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TITLE XIII — COMMITTEE ON WAYS AND MEANS

SUBTITLE A —

PART 1 — PROVISIONS RELATING TO PATHWAYS TO HEALTH CAREERS

Section 134101. Pathways to Health Careers.

Career Pathways Through Health Profession Opportunity Grants. Amends Title XX of the *Social Security Act* to authorize new HPOG competitive grants in states, the District of Columbia, U.S. territories, and tribal communities, as described in the subsections below.

Subsection (a). Application requirements.

Eligible entities seeking HPOG funds are required to submit qualified applications to the HHS Secretary as a condition of receiving funding. Grant applications must include:

- Descriptions of how the applicant will implement or provide: a career pathway, adult basic skills, case management and career coaching, and staff recruitment and retention.
- Demonstration that the applicant has experience working with low-income populations or has a partner with such experience, a plan for post-employment services, and a plan for providing supportive services during the training program.
- Certification that project development included consultation with the local workforce board, consideration of apprenticeship and existing career pathway programs.
- Local labor market analysis of local health care workforce shortages, in-demand jobs, and certification that they will train to fill such jobs.
- Commitment to provide all requested data, hire a project director, and accept TA

Subsection (b). Additional Application Element.

As a condition of funding, qualified applicants must have at least one of the following application elements: Is a prior HPOG grantee; applicant has cross-sector partnerships; training model includes coaching and mentoring; applicant serves rural areas; training model includes a cash stipend, or reserve fund to help participants with emergencies that might force them to drop out of training.

Subsection (c). Grants.

Provides the HHS Secretary with authority to award HPOG funds to eligible entities that have submitted qualified applications to train low-income individuals for health care career pathways. Requires HHS to award at least 2 grants per state and the District of Columbia, and if there are not a sufficient number of qualified eligible applicants to fulfill this requirement, requires the Secretary to substitute a grant award to a qualified applicant in another state. The subsection also requires that the Secretary award at least 10 tribal grants, and at least 2 territory grants, per grant cycle. The grant period shall be not less than 5 years, which may include a planning period of no more than the first 12 months of the grant cycle.

Subsection (d). Use of Grant.

Requires grantees to use their awarded funds to provide: basic skills education if needed; access to child care if needed; case management that includes career coaching; and access to transportation if needed.

Funds may also be spent on: a stipend; emergency fund to help participants with emergencies that would otherwise affect their ability to successfully complete training; training materials such as certification exam fees, connection to the internet, uniforms, and personal protective equipment; in-kind donations such as interview clothing; basic education or high school equivalency, supports necessary to address barriers to work.

Grantees must provide at least the number of hours of training required to qualify for a postsecondary or industry-recognized credential in the state in which the project is conducted. And at least 10 percent of enrolled participants must meet the income threshold for the state Temporary Assistance for Needy Families program regardless of whether they participate in the program.

Grantees may not spend funds on ineligible individuals, and may not use funds for the purposes of entertainment, with the exception of career-based milestones such as hosting a graduation.

Subsection (e). Technical Assistance.

Requires HHS to use administrative funding provided to provide tailored Technical Assistance (TA) to applicants and to grantees to assist with all stages of project administration, including the needs of new demonstration projects, tribal and territory applicants and grantees. HHS must also provide TA for the purpose of peer information exchange among eligible entities regarding best practices.

Subsection (f). Evaluation of Dedicated Career Pathways.

Requires HHS to conduct evaluations of dedicated career pathway projects as described in subsections (h) and (i). For the dedicated career pathway described in (i), the evaluation must include identification of successful activities for developing and sustaining job training programs for people with records who seek a health care career. For the dedicated career pathway described in (h), the evaluation must include identification of successful activities for developing and sustaining a career pathway for people seeking a career in birth, pregnancy, and post-partum fields.

Subsection (g). Reports.

As a condition of funding, grantees must submit reports and a final report to the Secretary regarding the activities carried out under the grant.

Subsection (h). Maternal Mortality Career Pathway.

This subsection requires the Secretary to award grants to eligible entities to train low-income individuals for health care careers in the field of pregnancy, birth, or post-partum services in a state that recognizes doulas or midwives as health care providers and that permits payment for such services. Eligible entities are required to submit funding applications that include the following: a description of partnerships, staffing, program activities and other elements to support a career pathway in pregnancy, birth, or post-partum services; a demonstration that local laws permit doulas and midwives to practice; a demonstration that the applicant has experience working with low-income populations or a plan to work with a partner that has such experience. Applicants are required to provide the same supportive services as the other competitive HPOG awardees.

Subsection (i). Second Chance Career Pathway.

This subsection requires the Secretary to award grants to eligible entities to train low-income individuals with arrest or conviction records for health care careers. Eligible entities are required to submit funding applications that include the following: certification that local laws allow for credentials to be awarded in the professions for which the applicant will be training, description of local policies or appeals processes that offer opportunity to demonstrate rehabilitation to obtain health care credentials, a staffing plan to ensure project staff are experienced in working with people with records, a demonstration that the applicant has experience working with low-income populations or a plan to work with a partner that has such experience, proof of concept, and a plan for participant recruitment and job placement. Applicants are required to provide access to legal assistance and other support necessary to address arrest or conviction records as an employment barrier, and are also required to provide the same supportive services as the other competitive HPOG awardees.

Subsection (j). Definitions.

Provides definitions for the following terms: Allied health profession, Career pathway, doula, Eligible entity, Eligible individual, Federal poverty level, Indian Tribe or Tribal organization, Institution of higher education, Territory, Tribal college or university.

Subsection (k). Funding.

Directly appropriates the following amounts to this Section:

- $318,750,000 for competitive HPOG awards for each of fiscal years 2022 through 2026,
- $17,000,000 for Tribal HPOG awards for each of fiscal years 2022 through 2026,
- $21,250,000 for Territory HPOG awards for each of fiscal years 2022 through 2026,
- $25,500,000 for HPOG awards for the Maternal Mortality Career Pathway and the Second Chance Career Pathway for each of fiscal years 2023 through 2026,
- $25,500,000 for providing technical assistance and for administration of HPOG awards,
- $17,000,000 for evaluating HPOG awards including the dedicated career pathways.

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PART 2 — PROVISIONS RELATING TO ELDER JUSTICE

Section 134201. Reauthorization of Funding for Programs to Prevent and Investigate Elder Abuse, Neglect, and Exploitation.

Subsection (a). Post-acute and long-term care workforce development.
This subsection replaces the language in Section 2041 of Title XX of the SSA with new language to authorize and directly appropriate funds to promote recruitment and retention of post-acute and long-term care workers. The new provisions are as described below:

Section 2041. Nursing home worker training grants.

Subsection (a). Appropriation.

This section directly appropriates $392 million for states for each of FYs 2023 through 2026 and $8 million for Indian tribes and tribal organizations for FY 2023 through FY 2026 to invest in state worker recruitment and retention. It provides direct appropriations for grants to states to support workers providing aid, nursing, and social work services in post-acute and long-term care (LTC) settings.

Subsection (b). Grants.

The grants are provided to states and territories, based on their population of adults over 65 years of age or with disabilities, and to tribes and tribal organizations through a consultation process.

Subsection (c). Use of funds.

The funds must be used to:
- provide wage subsidies to employees in post-acute and LTC positions
- provide student loan repayment or tuition assistance to eligible individuals
- guarantee affordable and accessible child care for eligible individuals
- provide transportation assistance to eligible individuals

The funds may be used to:
- establish a reserve fund for emergency financial assistance
- provide in-kind resource donations, such as interview clothing and conference attendance fees
- provide assistance with activities designed to lower barriers to employment, including legal assistance
- support eligible employers in offering not less than two weeks of paid leave per year

Funds are provided only for the benefit of eligible individuals in eligible settings, which are both defined in subsection (e).

Funds must be used to supplement, not supplant, any existing state funding.

Subsection (d). Administration.

States shall reserve not more than 10 percent of their total funding for administering subgrants, providing technical support, publicizing subgrant availability, carrying out activities to increase the supply of eligible individuals, and providing technical assistance to subgrantees.

Subsection (e). Definitions.

This subsection defines the following terms:

- Eligible individual: An individual who holds or is studying for one of a variety of certifications or licenses relating to nursing care and who provides (or intends to provide upon completion of a license or certification) services in an eligible setting.
- Eligible setting: One of several types of nursing facilities, home health agencies, or other providers of care.
- Tribal organization: The meaning given in section 4 of the Indian Self-Determination and Education Assistance Act.

Subsection (b). Funding for adult protective services functions and grant programs.

This subsection revises Section 2042 of the SSA to authorize and directly appropriate funding for adult protective services. This subsection provides $8 million for Department of Health and Human Services administrative costs for each of FYs 2023 through 2025.

This subsection also funds two existing grant programs. The first awards grants to enhance state and local APS services. For each of FYs 2023 through 2025, this provision directly appropriates $392 million for purposes of grants to states and the District of Columbia and $8 million for grants to Indian tribes and tribal organizations (which are to be spent through a consultation with Indian tribes and tribal organizations). The second grant program awards funds to states to conduct APS demonstration programs. For each of FYs 2023 through 2025, this provision directly appropriates $75 million for APS demonstration grants.

Subsection (c). Funding for long-term care ombudsman program grants and training.

This subsection reauthorizes and revises Section 2043 and directly appropriates $22.5 million for FY 2023 and $30 million for each of fiscal years 2024 and 2025 for grants to states for long-term care (LTC) ombudsman programs. Grants may be used to increase the capacity of state LTC ombudsman programs to respond to and resolve abuse and neglect complaints as well as to conduct and support pilot programs with state or local LTC ombudsman offices.

The revised Section 2043 also requires the Secretary to establish programs that provide and improve ombudsman training for national organizations and state LTC ombudsman programs, with a focus on elder abuse, neglect, and exploitation. This provision directly appropriates an additional $30 million for each of FYs 2023 through 2025 for this purpose.

Subsection (d). Incentives for developing and sustaining structural competency in providing health and human services.

