain available until September 30, 2022, for carrying out section 371(b)(2)(D)(ii) of the Higher Education Act of 1965 (20 U.S.C. 1067q(b)(2)(D)(ii)) in fiscal year 2022;~~

~~(17) \$17,052,000, to remain available until September 30, 2023, for carrying out section 371(b)(2)(D)(ii) of the Higher Education Act of 1965 (20 U.S.C. 1067q(b)(2)(D)(ii)) in fiscal year 2023;~~

~~(18) \$17,052,000, to remain available until September 30, 2024, for carrying out section 371(b)(2)(D)(ii) of the Higher Education Act of 1965 (20 U.S.C. 1067q(b)(2)(D)(ii)) in fiscal year 2024;~~

~~(19) \$17,052,000, to remain available until September 30, 2025, for carrying out section 371(b)(2)(D)(ii) of the Higher Education Act of 1965 (20 U.S.C. 1067q(b)(2)(D)(ii)) in fiscal year 2025;~~

~~(20) \$17,052,000, to remain available until September 30, 2026, for carrying out section 371(b)(2)(D)(ii) of the Higher Education Act of 1965 (20 U.S.C. 1067q(b)(2)(D)(ii)) in fiscal year 2026;~~

~~(21) \$5,684,000, to remain available until September 30, 2022, for carrying out section 371(b)(2)(D)(iii) of the Higher Education Act of 1965 (20 U.S.C. 1067q(b)(2)(D)(iii))~~



in fiscal year 2022;

~~(22) \$5,684,000, to remain available until September 30, 2023, for carrying out section 371(b)(2)(D)(iii) of the Higher Education Act of 1965 (20 U.S.C. 1067q(b)(2)(D)(iii) in fiscal year 2023;~~

~~(23) \$5,684,000, to remain available until September 30, 2024, for carrying out section 371(b)(2)(D)(iii) of the Higher Education Act of 1965 (20 U.S.C. 1067q(b)(2)(D)(iii) in fiscal year 2024;~~

~~(24) \$5,684,000, to remain available until September 30, 2025, for carrying out section 371(b)(2)(D)(iii) of the Higher Education Act of 1965 (20 U.S.C. 1067q(b)(2)(D)(iii) in fiscal year 2025;~~

~~(25) \$5,684,000, to remain available until September 30, 2026, for carrying out section 371(b)(2)(D)(iii) of the Higher Education Act of 1965 (20 U.S.C. 1067q(b)(2)(D)(iii) in fiscal year 2026;~~

~~(26) \$5,684,000, to remain available until September 30, 2022, for carrying out section 371(b)(2)(D)(iv) of the Higher Education Act of 1965 (20 U.S.C. 1067q(b)(2)(D)(iv) in fiscal year 2022;~~

~~(27) \$5,684,000, to remain available until September 30, 2023, for carrying out section 371(b)(2)(D)(iv) of the Higher Education Act of 1965 (20 U.S.C. 1067q(b)(2)(D)(iv) in fiscal year 2023;~~

~~(28) \$5,684,000, to remain available until September 30, 2024, for carrying out section 371(b)(2)(D)(iv) of the Higher Education Act of 1965 (20 U.S.C. 1067q(b)(2)(D)(iv) in fiscal year 2024;~~

~~(29) \$5,684,000, to remain available until September 30, 2025, for carrying out section 371(b)(2)(D)(iv) of the Higher Education Act of 1965 (20 U.S.C. 1067q(b)(2)(D)(iv) in fiscal year 2025; and~~

~~(30) \$5,684,000, to remain available until September 30, 2026, for carrying out section 371(b)(2)(D)(iv) of the Higher Education Act of 1965 (20 U.S.C. 1067q(b)(2)(D)(iv) in fiscal year 2026;~~

~~(b) USE OF FUNDS.—The Secretary shall use 15 percent of each of the amounts appropriated under paragraphs (6) through (10) of subsection (a) to award 25 additional grants under section 371(b)(2)(C)(ii).~~