This subsection creates a new Section 2047 in Title XX of the SSA to provide funding to address structural gaps in providing older adults and people with disabilities the services and supports they need. The new Section 2047 includes the following:

Subsection (a). Grants to states to support linkages to legal services and medical-legal partnerships. This section directly appropriates $500 million to be outlayed by the end of FY 2028 to establish a grant program for states to support the adoption of evidence-based approaches to establish, improve, or maintain linkages between health and social services and supports for vulnerable older adults. States must use the funds to develop medical-legal partnerships (MLPs) – multidisciplinary teams that combine clinical staff with social workers and lawyers at a single site of care to ensure patients' social needs (e.g., housing, food, education, and access to care) are met. Grants will also fund the development and expansion of legal assistance hotlines to help facilitate the identification of older adults who could benefit from linkages to available services.

Subsection (b). Grants and training to support community-based organizations in addressing social isolation. This subsection directly appropriates $250 million to be outlayed by the end of FY 2028 to make grants to eligible Area Agencies on Aging (AAAs) or other community-based organizations to conduct outreach to individuals at risk for social isolation or loneliness, develop community-based interventions to mitigate loneliness and social isolation, connect at-risk individuals with social and clinical supports, and evaluate the effect of the programs developed and implemented in this section.

Additionally, the subsection provides funding to the Secretary to establish programs to provide and improve training for AAAs or other community-based organizations to address and prevent social isolation and loneliness.

The Secretary must evaluate the programs established under this section and submit a Report to Congress at least every three years after this section is enacted.

Subsection (c). Definitions.

This subsection defines several terms used in the subsection, including:

- Area agency on aging: an area agency on aging designated under section 305 of the Older Americans Act of 1965.
- Social isolation: objectively being alone, or having few relationships or infrequent social contact.
- Loneliness: subjectively feeling alone, or the discrepancy between one's desired level of social connection and one's actual level of social connection.
- Social connection: the variety of ways one can connect to others socially, through physical, behavioral, social-cognitive, and emotional channels.

- Community-based organization: a non-profit community-based organization, a consortium of nonprofit community-based organizations, a national nonprofit organization acting as an intermediary for a community-based organization, or a community-based organization that has a fiscal sponsor that allows the organization to function as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code.

Subsection (e). Technical amendment.

This section corrects an outdated reference to the meaning of the term "Indian tribe and tribal organization" under Section 4 of the Indian Self-Determination and Education Assistance Act with the definition provided at 25 U.S.C 5304.

Section 134202. Appropriation for Assessments.

This provision directly appropriates $5 million for each of FYs 2023 through 2026 to carry out assessments of the programs funded under the Elder Justice Act. This provision requires the Secretary to submit a Report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the programs, coordinating bodies, registries, and activities under the Elder Justice Act. Reports, issued at the mid-point of the funding and after all funding in this title has been disbursed, must assess the extent to which such programs have improved access to and quality of resources for aging Americans and their caregivers to ultimately prevent, detect, and treat abuse, neglect, and exploitation.

PART 3 — SKILLED NURSING SERVICES

Section 134301. Funding to Improve the Accuracy and Reliability of Certain Skilled Nursing Facility Data.

Section 134301 amends section 1888 of the SSA in paragraph (h)(12) by directly appropriating $50 million to the Secretary of HHS beginning in fiscal year (FY) 2026, available until FY 2031, for the purposes of conducting data validation of nursing home quality data submitted through the Minimum Data Set (MDS), skilled nursing facility (SNF) Value-Based Purchasing Program, or Payroll Based Journal (PBJ) staffing dataset. Based on this data validation, the policy also amends subparagraph 1888(e)(6)(A) of the Social Security Act to reduce SNF payments by two percentage points beginning in FY 2026 for SNFs that submit inaccurate data through any of these three data systems.

Section 134302. Ensuring Accurate Information on Cost Reports.

Section 134302 amends subsection 1888(f) of the SSA to appropriate $250 million to the Secretary of HHS for the purposes of auditing the Medicare cost reports SNFs are required to submit, beginning in Fiscal Year (FY) 2023 and ending in 2031.

Section 134303. Survey Improvements.

Section 134303 amends section 1819 of the SSA by inserting a new subsection (l) that appropriates $325 million for FYs 23 through 2031 to the Secretary of HHS for the purposes of improving existing surveys and enforcement processes to improve compliance with the SNF conditions of participation. It requires the Secretary to consider several factors as part of the review, including the ability of state survey agencies to identify infection control and emergency preparedness deficiencies as well as sufficiently hire, train, and retain individuals to conduct surveys.

Section 134304. Nurse Staffing Requirements.

Section 134304 amends section 1819 of the SSA in subsection (d) to insert a new paragraph (5), entitled "Nurse Staffing Requirements." The new Section 1819(d)(5) appropriates $50 million to the Secretary of HHS for FYs 2023 through 2031, for the purposes of (not later than three years after the date of enactment and no less than once every five years thereafter) conducting studies on the appropriateness of establishing minimum staff-to-resident ratios in SNFs. Such reports must include recommendations on minimum staffing levels for Registered Nurses (RNs), Licensed Practical Nurses (LPNs) or Licensed Vocational Nurses (LVNs), and Certified Nursing Assistants (CNAs), which the Secretary shall promulgate through regulations. Through those regulations, the Secretary must apply the recommended staffing minimums to the Medicare conditions of participation, subject to limited waivers, within one year of each report (updated periodically to reflect any changes in recommendations from the latest report).

SUBTITLE B — INFRASTRUCTURE FINANCING AND COMMUNITY DEVELOPMENT

Section 135002. Possessions economic activity credit.

This provision creates a new economic activity credit related to active businesses conducted in U.S. territories or possessions. The new credit is a general business credit equal to 20 percent of the sum of the qualified possession wages and allocable employee fringe benefit expenses paid or incurred by a qualified domestic corporation for the taxable year up to $50,000 with respect to each full-time employee. In the case of a Qualified Small Domestic Corporation (QSDC), the credit increases to 50 percent of the sum of the qualified wages and fringe benefit expenses paid up to $142,800 for each full-time employee. To be a QSDC, a qualified domestic corporation must have at least 5 full-time employees in a possession and no more than a total of 30 employees, and no more than $50 million in annual gross receipts. For purposes of the credit, "possessions" include the territories of American Samoa, Guam, Commonwealth of Northern Marianas, Commonwealth of Puerto Rico, and the U.S. Virgin Islands.

Section 135003. Tax treatment of assistance to certain farm loan borrowers.

This provision addresses the tax treatment of certain payments to farm loan borrowers that is described in section 1005(b) of American Rescue Plan Act of 2021 as amended by prior section. Such payment will not be included in the gross income to the payee, and any otherwise-allowable deductions continue to be deductible notwithstanding the tax-free treatment of the payment.

SUBTITLE D — GREEN ENERGY

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Overview**.**

This subtitle structures various new and existing renewable energy and energy efficiency incentives within the tax code as two-tiered incentives, providing either a "base rate" or a "bonus rate." The bonus rate is equal to five times the "base rate" and is applied to projects which meet certain prevailing wage and apprenticeship requirements.

Prevailing wage requirements referred to throughout this subtitle require that, in order to claim the "bonus rate" with respect to a project, the taxpayer must ensure that any laborers and mechanics employed by contractors and subcontractors are paid prevailing wages during the construction of such project and, in some cases, for the alteration and repair of such project for a defined period after the project is placed into service.

In the event the taxpayer fails to satisfy these requirements, the taxpayer may cure the discrepancy by compensating each worker the difference between wages paid and the prevailing wage, plus interest, in addition to paying a $5,000 penalty to the Treasury for each worker paid below the prevailing wage during the taxable year. If the Secretary determines that such discrepancy is the product of intentional disregard, the taxpayer must compensate each worker three times the difference in wages and the penalty to the Treasury is increased to $10,000 per employee.

If the Secretary determines that a discrepancy occurred, the taxpayer must make payments to the employees and the Treasury within 180 days of the determination in order to remain in compliance with these requirements.

Apprenticeship requirements referred to throughout this subtitle require that, in order to claim the "bonus rate" with respect to a project, the taxpayer must ensure that no fewer than the applicable percentage of total labor hours of the project are performed by qualified apprentices. The applicable percentage for purposes of this requirement is 10% for projects for which construction begins in 2022. This rate is increased to 12.5% in 2023, and 15% thereafter.

This provision requires that each contractor and subcontractor who employs 4 or more individuals to perform construction on an applicable project shall employ at least one qualified apprentice to perform such work.

In the event a taxpayer fails to satisfy these requirements, the taxpayer may cure the discrepancy by paying a penalty to the Treasury equal to $50 multiplied by the total labor hours for which the requirements are not satisfied. This penalty is increased to $500 per hour in the event the Secretary determines that such discrepancy was the product of intentional disregard.

This provision provides for an exception by which taxpayers may be deemed as having made a good faith effort to hire qualified apprentices with respect to the construction of such project and thus be eligible for the bonus rate.

These requirements shall apply to projects which begin construction 60 days after the Secretary has published guidance with respect to these requirements.

Domestic content requirements referred to throughout this subtitle require that, with respect to the project for which a tax credit is claimed, the taxpayer must ensure that any steel, iron, or manufactured product is which part of the project at the time of completion was produced in the United States.

For purposes of these requirements, steel and iron that are not part of a manufactured product (other than manufacturing products that are primarily steel or iron) must be 100% produced in the United States.

Manufactured products shall be deemed to have been manufactured in the United States if not less than the adjusted percentage of the total cost of the components and subcomponents across the project is attributable to components which are mined, produced, or manufactured in the United States.

For purposes of this requirement, the adjusted percentage is 40% for projects that begin construction before 2025, 45% for projects that begin construction in 2025, 50% for projects that begin construction in 2026, and 55% percent for projects that begin construction thereafter.

For offshore wind facilities, the adjusted percentage is 20% for projects that begins construction before 2025, 27.5% for projects that begin construction in 2025, 35% for projects that begin construction in 2026, and 45% percent for projects that begin construction thereafter.

PART 1 - RENEWABLE ELECTRICITY AND REDUCING CARBON EMISSIONS

Section 136101. Extension and modification of credit for electricity produced from certain renewable resources.

The provision extends the production tax credit (PTC), which allows energy producers to claim a credit based on electricity produced from renewable energy resources. The provision provides a base credit rate of 0.5 cents/kilowatt hour, or a bonus credit rate of 2.5 cents/kilowatt hour. In order to claim the credit at the bonus credit rate, taxpayers must satisfy 1.) prevailing wage requirements for the duration of the construction of the project and for each year during the ten year credit period and 2.) apprenticeship requirements during the construction of the project.

Most facilities: The PTC for the following facilities is extended through the end of 2026:

- landfill gas (municipal solid waste),
- trash (municipal solid waste),
- qualified hydropower,

- marine and hydrokinetic renewable energy facilities, and
- geothermal.

Wind: The PTC for wind energy is increased to the full appliable credit rate through the end of 2026.

Solar: The PTC for solar energy is revived and extended through 2026.

Taxpayers may claim an increased credit for facilities placed into service after December 31, 2021 if such facilities meet domestic content requirements described in this subtitle. This provision provides a credit increase of 10% of the amount otherwise allowable with respect to such facility.

In the case of a facility financed using tax exempt bonds which begins construction after date of enactment, the amount of credit allowed under this section with respect to such facility shall be reduced by the lesser of 15% or the fraction of proceeds of a tax-exempt obligation used to finance such project over the aggregate amount of additions to the capital account of such project.

No credit shall be allowed under this section for a facility which begins construction after 2027.

These amendments made by this provision shall apply to facilities placed into service after December 31, 2021.

Section 136102. Extension and Modification of Energy Credit

The provision extends the investment tax credit (ITC), which allows taxpayers to claim a tax credit for the cost of energy property. In most cases, the provision extends the credit for property for which constructions begins by the end of 2026.
The provision provides a base credit rate of 6% of the basis of energy property or a bonus credit rate of 30% of the basis of energy property. These credit rates apply with respect to facilities placed into service after December 31, 2021.

In order to claim the ITC at the bonus credit rate, taxpayers must satisfy 1.) prevailing wage requirements for the duration of the construction of the project and for five years after the project is placed into service, and 2.) apprenticeship requirements during the construction of the project.

Solar: In addition to allowing taxpayers to claim the PTC for solar energy facilities, the ITC for solar energy property is extended, providing a base credit rate of 6% or a bonus credit rate of 30% through the end of 2026.

Geothermal: The ITC for geothermal energy property and geothermal heat pumps are modified to match the credit timeline for solar energy property. Therefore, the ITC for such property is extended, providing a base credit rate of 6% or a bonus credit rate of 30% through the end of 2026.

Other currently eligible property: The ITC for fiber-optic solar equipment, fuel cell property, microturbine property, combined heat and power property, small wind energy property, biogas property, waste energy recovery property, and offshore wind property is extended, providing a base credit rate of 6% or a bonus credit rate of 30% through the end of 2026. The ITC for other property is provided a base credit rate of 2% or a bonus credit rate of 10% through the end of 2026.

Newly eligible property: The ITC is expanded to include energy storage technology, biogas property, microgrid controllers, dynamic glass, and linear generators. These technologies are eligible for a 6% base credit rate or a 30% bonus credit rate through the end of 2026. These technologies are briefly described as follows:

- Energy storage technology uses batteries and other storage technology to store energy for conversion to electricity and has a minimum capacity of 5 kWh, or stores energy to heat or cool a structure.
- Linear generators convert fuel into electricity through electromechanical means using a linear generator assembly without the use of rotating parts. The credit for linear generators is limited to systems with a nameplate capacity of at least 1 kW.
- Microgrid Controllers control the energy resources of a microgrid capable of operating as a single controllable entity independent from the electrical grid.
- Dynamic Glass or electrochromic glass which uses electricity to change its light transmittance properties to heat or cool a structure.
- Biogas property which converts biomass into a gas which consists of not less than 52% methane by volume, or is concentrated by such system into a gas which consists of not less than 52 % methane by volume, and captures such gas for sale or productive use and not for flaring.

Taxpayers may claim an increased credit with respect to energy property placed into service after December 31, 2021 if such property meets the domestic content requirements described in this subtitle. The increase is 2 percentage points (or 10 percentage points, if the taxpayer meets the prevailing wage and apprenticeship requirements.)

For any energy property that is placed in service within an energy community, the credit percentage is increased by 2 percentage points (or 10 percentage points, if taxpayer meets the prevailing wage and apprenticeship requirements). Energy community means a census tract or any adjacent census tract that 1) for the calendar in which construction of the energy property began, not less than 5 percent of the employment in such tract is within the oil and gas sector, 2) after December 31, 1999, a coal mine has closed, or 3) after December 31, 2009, a coal-fired electric generating unit has been retired.

In the case of energy property financed using tax exempt bonds which begins construction after date of enactment, the basis of such energy property shall be reduced by the proceeds of a tax-exempt obligation in a manner similar to the rule under section 45(b)(3).

For purposes of this credit, energy property shall include expenditures paid or incurred for interconnection property in connection with the installation of energy property (excluding microgrid controllers) which has a maximum net output of not greater than 5 megawatts.

These amendments made by this provision shall apply to facilities placed into service after December 31, 2021. The amendments pertaining to newly eligible property apply to property placed in service after December 31, 2021, but only to the extent the basis of such property is attributable to the construction, reconstruction, or erection after December 31, 2021.

Section 136103. Increase in energy credit for solar and wind facilities placed in service in connection with low-income communities.

This provision provides for an enhanced incentive for solar and wind facilities qualifying for the section 48 ITC with respect to which the Secretary makes an allocation of environmental justice solar and wind capacity limitation. Property eligible for the credit includes energy storage technology related to such solar or wind property.
In determining which solar facilities to allocate environmental justice solar and wind capacity limitation, the Secretary shall consider:

- the greatest health and economic benefits (including ability to withstand extreme weather events) for individuals in low-income communities,
- the greatest employment and wages for such individuals, and
- the greatest engagement with outreach to, or ownership by, such individuals, including through partnerships with local governments and community based organizations.

The annual capacity limitation is 1.8 gigawatts for each calendar year 2022 through 2026 and zero for calendar years thereafter. The annual capacity limitation shall be increased by the amount of any unused allocations from the preceding calendar year. Any excess capacity limitation after 2026 shall be carried over to the annual capacity limitation under section 48F.

Such projects receiving an allocation of environmental justice solar capacity limitation receive an additional 10% credit if located in a low-income community (as defined within the New Markets Tax Credit program under section 45D) or on Indian land or an additional 20% credit if such project is a qualifying low-income residential building project or a low-income economic benefit project.

A solar facility may qualify as low-income residential building project if such facility is installed on a residential building which participates in a covered housing program (as defined in Section 41411(a) of the Violence Against Women's Act of 1994), a Housing Development Fund Corporation cooperative under article XI of the New York State Private Housing Finance Law, multifamily housing program under the U.S. Department of Agriculture's Rural Housing Service, a housing program administered by a tribally designated housing entity (as described in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996), or such other affordable housing programs as the Secretary may provide, and the financial benefits of the electricity produced by such facility are allocated equitably to the occupant of the dwelling units of such building.

A solar facility may qualify as part of a low-income economic benefit project if at least 50% of the financial benefits of the electricity produced by such facility are provided to households with income of less than 200% of the poverty line or at or below 80% of area median income (such as through a community solar agreement).

This section shall take effect on January 1, 2022.

Section. 136104. Elective Payment for energy property and electricity produced from certain renewable resources.

The provision allows taxpayers to elect to be treated as having made a payment of tax equal to the value of the credit they would otherwise be eligible for und

- section 48 ITC,
- section 45 PTC,
- section 45Q credit for carbon capture and sequestration,
- section 30C alternative fuel vehicle refueling property credit,
- section 48C advanced energy project credit
- section 48D investment credit for transmission property,
- section 45W zero-emission nuclear power production credit,
- section 45X clean hydrogen production credit,
- Section 48E advanced manufacturing investment credit
- Section 45AA advanced manufacturing production credit
- section 45BB clean electricity production credit,
- section 48F clean electricity investment credit,
- Section 45CC clean fuel production credit.

Rather than opting to carry forward credits to years when their credits can offset their tax liability, taxpayers can elect to treat the amount of credit as a payment of tax.

This allows entities with little or no tax liability to accelerate utilization of these credits, including tax-exempt and tribal entities.

Taxpayers electing this treatment with respect to facilities placed into service under Sections 45, 45Q, 45X, and 45BB must make a one-time, irrevocable election to have this section apply during the taxable year the facility is placed into service.

This provision provides that, in the case of a real estate investment trust (REIT), section 46(e)(1)(B) and (2)(B) referred to in section 50(d)(1) shall not apply to any qualified investment credit property of a REIT. Under former section 46(e)(1)(B) and (2)(B), in general, in the case of a REIT, qualified investment is limited to the REIT's ratable share of such qualified investment. The ratable share is a ratio, the numerator of which is its taxable income and the denominator of which is its taxable income computed without regard to the deduction for dividends paid (provided by section 852(b)(2)(D) or section 857(b)(2)(B)).

In the case of a facility placed in service after December 31, 2021, for which a credit is allowed under the section 48 ITC, section 45 PTC, or section 48D, the amount of payment allowed under this provision shall be equal to the amount of credit the taxpayer would otherwise be eligible with respect to such facility multiplied by the applicable percentage. The applicable percentage for facilities which satisfy domestic content requirements and facilities with a maximum net output of less than 1 megawatt shall be 100%.

The Secretary shall provide appropriate exceptions to domestic content requirements if such requirements would increase the overall cost of construction of the project by more than 25 percent or if the relevant domestic products are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality.

This provision does not apply to mirror-code jurisdictions.

This provision applies to taxable years beginning after December 31, 2021. Projects can make elections under this section starting 270 days after date of enactment.
This provision amends section 7701(e)(3) to apply special rules for contracts or arrangements to the operation of a storage facility for purposes of determining whether a contract that is purported to be a service contract should be treated as a service contract.

Section 136105. Investment credit for electric transmission property.

This provision provides for a tax credit for the basis of qualifying electric transmission property placed in service by the taxpayer.

The provision provides for a base credit rate of 6% of the basis of qualified electric transmission property or a bonus credit rate of 30% of the basis of qualified electric transmission property.
In order to claim the ITC at the bonus credit rate, taxpayers must satisfy 1.) prevailing wage requirements for the duration of the construction of the project and for five years after the project is placed into service, and 2.) apprenticeship requirements during the construction of the project.