**\* Sec. 22007. Community college and industry partnership grants**

~~(a) DEFINITIONS.—In this section—~~

~~(1) ELIGIBLE INSTITUTION.—The term "eligible institution" means an institution of higher education (as defined in section 101 or 102(c) of the Higher Education Act of 1965 (20 U.S.C. 1001, 1002(c)), including a Tribal College or University (as defined in section 346 of such Act (20 U.S.C. 1059c)), or a consortium of such institutions—~~

~~(A) at which the highest degree awarded is an associate degree; or an associate degree is the predominant degree awarded; and~~

~~(B) that is working directly with an industry or sector partnership, or in the process of establishing such partnership, to carry out a grant under this section.~~

~~(2) PERKINS CTE DEFINITIONS.— The terms "career and technical education", "career guidance and academic counseling", "dual or concurrent enrollment program", "evidence-based" and "work-based learning" have the meanings given the terms in section 3 of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2302).~~

~~(3) REGISTERED APPRENTICESHIP PROGRAM.— The term "registered apprenticeship program" means an apprenticeship registered under the Act of August 16, 1937 (commonly known as the "National Apprenticeship Act"; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.).~~

~~(4) SECRETARY.— The term "Secretary" means the Secretary of Labor.~~

~~(5) WIOA DEFINITIONS.—~~

~~(A) IN GENERAL.— The terms "career pathway", "in-demand industry sector or occupation", "individual with a barrier to employment", "industry or sector partnership", "integrated education and training", "recognized postsecondary credential" and "supportive services" have the meanings given the terms in section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102).~~

~~(B) CAREER SERVICES.— The term "career services" means services described in section 134(e)(2) of the Workforce Innovation and Opportunity Act (29 U.S.C. 3174(e)(2)).~~

~~(b) IN GENERAL.— In addition to amounts otherwise made available, there is appropriated to the Department of Labor for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, \$2,000,000,000, to remain available until September 30, 2026, except that no amounts may be expended after September 30, 2031, to carry out this section.~~

~~(c) GRANTS.— From funds appropriated under subsection (b) and not reserved under subsection (e), and under the authority of section 169(b)(5) of the Workforce Innovation and Opportunity Act (29 U.S.C. 3224(b)(5)), the Secretary shall award grants on a competitive basis to eligible institutions for the purposes of expanding workforce development and employment opportunities in high-skill, high-wage, or in-demand industry sectors or occupations. To receive such a grant, an eligible institution shall submit to the Secretary an application at such time, in such manner, and containing such information as specified by the Secretary, including a description of the related programs, recognized postsecondary credentials, and employment opportunities.~~

~~(d) USE OF GRANT FUNDS.—~~

~~(1) IN GENERAL.— An eligible institution awarded a grant under this section shall use such grant funds to expand opportunities for attainment of recognized postsecondary credentials that are nationally portable and stackable for high-skill, high-wage, or in-demand industry sectors or occupations by—~~

~~(A) establishing, improving, or scaling high-quality, evidence-based education and training programs, such as career and technical education programs, career pathway programs, and work-based learning programs (including programs of~~

~~registered apprenticeships or pre-apprenticeships that articulate to registered apprenticeships);~~

~~(B) creating, developing, or expanding articulation agreements (as defined in section 486A(a) of the Higher Education Act of 1965 (20 U.S.C. 1093a(a))), credit transfer agreements, corequisite remediation programs, dual or concurrent enrollment programs, or policies and processes to award academic credit for prior learning or career training programs supported by the funds described in subsection (e);~~

~~(C) making available open, searchable, and comparable information on curriculum or recognized postsecondary credentials, including those created or developed using such funds, and information on the related skills or competencies, and related employment and earnings outcomes;~~

~~(D) establishing or implementing plans for providers of programs supported with such funds to be included on the eligible training services provider list described in section 122(d) of the Workforce Innovation and Opportunity Act (29 U.S.C. 3152(d));~~

~~(E) purchasing, leasing, or refurbishing specialized equipment necessary to carry out the education or career training programs supported by such funds;~~

~~(F) reducing or eliminating out-of-pocket expenses related to participants' cost of attendance in the education or career training activities supported by such funds; or~~

~~(G) establishing or expanding industry or sector partnerships to successfully carry out the activities described in subparagraphs (A) through (F).~~