Qualifying electric transmission property is defined as tangible, depreciable property which is:
- An electric transmission line which is capable of transmitting electricity at a voltage of not less than 275 kilowatts and has a transmission capacity of not less than 500 megawatts; or
- Related transmission property.

Related transmission property, with respect to any electric transmission line, is any property which is listed as a 'transmission plant' in the Uniform System of Accounts for the Federal Energy Regulatory Commission (FERC), and which is necessary for the operation of such electric transmission line or conversion equipment along such electric transmission line. No credit is allowable with respect to related transmission property unless the taxpayer is also allowed a credit for the qualifying electric transmission property to which it relates.

Upgrades of an existing electric transmission line are treated as a replacement line. In the case of a qualifying electric transmission line which replaces an existing line, the 500 megawatt capacity

requirement shall be increased by the transmission capacity of such existing electric transmission line, and the basis attributable to such existing transmission line is not eligible for the credit.
No credit shall be allowed with respect to any property that is selected in a regional transmission plan by a regional transmission organization or an independent system operator prior to January 1, 2022 or any property if construction begins before January 1, 2022 or construction of any portion of the qualifying electric transmission line to which such property relates begins before such date. Construction of property begins when the taxpayer has begun on-site physical work of a significant nature.

In the case of a facility financed using tax exempt bonds which begins construction after December 31, 2021, rules similar to the rules of section 45(b)(3) shall apply.
This credit is effective for property placed in service after December 31, 2021, and before January 1, 2032.

Section 136106. Extension of credit for carbon oxide sequestration.

The provision extends the credit for carbon oxide sequestration facilities that begin construction before the end of 2031
To qualify for the credit, direct air capture facilities must capture no less than 1,000 metric tons of carbon oxide per year. Electricity generating facilities must capture no less than 18,750 metric tons of carbon oxide and 75% of total carbon emissions. Other facilities must capture no less than 12,500 metric tons of carbon oxide.

In the case of a qualified facility the construction of which begins before the date of enactment, for which additional carbon capture equipment is installed at such facility and the construction of the equipment begins after the date of enactment, the credit is available for the incremental amount of qualified carbon oxide.

The provision provides a base credit rate of $17 or a bonus credit rate of $85 per metric ton of carbon oxide captured for geological storage and a base credit rate of $12 or a bonus credit rate of $60 per metric ton of carbon oxide captured and utilized for an allowable use by the taxpayer.

The provision provides an enhanced credit for direct air capture facilities at a base rate of $36 or a bonus rate of $180 per metric ton of carbon oxide captured for geological storage and base rate of $26 or a bonus rate of $130 per metric ton of carbon captured and utilized for an allowable use by the taxpayer.

In order to claim this credit at the bonus credit rate, taxpayers must satisfy 1.) in the case of any qualified facility the construction of which begins on or after the date of enactment, as well as any carbon capture equipment placed in service at such facility, prevailing wage and apprenticeship requirements for the duration of the construction of such facility and carbon capture equipment, and prevailing wage requirements for each year during the twelve-year credit period for the alteration or repair of such facility or such equipment, and 2.) in the case of any carbon capture equipment the construction of which begins after the date of enactment and which is installed at a qualified facility the construction of which began prior to the date of enactment, prevailing wage and apprenticeship requirements for the construction of the equipment and prevailing wage requirements for each year during the twelve-year credit period, for the alteration or repair of such facility or such equipment.

In the case of carbon capture equipment financed using tax exempt bonds which begins construction after date of enactment, the amount of credit allowed under this section with respect to such equipment shall be reduced by the lesser of 15% or the fraction of proceeds of a tax-exempt obligation used to finance such project over the aggregate amount of additions to the capital account of such project.

These amendments shall apply for facilities or equipment the construction of which begins after December 31, 2021.

In the case of any carbon capture equipment placed in service before the date of enactment of the Bipartisan Budget Act of 2018, no credit shall apply with respect to carbon oxide captured after the earlier of December 31, 2022 or the end of the calendar year in which the Secretary certifies that a total of 75,000,000 metric tons of qualified carbon oxide have been taken into account.

In the case of facilities placed into service on or after the enactment of the Bipartisan Budget Act of 2018, the taxpayer may elect to have the 12-year credit period begin on the first day in which a credit under this section after date of enactment of the Bipartisan Budget Act of 2018. A taxpayer may only make such an election provided that 1. no taxpayer claimed a credit under this section with respect to such carbon capture equipment for any prior taxable year, 2. the qualified facility at which such carbon capture equipment is placed in service is located in an area affected by a federally declared disaster, and 3. the federally declared disaster referred resulted in a cessation of the operations of the qualified facility after the carbon capture equipment was originally placed in service.

Section 136107. Green energy publicly traded partnerships.

The provision expands the definition of qualified income for publicly traded partnerships from certain income derived from minerals and natural resources to include income derived from green and renewable energy. These additions include income from certain activities related to energy production eligible for the PTC, property eligible for the ITC, renewable fuels, and energy and fuel from carbon sequestration projects eligible for credits under Section or 45Q.

Section 136108. Zero-emission nuclear power production credit.

The provision provides a credit for the production of electricity from a qualified nuclear power facility. The provision provides a base credit rate of 0.3 cents/kilowatt hour and a bonus credit rate of 1.5 cents/kilowatt hour for electricity produced by the taxpayer and sold to an unrelated person during the taxable year. The credit is reduced as the sale price of such electricity increases. Under the credit reduction formula, the credit with respect to any qualified nuclear power facility for any taxable year is reduced (but not below zero) by 80 percent of the excess of the gross receipts (excluding certain State and local zero-emissions grants) from any electricity produced and sold by such facility over the product of 0.5 cents times the amount of electricity sold during the taxable year.

In order to claim the PTC at the bonus credit rate, taxpayers must satisfy prevailing wage and apprenticeship requirements for the taxable year.

Qualified nuclear power facility is any nuclear facility that is owned by the taxpayer, that uses nuclear energy to produce electricity, that is not defined as advanced nuclear power facility under section 45J(d)(1), and is placed in service before date of enactment.

This provision terminates on December 31, 2029.

This provision shall apply to electricity produced and sold after December 31, 2021, in taxable years beginning after such date.

PART 2 – RENEWABLE FUELS

Section. 136201. Extension of incentives for biodiesel, renewable diesel, and alternative fuels.

The provision extends the income and excise tax credits for biodiesel and biodiesel mixtures at $1.00 per gallon through 2026.
The provision extends the $0.10-per-gallon small agri-biodiesel producer credit through the end of 2031.

The provision extends the $0.50 per gallon excise tax credits for alternative fuels and alternative fuel mixtures through 2026.

Section 136202. Extension of second generation biofuel incentives.

The provision extends the second generation biofuel income tax credit through 2026.

Section 136203. Sustainable aviation fuel credit.

Beginning in 2023, this provision provides a refundable blenders tax credit for each gallon of sustainable aviation fuel sold as part of a qualified fuel mixture. The value of the credit is determined on a sliding scale, equal to $1.25 plus an additional $.01 for each percentage point by which the lifecycle emissions reduction of such fuel exceeds 50%. Taxpayers may elect to claim this credit as an excise tax credit against section 4041 excise tax liability.

To claim the credit taxpayers must certify to the Secretary that such fuel reduces lifecycle greenhouse gas emissions by at least 50%, determined in accordance with the requirements of the most recent Carbon Offsetting and Reduction Scheme for International Aviation adopted by the International Civil Aviation Organization with the support of the United States, or under any similar metholodology which satisfies the criteria under section 211(o)(11) of the Clean Air Act. This provision terminates the $1.00 section 40A tax credit for aviation fuel produced from biodiesel beginning after December 31, 2022.

This provision shall apply for fuel sold or used after December 31, 2022. The credits allowed under this provision expire after December 31, 2026.

Section 136204. Clean Hydrogen.

This provision creates a new tax credit for the production of clean hydrogen produced by a taxpayer at a qualified clean hydrogen facility beginning in 2022 during the ten-year period beginning on the date such facility is placed in service.

The amount of the credit is equal to the applicable percentage of the base rate of $0.60 or the bonus rate of $3.00, indexed to inflation, multiplied by the volume (in kilograms) of clean hydrogen produced by the taxpayer at a qualified facility during such taxable year.
In order to claim the hydrogen production credit at the bonus credit rate, taxpayers must satisfy 1.) prevailing wage requirements for the duration of the construction of the project and for each year during the ten-year credit period, and 2.) apprenticeship requirements during the construction of the project.

The applicable percentage is determined by the lifecycle greenhouse gas emission rate achieved in producing clean hydrogen.

- For hydrogen produced through a process in a facility placed into service before 2027 that results in achieving a lifecycle greenhouse gas emissions rate of not greater than 6 kg of CO2e per kg of hydrogen and not less than 4 kg of CO2e per kg of hydrogen, the applicable percentage is 8.4%.
- For hydrogen produced through a process that result in achieving a lifecycle greenhouse gas emissions rate of less than 4 kg of CO2 per kg of hydrogen and not less than 2.25 kg of CO2 per kg of hydrogen, the applicable percentage is 20%.
- For hydrogen achieving a lifecycle greenhouse gas emissions rate of less than 2.5 kg of CO2e per kg of hydrogen and not less than 1.5 kg of CO2e per kg of hydrogen, the applicable percentage is 33.4%.
- For hydrogen achieving a lifecycle greenhouse gas emissions rate of less than 1.5 kg of CO2e per kg of hydrogen and not less than 0.45 kg of CO2e per kg of hydrogen, the applicable percentage is 50%.
- For hydrogen achieving a lifecycle greenhouse gas emissions rate of less than 0.45 kg of CO2e per kg of hydrogen, the applicable percentage is 100%.

Taxpayers may claim the section 45 PTC for electricity produced from renewable resources by the taxpayer if such electricity is used at a qualified clean hydrogen facility to produce qualified clean hydrogen. A taxpayer may elect to treat a qualified clean hydrogen facility as energy property for purposes of the section 48 ITC in lieu of the credit for the production of clean hydrogen. For taxpayers making such election, the credit allowed under section 48 shall equal the applicable percentage multiplied by the energy percentage. No credit shall be allowed for clean hydrogen produced at a facility which includes property for which a credit is allowed under section 45Q.