~~(2) RESERVATION.— An eligible institution awarded a grant under this section shall use not less than 15 percent of such grant funds to provide services to help individuals with barriers to employment complete and successfully transition out of education or career training programs supported by such funds, which shall include providing supportive services, career services, career guidance and academic counseling, or job placement assistance.~~

~~(e) RESERVATIONS.— From the amounts made available under subsection (b), the Secretary shall reserve not more than 5 percent for—~~

~~(1) targeted outreach to eligible institutions serving a high number or high percentage of low-income individuals or individuals with barriers to employment, and rural-serving eligible institutions, to provide guidance and assistance in the grant application process under this section;~~

~~(2) administration of the program described in this section, including providing technical assistance and oversight to support eligible institutions (including consortia of eligible institutions); and~~

~~(3) evaluating and reporting on the performance and impact of programs funded under this section.~~

~~(f) SUPPLEMENT NOT SUPPLANT.— Amounts available to carry out this section shall be used in supplement and not supplant other Federal, State, and local public funds expended to support community college education or career training programs.~~

\* ~~Sec. 24002. Direct certification for children receiving Medicaid benefits~~

~~(a) IN GENERAL.—Section 9 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)) is amended—~~

~~(1) in subsection (b)—~~

~~(A) by amending paragraph (5) to read as follows:~~

~~"(5) DISCRETIONARY CERTIFICATION.—~~

~~"(A) FREE LUNCHES OR BREAKFASTS.—Subject to paragraph (6), any local educational agency may certify any child as eligible for free lunches or breakfasts, without further application, by directly communicating with the appropriate State or local agency to obtain documentation of the status of the child as—~~

~~"(i) a member of a family that is receiving assistance under the temporary assistance for needy families program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995;~~

~~"(ii) a homeless child or youth (defined as 1 of the individuals described in section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)));~~

~~"(iii) served by the runaway and homeless youth grant program established under the Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.);~~

~~"(iv) a migratory child (as defined in section 1309 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6399));~~

~~"(v) an eligible child (as defined in paragraph (15)(A)); or~~

~~"(vi)~~

~~"(i) a foster child whose care and placement is the responsibility of an agency that administers a State plan under part B or E of title IV of the Social Security Act (42 U.S.C. 621 et seq.); or~~

~~"(ii) a foster child who a court has placed with a caretaker household.~~

~~"(B) REDUCED PRICE LUNCHES OR BREAKFASTS.—Subject to paragraph (6), any local educational agency may certify any child who is not eligible for free school lunch or breakfast as eligible for reduced price lunches or breakfasts, without further application, by directly communicating with the appropriate State or local agency to obtain documentation of the status of the child as a child eligible for reduced price meals (as defined in paragraph (15)(A)).";~~

~~(B) in paragraph (6)(A), by striking "or (5)" both places it appears and inserting "(5), or (15)"; and~~

~~(C) in paragraph (15)—~~

~~(i) in subparagraph (A)—~~

~~(i) by amending clause (i) to read as follows:~~

~~"(i) ELIGIBLE CHILD.—The term 'eligible child' means a child—~~

~~"(I)~~

~~"(aa) who is eligible for and receiving medical assistance under the Medicaid program; and~~

~~"(bb) who is a member of a family with an income as measured by the Medicaid program that does not exceed 133 percent of the poverty line (as determined under the poverty guidelines updated periodically in the Federal Register by the Department of Health and Human Services under the authority of section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2), including any revision required by such section)) applicable to a family of the size used for purposes of determining eligibility for the Medicaid program;~~

~~"(II) who is eligible for the Medicaid program because such child receives supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381–1385) or State supplementary benefits of the type referred to in section 1616(a) of such Act (or payments of the type described in section 212(a) of Public Law 93–66);~~

~~"(III) who is eligible for the Medicaid program because such child receives an adoption assistance payment made under section 473(a) of the Social Security Act (42 U.S.C. 673(a)) or under a similar State-funded or State-operated program, as determined by the Secretary;~~

~~"(IV) who is eligible for the Medicaid program because such child receives a kinship guardianship assistance payment made under section 473(d) of the Social Security Act (42 U.S.C. 673(d)) or under a similar State-funded or State-operated program, as determined by the Secretary, without regard to whether such child was previously in foster care; or~~

~~"(V) who is a member of a household (as that term is defined in section 245.2 of title 7, Code of Federal Regulations (or successor regulations)) with a child described in subclause (I), (II), (III), or (IV)."; and~~

~~(ii) by adding at the end the following:~~

~~"(iii) CHILD ELIGIBLE FOR REDUCED PRICE MEALS.— The term 'child eligible for reduced price meals' means a child—~~

~~"(i)~~

~~"(aa) who is eligible for and receiving medical assistance under the Medicaid program; and~~

~~"(bb) who is a member of a family with an income as measured by the Medicaid program that does exceed 133 percent but does not exceed 185 percent of the poverty line (as determined under the poverty guidelines updated periodically in the Federal Register by the Department of Health and Human Services under the authority of section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2), including any revision required by such section)) applicable to a family of the size used for purposes of determining eligibility for the Medicaid program; or~~

~~"(H) who is a member of a household (as that term is defined in section 245.2 of title 7, Code of Federal Regulations (or successor regulations)) with a child described in subclause (I).";~~

~~(ii) by striking subparagraphs (B), (C), (D), (E), (G), and (H);~~

~~(iii) in subparagraph (F)—~~

~~(i) in the enumerator, by striking "(F)" and inserting "(D)"; and~~

~~(ii) by striking "conducting the demonstration project under this paragraph" and inserting "carrying out this paragraph";~~

~~(iv) by inserting after subparagraph (A) the following:~~

~~"(B) AGREEMENTS TO CARRY OUT CERTIFICATION.— To certify a child under subparagraph (A)(v) or (B) of paragraph (5), a State agency shall enter into an agreement with 1 or more State agencies conducting eligibility determinations for the Medicaid program.~~

~~"(C) PROCEDURES.— Subject to paragraph (6), an agreement under subparagraph (B) shall establish procedures under which—~~

~~"(i) an eligible child may be certified for free lunches under this Act and free breakfasts under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), without further application (as defined in paragraph (4)(C)); and~~

~~"(ii) a child eligible for reduced price meals may be certified for reduced price lunches under this Act or reduced price breakfasts under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), without further application (as defined in paragraph (4)(C))."; and~~

~~(v) by adding at the end the following:~~

~~"(E) SUNSET.— The authority under this paragraph shall terminate on the last day of school year 2030–2031."; and~~

~~(2) in subsection (d)(2)(C), by inserting "or child eligible for reduced price meals" after "eligible child".~~

~~(b) APPLICABILITY.—The amendments made by this section shall apply with respect to the period—~~

~~(1) beginning on July 1, 2022; and~~

~~(2) ending on the last day of school year 2030–2031.~~

**\* Sec. 24005. Healthy food incentives demonstration**

~~(a) In addition to amounts otherwise available, there is appropriated to the Secretary of Agriculture for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, \$634,000,000, to remain available until expended, to provide competitive grants to States in accordance with this section.~~

~~(b) A State that receives a grant under this section shall use such grant funds to make subgrants to local educational agencies and schools for activities that support—~~

~~(1) serving healthy school meals and afterschool snacks that meet discretionary goals established by the Secretary;~~

~~(2) increasing scratch cooking;~~

~~(3) conducting experiential nutrition education activities, including school garden programs;~~

~~(4) procuring local, regional, and culturally appropriate foods and foods produced by underserved or limited resource farmers, as defined by the Secretary, to serve as part of the child nutrition programs under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751–1769j) or the Child Nutrition Act of 1966 (42 U.S.C. 1771–1793);~~

~~(5) reducing the availability of less healthy foods, as defined by the Secretary, during the school day; or~~

~~(6) carrying out additional activities to encourage the development of healthy nutrition and physical activity habits among children.~~

~~(c) A State that receives a grant under this section may use such grant funds to fund a statewide nutrition education coordinator to—~~

~~(1) support individual school food authority nutrition education efforts; and~~

~~(2) facilitate collaboration with other nutrition education efforts in the State.~~

~~(d) A State that receives a grant under this section may not use more than 5 percent of such grant funds to carry out administrative activities.~~

~~(e) In this section, the term "State" has the meaning given the term in section 12(d) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(d)).~~