With respect to facilities for which the taxpayer elects to claim the section 48 ITC in lieu of the hydrogen production credit, the provision provides a base credit rate of 6%, or a bonus credit rate of 30%, of the basis of qualified energy property.

In the case of a facility financed using tax exempt bonds which begins construction after date of enactment, the amount of credit allowed under this section with respect to such facility shall be reduced by the lesser of 15% or the fraction of proceeds of a tax-exempt obligation used to finance such project over the aggregate amount of additions to the capital account of such project.

Not later than one year after the date of enactment of this section, the Secretary shall issue regulations or other guidance to carry out this section, including for determining lifecycle greenhouse gas emissions and the process for requiring verification by unrelated third parties of production and sale of clean hydrogen.

No credit shall be allowed for facilities which begin construction in 2029 and thereafter.

PART 3 – GREEN ENERGY AND ENERGY EFFICIENCY INCENTIVES FOR INDIVIDUALS

Section 136301. Extension, increase, and modifications of nonbusiness energy property credit.

The provision extends the nonbusiness energy property credit to property placed in service before the end of 2031. Beginning in 2022, the provision modifies and expands the credit, including by:

- increasing the percentage of the credit for installing qualified energy efficiency improvements from 10% of the cost to 30%,
- replaces the lifetime cap on credits with a $1,200 annual credit limitation, which excludes expenditures for geothermal and air source heat pumps and biomass stoves.
- updating various standards and associated limits to reflect advances in energy efficiency and removing eligibility of roofs, advanced main air circulating fans, and certain windows, and
- requiring that manufacturers and taxpayers comply with reporting the identification number of certain property placed into service in order to access the credit,
- expanding the credit to cover the costs of home energy audits, allowing a credit of 30% of such costs up to a maximum credit of $150.

Section 136302. Residential energy efficient property.

The provision extends the credit for the cost of qualified residential energy efficient property expenditures, including solar electric, solar water heating, fuel cell, and small wind energy, and geothermal heat pumps. The provision extends the full 30% credit for eligible expenditures through the end of 2031. The credit then phases down to 26% in 2032 and 22% in 2033. The credit expires after the end of 2033. The provision also expands the definition of eligible property to include battery storage technology.

This credit is made refundable starting in 2023.

In order to claim the credit, the provision requires that installers and taxpayers comply with reporting the installation identification number with respect to qualified expenditures incurred by taxpayers for energy efficient property.

The Secretary shall make payments to mirror code territories for the amount of revenue lost with respect to this provision. The Secretary shall make payments to non-mirror code territories for the amount of revenue lost with respect to operating a similar credit for residential energy efficient property.

Section 136303. Energy efficient commercial buildings deduction.

Starting in 2022, the provision updates and expands the energy efficient commercial buildings deduction by increasing the maximum deduction, determined on a sliding scale. It also changes this maximum from a lifetime cap to a three- year cap. The provision updates the eligibility requirements so that property must reduce associated energy costs by 25% or more in comparison to a building that meets the ASHRAE standard affirmed by the Secretary as of four years prior to the date such building is placed into service.

The maximum value of the base deduction is $.50 per square foot, increased by $0.02 per square foot for every percentage point by which the designed energy cost savings exceed 25% against the reference standard, not to exceed $1.00 per square foot. The value of the bonus deduction is $2.50 per square foot, increased by $.10 per square foot for every percentage point by which designed energy cost savings exceed 25% against the reference standard, not to exceed $5.00 per square foot.

This provision allows taxpayers to elect to take an alternative, parallel deduction for energy efficient lighting, HVAC, and building envelope costs placed into service in connection with a qualified retrofit plan. The value of the base deduction is determined by the reduction in a building's energy usage intensity (EUI) upon completion of the retrofit, equal $.50 per square foot, increased by $0.02 per square foot for every percentage point by which the reduction in EUI exceed 25%, not to exceed $1.00 per square foot. The value of the bonus deduction is $2.50 per square foot, increased by $.10 per square foot for every percentage point by the reduction in EUI exceed 25% against the reference standard, not to exceed $5.00 per square foot.
In order to claim the bonus deduction amount, taxpayers must satisfy prevailing wage and apprenticeship requirements for the duration of the construction of the project.

In order to qualify for the alternative deduction, a building retrofit project must reduce a building's EUI by no less than 25%.

This provision allows tax-exempt entities to allocate the deduction to the designer of the building or qualified retrofit plan.

The amendments made by this provision expire after December 31, 2031.

Section 136304. Extension, increase, and modifications of new energy efficient home credit.

The provision extends the Section 45L new energy efficient home credit through 2031.

Single family and Manufactured Homes. In the case of new homes acquired after 2022 which are eligible to participate in the ENERGY STAR Residential New Construction Program or Manufactured Homes Program, the provision provides a $2,500 credit for energy efficient single family and manufactured new homes meeting certain energy star requirements.

- Single-family homes must meet the most recent Energy Star Single-Family New Homes Program requirements applicable to such dwelling location as in effect on 1.) the latter of January 1, 2022 or January 1 of two calendar years prior to the date the home is acquired and 2.) National Program Requirement Version 3.1 for homes acquired before 2025 and Version 3.2 thereafter.
- Manufactured homes must meet the most recent Energy Star Manufactured Home National Program requirements as in effect on the latter of January 1, 2022 or January 1 of two calendar years prior to the date the dwelling is acquired

This provision provides a higher tier credit of $5,000 credit for eligible single family and manufactured new homes certified as a zero energy ready under the Department of Energy Zero Energy Ready Home Program.

Multifamily Homes. In the case of new homes acquired after 2022 which are eligible to participate in the ENERGY STAR Multifamily New Construction Program, provision provides a base credit of $500 and a bonus credit of $2,500 for multifamily units which meet

- the most recent Energy Star Manufactured Home National Program requirements as in effect on the latter of January 1, 2022 or January 1 of two calendar years prior to the date the dwelling is acquired and
- the most recent Energy Star Manufactured Home Regional Program requirements applicable to such unit as in effect on the latter of January 1, 2022 or January 1 of two calendar years prior to the date the dwelling is acquired.

This provision provides a higher tier base credit of $1,000 or a bonus credit of $5,000 for eligible multifamily unites certified as a zero energy ready under the Department of Energy Zero Energy Ready Home Program.
In order to claim the bonus credit amount with respect to a multifamily unit, taxpayers must satisfy prevailing wage requirements for the duration of the construction of such units.

Section 136305. Modifications to income exclusion for conservation subsidies.

The provision excludes from gross income water conservation, storm water management, and wastewater management subsidies provided by public utilities, state or local governments, or storm water management providers.

Section 135306. Credit for qualified wildfire mitigation expenditures.

This provision creates a tax credit equal to 30% of qualified expenditures for individuals and businesses who participate in a qualified state-based wildfire resiliency program. The provision applies to expenditures paid or incurred after the date of enactment.

PART 4 – GREENING THE FLEET AND ALTERNATIVE VEHICLES

Section 136401. Refundable new qualified plug-in electric drive motor vehicle credit for individuals.

This provision provides for a refundable income tax credit for new qualified plug-in electric drive motor vehicles placed into service by the taxpayer during the taxable year.
The amount of credit allowed by this provision with respect to a qualified vehicle is equal to the base amount of $4,000 plus an additional $3,500 for vehicles placed into service before January 1, 2027 with battery capacity no less than 40 kilowatt hours and a gasoline tank capacity not greater than 2.5 gallons, and for vehicles with battery capacity of no less than 50 kilowatt hours thereafter.

The amount credit allowed for a qualified vehicle is increased by $4,500 if the final assembly of the vehicle is at a facility in the United States which operates under a union-negotiated collective bargaining agreement.

The amount of credit allowed for a qualified vehicle is increased by $500 if the vehicle model are powered by battery cells which are manufactured within the United States.

The amount of credit allowed for a qualified vehicle is limited to 50 percent of its purchase price.

Beginning in 2027, this credit shall only apply with respect to vehicles for which final assembly is within the United States.
For purposes of this credit, a new qualified plug in electric drive motor vehicle means a vehicle

- the original use of which commences with the taxpayer,
- is acquired for use or leased by the taxpayer and not for resale, which is made by a qualified manufacturer,
- which is treated as a motor vehicle for purposes of title II of the Clean Air Act,
- which has a gross vehicle rating of less than 14,000 pounds,
- which is propelled to a significant extent by an electric motor which draws electricity from a battery which has a capacity of not less than ten kilowatt hours and is capable of being recharged from an external source of electricity,
- does not have a gasoline tax capacity of greater than 2.5 gallons, and
- is not depreciable property.

A qualified manufacturer means any manufacturer which enters into written agreement with the Secretary to ensure each vehicle manufactured meets the requirements of this provision and is labeled with a unique vehicle identification number, and that such manufacture will periodically provide such vehicle identification numbers to the secretary in such a manner as the Secretary may prescribe.

No credit shall be allowed for vehicle by which the manufacturer's suggested retail price exceeds the applicable limitation, which is as follows:

- Vans : $64,000
- SUVs: $69,000
- Pick Up Trucks: $74,000
- For any other vehicle: $55,000

The credit is phased out by $200 for each $1,000 of the taxpayer's modified adjusted gross income as exceeds $800,000 for married filing jointly, $600,000 for head of household, and $400,000 in any other case. For a given taxable year, the taxpayer may use modified adjusted gross income for that year or the immediately preceding year, whichever is lower.

The taxpayer may elect to transfer the credit to the vehicle dealer, provided the dealer is registered as an eligible entity with the Secretary, discloses the MSRP, credit amount, associated fees, and the amount to be paid to the taxpayer in the form of a down payment or otherwise with respect to the transfer of credit. The Secretary shall establish a program to make advance payments to any eligible dealer equal to the cumulative amount of transferred credits.

This provision provides for a 30% credit, not to exceed $7,500, for two and three wheeled plug in electric vehicles which have a battery capacity of no less than two and a half kilowatt hours, are manufactured primarily for use on roads an highways, and are capable of achieving a speed of 45 miles per hour or greater, and otherwise meet the requirements of this section.