**\* Sec. 30802. Permanent extensions of other programs and demonstration projects**

~~(a) PEDIATRIC QUALITY MEASURES PROGRAM.—Section 1139A(i)(1) of the Social Security Act (42 U.S.C. 1320b–9a(i)(1)) is amended—~~

~~(1) in subparagraph (C), by striking at the end "and";~~

(2) in subparagraph (D), by striking the period at the end and insert a semicolon; and  
 (3) by adding at the end the following new subparagraphs:

"(E) for fiscal year 2028, \$15,000,000 for the purpose of carrying out this section (other than subsections (e), (f), and (g)); and

"(F) for a subsequent fiscal year, the amount appropriated under this paragraph for the previous fiscal year, increased by the percentage increase in the consumer price index for all urban consumers (all items; United States city average) over such previous fiscal year, for the purpose of carrying out this section (other than subsections (e), (f), and (g))."

~~(b) ASSURANCE OF AFFORDABILITY STANDARD FOR CHILDREN AND FAMILIES. — Section 2105(d)(3) of the Social Security Act (42 U.S.C. 1397cc(d)(3)) is amended —~~

~~(1) in the paragraph heading, by striking "through September 30, 2027"; and~~

~~(2) in subparagraph (A) —~~

~~(A) in the matter preceding clause (i) —~~

~~(i) by striking "During the period that begins on the date of enactment of the Patient Protection and Affordable Care Act and ends on September 30, 2027" and inserting "Beginning on the date of the enactment of the Patient Protection and Affordable Care Act";~~

~~(ii) by striking "During the period that begins on October 1, 2019, and ends on September 30, 2027" and inserting "Beginning on October 1, 2019"; and~~

~~(iii) by striking "The preceding sentences shall not be construed as preventing a State during any such periods from" and inserting "The preceding sentences shall not be construed as preventing a State from";~~

~~(B) in clause (i), by striking the semicolon at the end and inserting a period;~~

~~(C) by striking clauses (ii) and (iii); and~~

~~(D) by striking "periods from" and all that follows through "applying eligibility standards" and inserting "periods from applying eligibility standards".~~

~~(c) QUALIFYING STATES OPTION. — Section 2105(g)(4) of the Social Security Act (42 U.S.C. 1397cc(g)(4)) is amended —~~

~~(1) in the paragraph heading, by striking "for fiscal years 2009 through 2027" and inserting "after fiscal year 2008"; and~~

~~(2) in subparagraph (A), by striking "for any of fiscal years 2009 through 2027" and inserting "for any fiscal year after fiscal year 2008".~~

~~(d) OUTREACH AND ENROLLMENT PROGRAM. — Section 2113 of the Social Security Act (42 U.S.C. 1397mm) is amended —~~

~~(1) in subsection (a) —~~

~~(A) in paragraph (1), by striking "during the period of fiscal years 2009 through 2027" and inserting ", beginning with fiscal year 2009,";~~

~~(B) in paragraph (2) —~~



(i) by striking "10 percent of such amounts" and inserting "10 percent of such amounts for the period or the fiscal year for which such amounts are appropriated"; and

(ii) by striking "during such period" and inserting ", during such period or such fiscal year,"; and

(C) in paragraph (3), by striking "For the period of fiscal years 2024 through 2027, an amount equal to 10 percent of such amounts" and inserting "Beginning with fiscal year 2024, an amount equal to 10 percent of such amounts for the period or the fiscal year for which such amounts are appropriated"; and

(2) in subsection (g)—

(A) by striking "2017,," and inserting "2017,";

(B) by striking "and \$48,000,000" and inserting "\$48,000,000"; and

(C) by inserting after "through 2027" the following: ", \$60,000,000 for fiscal years 2028, 2029, and 2020, for each 3 fiscal years after fiscal year 2030, the amount appropriated under this subsection for the previous fiscal year, increased by the percentage increase in the consumer price index for all urban consumers (all items; United States city average) over such previous fiscal year".

(e) CHILD ENROLLMENT CONTINGENCY FUND.—Section 2104(n) of the Social Security Act (42 U.S.C. 1397dd(n)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)(ii)—

(i) by striking "and 2024 through 2026" and inserting "beginning with fiscal year 2024"; and

(ii) by striking "2023, and 2027" and inserting "and 2023"; and

(B) in subparagraph (B)—

(i) by striking "2024 through 2026" and inserting "beginning with fiscal year 2024"; and

(ii) by striking "2023, and 2027" and inserting "and 2023"; and

(2) in paragraph (3)(A)—

(A) by striking "fiscal years 2024 through 2026" and inserting "fiscal year 2024 or any subsequent fiscal year"; and

(B) by striking "2023, or 2027" and inserting "or 2023".

**\* Sec. 30803. State option to increase children's eligibility for medicaid and chip**

(a) IN GENERAL.—Section 2110(b)(1)(B)(ii) of the Social Security Act (42 U.S.C. 1397jj(b)(1)(B)(ii)) is amended—

(1) in subclause (II), by striking "or" at the end;

(2) in subclause (III), by striking "and" at the end and inserting "or"; and

(3) by inserting after subclause (III) the following new subclause:

~~"(IV) at the option of the State, whose family income exceeds the maximum income level otherwise established for children under the State child health plan as of the date of the enactment of this subclause; and"~~

~~(b) TREATMENT OF TERRITORIES.— Section 2104(m)(7) of the Social Security Act (42 U.S.C. 1397dd(m)(7)) is amended—~~

~~(1) in the matter preceding subparagraph (A), by striking "the 50 States or the District of Columbia" and inserting "a State (including the District of Columbia and each commonwealth and territory)";~~

~~(2) in subparagraph (B)(ii), by striking "or District"; and~~

~~(3) in the matter following subparagraph (B), by striking each place it occurs "or District";~~

**\* Sec. 30804. Extending continuous CHIP coverage for pregnant and postpartum women**

~~(a) REQUIRING FULL BENEFITS FOR PREGNANT AND POSTPARTUM WOMEN FOR 12-MONTH PERIOD POST PREGNANCY.—~~

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

~~(A) by striking "Paragraphs (5) and (16)" and inserting "(i) For any fiscal year quarter with respect to which the amendments made by section 30804(a)(1)(B) of the Act titled 'An Act to provide for reconciliation pursuant to title II of S. Con. Res. 14' do not apply (beginning with the first fiscal year quarter beginning one year after the date of the enactment of such Act), paragraphs (5)(A) and (16)"; and~~

~~(B) by adding at the end the following new clause:~~

~~"(ii) For any fiscal year quarter (beginning with the first fiscal year quarter beginning one year after the date of the enactment of this clause), section 1902(e)(5)(B) (requiring, notwithstanding section 2103(e)(3)(C)(ii)(I) or any other limitation under this title, continuous coverage for pregnant and postpartum individuals, including 12 months postpartum, of medical assistance) if the State provides child health assistance for targeted low-income children who are pregnant or to targeted low-income pregnant women, under the State child health plan or waiver, including coverage of all items or services provided to a targeted low-income child or targeted low-income pregnant woman (as applicable) under the State child health plan or waiver)."~~

~~(2) CONFORMING AMENDMENTS.— Section 2112 of the Social Security Act (42 U.S.C. 1397ll) is amended—~~

~~(A) in subsection (d)—~~

~~(i) in paragraph (1), by inserting "and includes, through application of section 1902(e)(5)(B) pursuant to section 2107(e)(1)(J)(ii), continuous coverage for pregnant and postpartum individuals, including 12 months postpartum of assistance" before the period at the end; and~~

(ii) in paragraph (2), by striking "60-day period" and all that follows through "ends" and inserting "12-month period (or, for any fiscal year quarter with respect to which the amendments made by section 30804(a)(1)(B) of the Act titled 'An Act to provide for reconciliation pursuant to title II of S. Con. Res. 14' do not apply (beginning with the first fiscal year quarter beginning one year after the date of the enactment of such Act), 60-day period) (beginning on the last day of her pregnancy) ends"; and

(B) in subsection (f)(2), by striking "60-day period" and inserting "12-month period (or, for any fiscal year quarter with respect to which the amendments made by section 30804(a)(1)(B) of the Act titled 'An Act to provide for reconciliation pursuant to title II of S. Con. Res. 14' do not apply (beginning with the first fiscal year quarter beginning one year after the date of the enactment of such Act), 60-day period)".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.— Subject to paragraph (2), the amendments made by this section shall take effect on the 1st day of the 1st fiscal year quarter that begins one year after the date of the enactment of this Act and shall apply with respect to child health assistance and pregnancy-related assistance, as applicable, provided on or after such date.