The Secretary shall make payments to mirror code territories for the amount of revenue lost with respect to this provision. The Secretary shall make payments to non-mirror code territories for the amount of revenue lost with respect to operating a similar credit for electric vehicles.
This provision is made effective beginning after December 31, 2021, replacing section 30D, the plug-in electric drive motor vehicles credit.

No credit shall be allowed under this provision for vehicles acquired after December 31, 2031.

Section 136402. Credit for previously-owned qualified plug-in electric drive motor vehicles.
The provision creates a new refundable credit for the purchase of used battery and fuel-cell electric cars after date of enactment through 2031. Buyers can claim a base credit of $2,000 for the purchase of qualifying used EVs, with an additional $2,000 based on battery capacity. The credit is capped at the lesser of $4,000 or 50% of the sale price.

To qualify for this credit, used EVs must generally meet the eligibility requirements in the existing Section 30D credit for new EVs, not exceed a sale price of $25,000, and be a model year that is at least two years earlier than the date of sale.

Buyers with up to $75,000 ($150,000 for married couples filing jointly and $112,500 for head of household filers) in adjusted gross income can claim the full amount of the credit. The credit phases out by $200 for every $1,000 in AGI in excess of the limitation. Buyers must purchase the vehicle from a dealership for personal use and cannot claim the credit more than once every three years. The credit only applies to the first resale of a used EV and includes restrictions on sales between related parties. A "look-back rule" for the phaseout threshold allows taxpayers to use prior-year income for purposes of determining the phaseout of the credit. This rule keeps taxpayers eligible for the credit even when their income rises above the phaseout range in a single year.

The Secretary shall make payments to mirror code territories for the amount of revenue lost with respect to this provision. The Secretary shall make payments to non-mirror code territories for the amount of revenue lost with respect to operating a similar credit for previously-owned electric vehicles.

Section 136403. Credit for qualified commercial electric vehicles.

This provision creates a new credit for qualified commercial electric vehicles placed into service by the taxpayer.

The amount of credit allowed by this provision with respect to a qualified commercial electric vehicle is equal to 30% of the cost of such vehicle. A leasing company may elect to determine the credit using the structure of the individual credit under section 36C if the vehicle is leased to an individual. Tax-exempt entities have the option of electing to receive direct payments.

For purposes of the credit a qualified commercial electric vehicle means any vehicle

- the original use of which commences with the taxpayer,
- which is acquired for use or lease by the taxpayer and not for resale,
- which is made by a qualified manufacturer,
- which is treated as a motor vehicle for purposes of title II of the Clean Air Act or mobile machinery for purposes of section 4053(8),
- which is propelled to a significant extent by an electric motor which draws electricity from a battery which has a capacity of not less than ten kilowatt hours and is capable of being recharged from an external source of electricity, or is a fuel cell vehicle based upon the requirements of section 30B,
- is not powered by an internal combustion engine, and is of a character subject to the allowance for depreciation.

A qualified manufacturer means any manufacturer which enters into written agreement with the Secretary to ensure each vehicle manufactured meets the requirements of this provision and is labeled with a unique vehicle identification number, and that such manufacture will periodically provide such vehicle identification numbers to the secretary in such a manner as the Secretary may prescribe. No credit shall be allowed with respect to any qualified vehicle unless the taxpayer includes the vehicle identification number of such vehicle on their return for that taxable year.

This provision shall take effect after December 31, 2021. No credit shall be allowed under this provision for a vehicle acquired after December 31, 2031.

Section 136404. Qualified fuel cell motor vehicles.

This provision extends the credit for the purchase of a qualified fuel cell motor vehicle through 2031, but only with respect to vehicles not of a character subject to depreciation. Beginning on January 1, 2022, commercial fuel cell vehicles otherwise eligible for this credit will be eligible for the new section 45Y credit for qualified commercial electric vehicles.

Section 136405. Alternative fuel refueling property credit.

The provision extends the alternative fuel vehicle refueling property credit through 2031. Beginning in 2022, the provision expands the credit for zero-emissions charging and refueling infrastructure by providing a base credit of 6% for expenses up to $100,000 and 4% for allowable expenses in excess of such limitation (i.e., it allows a credit for expenses beyond the limit if certain requirements are met). The provision provides an alternative bonus credit level of 30% for expenses up to $100,000 and 20% thereafter.

To qualify for the credit for expenses in excess of the $100,000 limitation, the property must: 1) be intended for general public use and either accept credit cards as a form of payment or not charge a fee, or 2) be intended for exclusive use by government or commercial vehicle fleets. In order to claim the bonus credit amount with respect to eligible property, taxpayers must satisfy prevailing wage requirements for the duration of the construction of such property.

This provision also clarifies that bidirectional charging equipment is eligible property and expands the list of eligible property to include electric charging stations for electric 2- and 3-wheeled motor vehicles manufactured for use on public street, roads, and highways, but only if such stations are 1) intended for general public use and either accept credit cards as a form of payment or not charge a fee, or 2) intended for exclusive use by government or commercial vehicles.

Section 136406. Reinstatement and expansion of employer provided fringe benefits for bicycle commuting.

This provision eliminates the temporary suspension of the exclusion for qualified bicycle commuting benefits and increases the maximum benefit from $20 per month to $81 per month.

This provision expands the definition of qualified benefit to include the direct or indirect provision of qualified commuting property by an employer and employer reimbursement of expenses incurred for the purchase, financing, lease, rental (including bikeshare), improvement, or storage of qualified commuting property if the employee uses such property for travel between the employee's residence and place of employment or mass transit facility connecting an employee to place of employment.

Qualified community property includes bicycles, electric bicycles (within the meaning of Section 30E as established by this legislation, 2- or 3-wheeled scooters (other than scooters equipped with motors), and any 2- or 3-wheeled scooter propelled by an electric motor if such motor does not provide assistance in excess of 20 miles per hour.

Section 136407. Credit for certain new electric bicycles.

This provision provides for a 30% refundable tax credit for qualified electric bicycles placed into service before January 1, 2027.

Beginning in 2022, taxpayers may claim a credit of up to $1,500 for electric bicycles placed into service by the taxpayer for use within the United States. A taxpayer may claim the credit for one electric bicycle per taxable year (two for joint filers). The credit phases out starting at $75,000 of modified adjusted gross income ($112,500 for heads of household and $150,000 for married filing jointly) at a rate of $200 per $1,000 of additional income. For a given taxable year, the taxpayer may use modified adjusted gross income for that year or the immediately preceding year, whichever is lower.

A qualified electric bicycle is defined as a bicycle which is equipped with fully operable pedals, a saddle or seat for the rider, an electric motor of less than 750 watts which is designed to provide assistance in propelling the bicycle, and does not provide assistance if the bicycle is moving in excess of 20 miles per hour or only provides assistance when the rider is pedaling and does not provide assistance if the bicycle is moving in excess of 28 miles per hour.

In order to be eligible for the credit, the aggregate amount paid for the acquisition of such bicycle must not exceed $8,000.

In order for an electric bicycle to be eligible for the credit, the manufacturer must assign each bicycle a unique vehicle identification number and report such information to the Treasury in a manner prescribed by the Secretary. Taxpayers must then provide the proper vehicle identification number assigned to the electric bicycle by the manufacturer in order to claim the credit.

The Secretary shall make payments to mirror code territories for the amount of revenue lost with respect to this provision. The Secretary shall make payments to non-mirror code territories for the amount of revenue lost with respect to operating a similar credit for electric bicycles.

PART 5 – INVESTMENT IN THE GREEN WORKFORCE

Section 136501. Extension of the advanced energy project credit.

The provision revives the Section 48C qualified advanced energy property credit, allowing the Secretary to allocate an additional $5 billion in credits for each of calendar years 2022 through

2023 and $1.875 billion for each of calendar years 2024 through 2031. $800 million in credits for each of calendar years 2022 through 2023 and $300 million in credits for each of calendar years 2024 through 2031 are reserved for projects in automotive communities. Additionally, $800 million in credits for each of calendar years 2022 through 2023, and $300 million for each calendar year 2024 through 2031 are reserved for projects located in energy communities.

Projects receive a base credit rate of 6 percent of qualified investments in qualified advanced energy projects. To receive a bonus rate of 30 percent, taxpayers must satisfy 1.) prevailing wage requirements for the establishment, expansion, or re-equipping of a manufacturing facility and for five years after the project is placed into service, and 2.) apprenticeship requirements during the construction of the project.

Similar requirements to the original credit apply, with a few notable changes. Qualifying advanced energy project includes a project which re-equips a manufacturing facility with equipment designed to reduce greenhouse gas emissions by at least 20 percent, as determined by the Secretary.
The Secretary will determine allocations to projects each year with a requirement that property is placed in service within 4 years of the date of the allocation. Projects shall be given priority if the manufacturing is not for the assembly of parts or if they have the greatest potential for commercial deployment of new applications.

Additionally, the Secretary shall give consideration to projects with the greatest net impact in reducing greenhouse gas emissions, the greatest domestic job creation, and greatest job creation in historically underserved communities whose population is at significant risk of experiencing adverse health and environmental effects of greenhouse gas emissions.

Section 136502. Labor costs of installing mechanical insulation property.

The provision provides a credit of the labor costs incurred by a taxpayer in installing mechanical insulation property into a mechanical system which was originally placed in service not less than 1 year before the date on which such mechanical insulation property is installed. The base credit rate is 2 percent, which is increased to 10 percent for projects meeting prevailing wage and apprenticeship standards.

The credit is available for costs paid starting in 2022 through the end of 2031.

Sec 136503. Advanced Manufacturing Investment Credit.

The provision creates an investment tax credit worth up to 25% for advanced manufacturing facilities, and an advanced manufacturing production tax credit for eligible components. All taxpayers are eligible for an ITC of at least 5%. Taxpayers paying prevailing wages and utilizing registered apprenticeship programs are eligible for an elevated ITC of 25%.

The investment tax credit is available for property for the manufacturing of semiconductors and semiconductor tooling equipment, including buildings and equipment that are integral to such manufacturing, that commences construction before January 1, 2027.

Sec 136504. Advanced Manufacturing Production Credit.