(2) EXCEPTION FOR STATE LEGISLATION.— In the case of a State child health plan under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.) that the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet any requirement imposed by amendments made under this section, the plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet such a requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session shall be considered to be a separate regular session of the State legislature.

\* **Sec. 30805. Providing for 1 year of continuous eligibility for children under the children's health insurance program**

Section 2407(e)(1) of the Social Security Act (42 U.S.C. 1397gg(e)(1)) is amended—

(1) by redesignating subparagraphs (K) through (T) as subparagraphs (L) through (U), respectively; and

(2) by inserting after subparagraph (J) the following new subparagraph:

"(K) Section 1902(e)(17) (relating to 1 year of continuous eligibility for children).".

\* **Sec. 30201. Superfund investments**

In addition to amounts otherwise available, there is appropriated for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, \$10,000,000,000, to remain available until expended, for response actions carried out by Federal agencies, consistent with section 120 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620) at Federal facilities included on the National Priority List published pursuant

to section 105 of such Act (42 U.S.C. 9605), which shall supplement, not supplant, individual agency appropriations for such response actions.

**\* ~~Sec. 30204. Environmental and Climate Justice Block Grants~~**

~~(a) APPROPRIATION.—~~ In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, \$5,000,000,000, to remain available until expended (except that no funds shall be disbursed after September 30, 2031), to carry out this section:

~~(b) GRANTS.—~~

~~(1) IN GENERAL.—~~ The Administrator of the Environmental Protection Agency may use amounts made available under subsection (a) to award grants for periods of up to 3 years to eligible entities to carry out activities described in paragraph (2) that benefit disadvantaged communities, as defined by the Administrator.

~~(2) ELIGIBLE ACTIVITIES.—~~ An eligible entity may use a grant awarded under this subsection for—

~~(A) investments in community low-emission, zero-emission, and emission-reducing infrastructure, including construction of such infrastructure;~~

~~(B) climate resiliency, mitigation, and adaptation projects, including projects related to urban heat islands, extreme heat, wood heater emissions, and wildfire events;~~

~~(C) community-led pollution monitoring, prevention, and remediation, including any necessary job training programs;~~

~~(D) reducing indoor toxics and indoor air pollution;~~

~~(E) facilitating engagement of disadvantaged communities in State and Federal public processes, including facilitating such engagement in advisory groups, workshops, and rulemakings; or~~

~~(F) any other activity the Administrator of the Environmental Protection Agency determines appropriate.~~

~~(3) ELIGIBLE ENTITIES.—~~ In this subsection, the term "eligible entity" means—

~~(A) a partnership between an Indian Tribe, a local government, or an institution of higher education and a community-based nonprofit organization;~~

~~(B) a community-based nonprofit organization; or~~

~~(C) a partnership of community-based nonprofit organizations.~~

~~(4) PRIORITY.—~~ In awarding grants under this subsection, the Administrator of the Environmental Protection Agency shall give priority to eligible entities described in subparagraph (B) or (C) of paragraph (3).

~~(c) TECHNICAL ASSISTANCE.—~~ The Administrator of the Environmental Protection Agency shall reserve \$500,000,000 of the amounts made available under subsection (a) for grants or <sup>(1)</sup> contracts for technical assistance throughout the United States related to grants awarded in this section.

**\* Sec. 30311. Funding for water assistance program**

~~(a) IN GENERAL.— In addition to amounts otherwise available, there is appropriated to the Secretary of Health and Human Services (in this section referred to as the "Secretary") for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, \$500,000,000, to remain available until expended, for grants to States and Indian Tribes to assist low-income households, particularly those with the lowest incomes, that pay a high proportion of household income for drinking water and wastewater services, by providing funds to owners or operators of public water systems or treatment works to reduce arrearages of and rates charged to such households for such services.~~

~~(b) ALLOTMENT.— The Secretary shall—~~

~~(1) allot amounts appropriated in this section to a State or Indian Tribe based on—~~

~~(A) the percentage of households in the State, or under the jurisdiction of the Indian Tribe, with annual income equal to or less than 150 percent of the Federal poverty line; and~~

~~(B) the percentage of households in the State, or under the jurisdiction of the Indian Tribe, that spend more than 30 percent of monthly income on housing; and~~

~~(2) reserve up to 3 percent of the amount appropriated in this section for Indian Tribes and Tribal organizations.~~

~~(c) DEFINITION.— In this section, the term "State" means each of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.~~

**\* Sec. 30411. Clean Electricity Performance Program**

~~(a) APPROPRIATION.—~~

~~(1) ADMINISTRATION.— In addition to amounts otherwise available, there is appropriated to the Secretary of Energy for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, \$250,000,000, to remain available until September 30, 2031 (except that no funds shall be disbursed after September 30, 2031), for the administrative expenses of carrying out section 224 of the Federal Power Act (as added by this section).~~

~~(2) GRANTS.— In addition to amounts otherwise available, there is appropriated to the Secretary of Energy for each of fiscal years 2023 through 2031, out of any money in the Treasury not otherwise appropriated, such sums as are necessary to issue grants under section 224 of the Federal Power Act (as added by this section) (except that no funds shall be disbursed after September 30, 2031).~~

~~(b) PROGRAM.—~~

~~Part II of the Federal Power Act is amended by adding after section 223 (16 U.S.C. 824w) the following:~~

**"Sec. 224. Clean electricity performance program**

~~(a) ESTABLISHMENT OF PROGRAM.— Not later than 1 year after the date of enactment of this section, the Secretary shall establish a program to—~~

~~"(1) issue grants for each of calendar years 2023 through 2030 to eligible electricity suppliers in accordance with this section; and~~

~~"(2) collect payments for each of calendar years 2023 through 2030 from eligible electricity suppliers in accordance with this section:~~

~~"(b) GRANTS TO ELIGIBLE ELECTRICITY SUPPLIERS.—~~

~~"(1) ELIGIBILITY FOR GRANTS.—~~

~~"(A) IN GENERAL.— Except as provided in subparagraph (B), an eligible electricity supplier shall be eligible for a grant under this section for a performance year if the certified clean electricity percentage of the eligible electricity supplier for that performance year is increased by at least 4 percentage points from the greater of—~~

~~"(i) the highest certified clean electricity percentage of the eligible electricity supplier for any year prior to that performance year; or~~

~~"(ii) the baseline clean electricity percentage of the eligible electricity supplier.~~

~~"(B) ADJUSTMENT.— With respect to a performance year in which an eligible electricity supplier submitted a payment under this section for the year prior to that performance year, the eligible electricity supplier shall be eligible for a grant under this section if the certified clean electricity percentage of the eligible electricity supplier for that performance year is increased by at least—~~

~~"(i) the number of percentage points described in subparagraph (A); plus~~

~~"(ii) the number of percentage points that equals the sum described in subsection (c)(2)(B) for the year for which the payment was submitted.~~

~~"(2) GRANT CALCULATION.— Except as provided in subsection (d), the Secretary shall issue to an eligible electricity supplier a grant under this section for a performance year in an amount equal to \$150 for each megawatt-hour of qualified clean electricity validly claimed by the eligible electricity supplier under subsection (e)(1)(A)(i) for that performance year that exceeds the sum of—~~

~~"(A) the product obtained by multiplying—~~

~~"(i) the total load of the eligible electricity supplier for that performance year; and~~

~~"(ii) 0.015; and~~

~~"(B) the greater of—~~

~~"(i) the largest quantity of megawatt-hours of qualified clean electricity claimed by the eligible electricity supplier under subsection (e)(1)(A)(i) for any year prior to that performance year; or~~

~~"(ii) the quantity of megawatt-hours represented by the baseline clean electricity percentage of the eligible electricity supplier.~~

~~"(3) INITIAL GRANTS.— In calculating a grant for performance year 2023, the product described in paragraph (2)(A) shall be obtained by substituting 0.025 for 0.015.~~