The provision provides a production credit for each eligible component which is produced and sold. Eligible components include solar polysilicon, wafers, cells, and modules, and wind blades, nacelles, towers, and offshore foundations. The credits are generally provided on a mass or watt-capacity basis.
The amount credit allowed for eligible components is increased by 10% if the final assembly of the such components is at a facility in the United States which operates under a union-negotiated collective bargaining agreement.

The credits are provided for eligible components produced and sold before January 1, 2027. For components sold after that date, the credit is reduced by 25% each year, and is unavailable for components sold in 2030 and beyond.

PART 6 – ENVIRONMENTAL JUSTICE

Section 136601. Qualified environmental justice program credit.

The provision creates a capped refundable competitive credit of $1 billion for each year from 2022 through and including 2031 to institutions of higher education for environmental justice (EJ) programs.

The base credit is 20% of costs to be spent within five years by the receiving institution. Programs with material participation from Historically Black Colleges and Universities (HBCUs) and Minority Serving Institutions (MSIs) are eligible for a higher credit of 30%. Qualifying EJ programs shall be designed to address or improve data about environmental stressors for the primary purpose of improving or facilitating the improvement of health and economic outcomes of individuals residing in low-income areas or areas that experience, or at risk of experiencing, multiple exposures to qualified environmental stressors.

Institutions receiving allocations shall make publicly available the application submitted to the Secretary and submit annual reports describing the amounts paid for and expected impact of the projects. The Secretary shall publicly disclose the identity of the institutions receiving the allocation and the amount of the allocation.

PART 7 – SUPERFUND

Section 136701. Reinstatement of Superfund.

This provision reinstates the Hazardous Substance Superfund Financing Rate on crude oil and imported petroleum products at the rate of 16.4 cents/per gallon, indexed to inflation, and reinstates the tax on taxable chemicals. This provision is made effective after December 31, 2021.

This provision reinstates the authority for advances to be appropriated to the trust fund through December 31, 2029.

PART 8 – INCENTIVES FOR CLEAN ELECTRICITY AND TRANSPORTATION

Section 136801 and Section 136802 – Clean electricity production and investment credits.

The provision creates an emissions-based incentive that would be neutral and flexible between clean electricity technologies. Taxpayers are able to choose between a production tax credit (PTC) under section 45BB or an investment tax credit (ITC) under section 48F, which is provided based on the carbon emissions of the electricity generated – measured as grams of carbon dioxide equivalents (CO_{2e}) emitted per KWh generated. Any power facility of any technology can qualify for the credits, so long as the facility's carbon emissions are at or below zero.

Taxpayers electing the PTC will receive a credit equal to up to 2.5 cents per kilowatt hour (KWh) of electricity produced and sold in the 10-year period after a qualifying facility is placed in service. Taxpayers electing the ITC will receive a credit worth up to 30%of the investment in the year the facility is placed in service. All taxpayers are eligible for a PTC or 0.5 cents per kilowatt hour or an ITC of 6%. Taxpayers who pay wages at not less than local prevailing rates and utilize registered apprenticeship programs are eligible to receive elevated credits of 2.5 cents per kilowatt hour or 30%. The prevailing wage and apprenticeship provisions apply in the same manner as for the section 45 PTC and section 48 ITC.

For combined heat and power systems (CHP), the emissions rate is calculated using both electrical and useful thermal energy. Under the proposal, the British thermal units (BTUs) of useful thermal energy in a CHP system are converted to kilowatt hours using the facility's heat rate (the number of BTUs required to generate 1 KWh). These converted KWhs are also accounted for as production for purposes of the PTC. Qualifying microgrid systems may elect to use an avoided emissions calculation for purposes of determining their credit rates.

Qualifying grid improvements, which can enable the deployment of additional low-emission power and improve grid stability, are also eligible for the full 30% ITC. Qualifying grid improvements includes standalone energy storage property. Storage technologies, which are not limited to co-location with power plants, include any technologies that can receive, store, and provide electricity or energy for conversion to electricity.

Clean electricity projects smaller than 5 megawatts (MW) are allowed to include the costs of interconnection under the clean electricity ITC.

Taxpayers may receive larger credits under certain circumstances, including investments in clean electricity or grid improvement property in communities that have significant employment in the fossil fuel industry or that have seen a coal mine or coal plant closure. Projects that comply with certain domestic content requirements similarly qualify for elevated credit rates, including using steel, iron, and manufactured products which are mined, produced, or manufactured in the United States. These rules apply in a similar manner to those applied to sections 45 and 48.

The elevated credits are generally equal to a 10% increase to the value of the PTC or a 10 percentage point increase to the value of the ITC. The maximum allowed ITC is limited to 50%. Carbon emission rates for the credits are determined by the Treasury Department, which is directed to publish safe harbor emission rates for similar technologies.

The credits are set to phase out the latter of 2031 or when emission targets are achieved: when the electric power sector emits 75% less carbon than 2021 levels, the incentives will be phased out over three years. Facilities will be able to claim a credit at 100%value in the first year, then 75%, then 50%, and then 0%.

Taxpayers are similarly provided the same ability to elect direct pay for the clean electricity PTC and ITC as for current section 45 and 48 PTC and ITC, including limitations with respect to domestic content.

Section 136803. Increase in clean electricity investment credit for facilities placed in service in connection with low-income communities.

This provision provides for an enhanced incentive for facilities qualifying for the section 48F ITC (not including certain facilities that produce electricity through combustion or gasification) with respect to which the Secretary makes an allocation of environmental justice capacity limitation. This is similar to the enhanced incentive under section 48 for solar and wind facilities placed in service in connection with low-income communities.

In determining which facilities to allocate environmental justice capacity limitation, the Secretary shall consider:

- the greatest health and economic benefits (including ability to withstand extreme weather events) for individuals in low-income communities,
- the greatest employment and wages for such individuals, and
- the greatest engagement with outreach to, or ownership by, such individuals, including through partnerships with local governments and community based organizations.

The annual capacity limitation is 1.8 gigawatts for each calendar year 2027 through 2031 and zero for calendar years thereafter. The annual capacity limitation shall be increased by the amount of any unused allocations from the preceding calendar year including any unused amount from section 48 after 2026. No unused amount may be carried forward to any calendar year after 2033.

Such projects receiving an allocation of environmental justice capacity limitation receive an additional 10% credit if located in a low-income community (as defined within the New Markets Tax Credit program under section 45D) or on Indian land or an additional 20% credit if such project is a qualifying low-income residential building project or a low-income economic benefit project.

This section shall take effect on January 1, 2027.

Section 136804. Cost recovery for qualified facilities, qualified property, and grid improvement property.

This provision provides that any facility described in the clean electricity production credit and any qualified property or grid improvement property described in the clean electricity investment credit shall be treated as five-year property under GDS for purposes of section 168 of the Internal Revenue Code.
This provision shall apply to facilities and property placed in service after 2026.

Section 136805. Clean fuel production tax credit.

The provision creates a technology-neutral incentive for the domestic production of clean fuels. The level of the incentive depends on the lifecycle carbon emissions of a given fuel. Lifecycle emissions take into account the "well to wheel" emissions profile, from production of the feedstock for the fuel through to its use in a vehicle. Fuels may qualify for the credit if the fuel's lifecycle emissions are at least 25%less than the current U.S. nationwide average. Zero emission fuels qualify for a base incentive of $.20 per gallon or gallon equivalent. Sustainable aviation fuel that meets certain ASTM standards and is not derived from palm oil qualifies for a base incentive of $.35 per gallon or gallon equivalent. Qualifying production is restricted to production in the United States of fuel that is used or sold.

The base incentive amounts are increased to the extent a fuel's lifecycle emissions are below zero and reduced to the extent they are above zero, phasing out ratably between zero and the baseline emissions rate. Between now and 2030, qualifying fuels must become increasingly cleaner in order to qualify for the credit. Fuels produced before 2030 may qualify if the fuel's lifecycle emissions are less than 50 kilograms of carbon dioxide equivalents per million British thermal units (35 kg CO_{2e} per mmBtu in the case of aviation fuel). These amounts are reduced to 25 kg CO_{2e} per mmBtu for 2031 and beyond.

Fuels must be at least transportation grade – suitable for use in a highway vehicle or aircraft – but may be used for any business purpose, including as transportation fuel, industrial fuel, or for residential or commercial heat. All taxpayers are eligible for credits of up to $0.20 per gallon ($0.35 in the case of aviation fuel). Taxpayers who pay wages at not less than local prevailing rates and utilize registered apprenticeship programs are eligible for elevated credit rates of $1.00 per gallon ($1.75 in the case of aviation fuel).

Taxpayers are provided the ability to elect direct payment of the credits, in a similar manner to other provisions.

The Treasury Department is to annually publish emissions rates for fuels that are produced using similar feedstocks and production pathways that taxpayers will use for purposes of determining their credit rates.

The credits are set to phase out the latter of 2031 or when emission targets are achieved, at which point the transportation sector emits 75% less carbon than 2021 levels, the incentives will be phased out over three years. Facilities will be able to claim a credit at 100%value in the first year, then 75%, then 50%, and then 0%.

PART 9 – APPROPRIATIONS

Section 136801. Appropriations.

This provision appropriates $3,831,000,000 to remain available through 2031 for the IRS to carry out this subtitle.

SUBTITLE F — SOCIAL SAFETY NET

PART 1 – CHILD TAX CREDIT

Section 137101. Modifications Applicable Beginning in 2021.

Provides an exception to the safe harbor rule which provides that certain taxpayers who receive a larger advanced payment amount than they are eligible to claim are not subject to repayment.

The safe harbor does not apply if the Secretary determines that a child was taken into account for the advance payment due to fraud or intentional disregard of rules and regulations by the taxpayer.

Amends section 7527A to allow the Secretary to provide advance payment based on any other information known to the Secretary.

Section 137102. Extension and Modification of Child Tax Credit and Advance Payment for 2022.

Provides a one year extension of the increase in the child tax credit (CTC) as enacted in the American Rescue Plan, and a continuation of advance payments through 2022. Thus for 2022, the CTC is $3,000 ($3,600 for children under age 6), and for most taxpayers, the credit is advanceable. However, in 2022, unlike 2021, only taxpayers with income below $150,000 (in the case of a joint filer), $112,500 (in the case of a head of household) and $75,000 in the case of any other filer will receive advance payments. The eligibility for advance payments will be based on the taxpayer's prior tax return information.

The provision increases the safe harbor amount to $3,000 ($3,600 for a child under the age of 6) for certain taxpayers in cases where repayment of excess advance payments may otherwise be required. The provision eliminates the Social Security Number requirement for qualifying children, which was added by the Tax Cuts and Jobs Act (TCJA).

The child tax credit begins to phase out for households with income above $150,000 for joint filers, $112,500 for heads of household and $75,000 for all other filers. A "look-back rule" for the phaseout threshold allows taxpayers to use prior-year income for purposes of determining the phaseout of the credit. This rule will allow taxpayers who may have received an excess advance credit keeps eligible for the full value of the credit even when their income rises above the phaseout range in the next year.

Section 137103. Establishment of Fully Refundable Child Tax Credit After 2022.

Reinstates the child tax credit under section 24, as amended by prior sections, as fully refundable for taxable years after 2022. Thus, the refundable child tax credit is no longer subject to either the $1,400 limitation on refundability, nor the earned income phase-in.

PART 2 – EARNED INCOME TAX CREDIT

Section 137201 Certain Improvements to the Earned Income Tax Credit Extended for 2022.

Extends the expansion of the eligibility and the amount of the earned income tax credit for taxpayers with no qualifying children (the "childless EITC") enacted in the American Rescue Plan permanent. In particular, the minimum age to claim the childless EITC is reduced from 25 to 19 (except for certain full-time students) and the upper age limit for the childless EITC is eliminated. This section also increases the childless EITC amount by increasing the credit percentage and phaseout percentage from 7.65 to 15.3 percent, increasing the income at which the maximum credit amount is reached to $9,820, and increasing the income at which phaseout begins to $11,610 for non-joint filers. Under these parameters, in 2021, the maximum credit amount increases from $543 to $1,502. The provision contains special rules regarding the application of the credit for former foster youth and homeless youth. As with all other parameters of the EITC, these amounts are indexed for inflation, and will be indexed for 2022.

Also includes for 2022 the provision included in the American Rescue Plan allowing a taxpayer to use the taxpayer's prior-year earned income for purposes of computing the EITC, in the event that a taxpayer's earned income in the current taxable year has fallen. This provision allows consistency in the value of the EITC for taxpayers who may have lost a job, or whose income has fallen temporarily.

Section 137202. Funds for Administration of the Earned Income Tax Credit in the Territories.

Provides funds for the territorial revenue authorities to administer the earned income tax credit within the territories.

PART 3 – EXPANDING ACCESS TO HEALTH COVERAGE AND LOWERING COSTS

Section 137301. Improve Affordability and Reduce Premium Costs of Health Insurance for Consumers.

Extends the American Rescue Plan section 9661 affordability percentages used for 36 (B) premium tax credits through 2025 to increase generosity for individuals eligible for assistance with household incomes below 400 percent of the federal poverty level (FPL) and provides 36 (B) credits for taxpayers with household incomes above 400 percent of the FPL. Specifies that the applicable percentages are not indexed after 2025.

Section 137302. Modification of Employer-Sponsored Coverage Affordability Test in Health Insurance Premium Tax Credit.

Revises the thresholds through 2025 to determine whether a taxpayer has access to affordable insurance through an employer-sponsored plan or a qualified small employer health reimbursement arrangement to 8.5 percent of income in order to access 36 (B) premium tax credits. Specifies that the thresholds are not indexed after 2025.

Section 137303. Treatment of Lump-Sum Social Security Benefits in Determining Household Income.

Excludes Social Security benefit lump-sum payments for Americans with disabilities, widows, new retirees, and others from calculation of household income for purposes of 36 (B) premium tax credits.

Section 137304. Temporary Expansion of Health Insurance Premium Tax Credits for Certain Low-Income Populations.

Modifies certain eligibility rules and requirements for 36B premium tax credits through 2025 , expands eligibility to taxpayers with household incomes below 100 percent of the FPL, specifies that taxpayers with household incomes below 138 percent of the FPL with access to employer-sponsored coverage or a qualified small employer health reimbursement arrangement can still receive credits, reduces the recapture limitation for taxpayers with household incomes below 200 percent of the FPL, exempts certain taxpayers from having to file a return, reconcile, or repay advance payments of 36B premium tax credits, and modifies when applicable large employers make an employer shared responsibility payment with respect to certain low-income taxpayers.

Section 137305. Special Rule for Individuals Receiving Unemployment Compensation.

Extends section 9663 of the American Rescue Plan through 2025, provides that a taxpayer can receive 36 (B) premium tax credits as if the taxpayer's household income was no higher than 150 percent of the FPL for individuals receiving unemployment compensation as defined in section 85(B) of the Internal Revenue Code.

Section 137306. Permanent Credit for Health Insurance Costs.

Makes the health coverage tax credit permanent, removing the uncertainty of annual extensions, and increases the amount of the qualified health insurance premium covered by the credit from 72.5 percent to 80 percent.

Section 137307. Exclusion of Certain Dependent Income for Purposes of Premium Tax Credit.

Excludes certain dependent income from the calculation of household income for purposes of determining 36 (B) premium tax credit amounts.

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PART 4 – PATHWAY TO PRACTICE TRAINING PROGRAMS

Section 137401. Administrative Funding of the Rural and Undeserved Pathway to Practice Training Programs for Post-Baccalaureate Students, Medical Students, and Medical Residents.

This section invests $6 million into implementation of the Pathway to Practice program.

Section 137402. Establishing Rural and Underserved Pathway to Practice Training Programs for Post-Baccalaureate Students and Medical Students.

This section establishes Section 1899C of the Social Security Act for the Rural and Underserved Pathway to Practice Training Program for Post-Baccalaureate and Medical Students. This section incentivizes those from rural and underserved communities to become physicians and to practice in those communities through a scholarship and stipend for qualifying medical students to attend medical school or post-baccalaureate and medical school.
Students eligible for this program include first generation college or professional students; Pell Grant recipients; those who lived in a medically underserved, rural, or health professional shortage areas.

Beginning in 2023, the Secretary shall award 1,000 scholarships per year, which includes tuition, academic fees, textbooks, equipment, and a monthly stipend tied to the amount in for the Armed Forces Health Professions Scholarship Program, which for 2021 is $2,540. The Secretary shall prioritize those students who participated in the Health Careers Opportunity Program, were Area Health Education Scholars, are disadvantaged students as defined by the National Health Service Corps, or attended a Historically Black College or University or minority serving institution. Upon scholarship acceptance, the student agrees to complete medical school (and post-baccalaureate program as applicable), residency, and practice for at least one year per scholarship year in a health professional shortage area, a medically underserved area, or a rural area.

If the student is not compliant with the terms of the scholarship, the student must repay the amounts and the Secretary will collect these repayments with interest, except for the case of hardship.

Section 137403. Funding for the Rural and Underserved Pathway to Practice Training Programs for Post-Baccalaureate Students and Medical Students.

The provision creates a new refundable Pathway to Practice medical scholarship voucher credit under section 36G of the Internal Revenue Code for qualified educational institutions. The credit amount for a taxable year is equal to the aggregate amount paid or incurred by a qualified educational institution during the taxable year pursuant to an annual award of a Pathway to Practice medical scholarship voucher to a qualifying student.

Section 137404. Establishing Rural and Underserved Pathway to Practice Training Programs for Medical Residents.

This section amends Section 1886 of the Social Security Act to incentivize additional residency training by, beginning on October 1, 2026, excluding from the residency slot cap those residents who participated in Rural and Underserved Pathway to Practice Training Programs at certain applicable hospitals that are recognized by the Accreditation Council for Graduate Medical Education (ACGME) for committing to train physicians with additional requirements, such as increased mentorship, structural and cultural competency training, and training in the community.

PART 5 – HIGHER EDUCATION

Section 137501. - Credit for Public University Research Infrastructure.

Provides a 40% general business credit for qualified cash contributions made by a taxpayer to a certified educational institution in connection with a qualifying research infrastructure program. Taxpayers may elect to claim this credit with respect to a qualifying cash contribution in lieu of treating such contribution as a charitable deduction.

Institutions of higher education may designate such contributions made by a taxpayer as qualified cash contributions only if such institution is certified as having been allocated a credit amount by the Secretary with respect to a qualifying project. The amount of cash contributions a certified educational institution may designated as qualified cash contributions may not exceed 250% of the credit amount allocated to such institution under this provision.

The provision provides $500 million of credits for each of calendar years 2022, 2023, 2024, 2025, and 2026 to be awarded by the Secretary to eligible educational institutions on a project application basis. The Secretary shall award these credits based on the extent of expected expansion of a higher education institution’s targeted research within disciplines in science, mathematics, engineering, and technology. The Secretary shall award these credits in a manner that ensures consideration is given to eligible education institutions with full-time student populations of less than 12,000. A certified educational institution’s allocation may not exceed $100 million per calendar year.

For purposes of this provision, an eligible educational institution is a public college or university, or a non-profit organization to which authority has been delegated by a public college or university to apply for administering credit amounts on behalf of such institution.

The provision provides authority for the secretary prescribe regulation necessary to carry out this provision and to recapture and reallocated undesignated credit amounts. In the event of noncompliance, contributions made to an institution of higher education under this section shall be treated as unrelated business income and subject to tax.

Section 137502. - Modification of Excise Tax on Investment Income of Private Colleges and Universities.

Provides a reduction in an institution of higher education's investment income excise tax liability determined by the amount of qualified undergraduate scholarship and grant aid provided by such university relative to its aggregate undergraduate tuition and fees collected during the taxable year. An institution of higher education's liability shall be reduced proportionately as the amount of its qualified aid exceeds 20 percent of tuition and fees, up to 33 percent of tuition and fees (thus, tax liability falls by 1/13th for every percentage point by which grant aid exceeds 20 percent of tuition and fees).

Such reduction in excise tax liability shall not apply to an institution of higher education unless such institution furnishes to the secretary a statement detailing the average Federal student loan burden among:

- all first-time, full-time undergraduate students awarded a bachelor's degree during the calendar year;
- first-time, full-time undergraduate students awarded a bachelor's degree during the calendar year who received federal student loans;
- First-time, full-time undergraduate students awarded a bachelor's degree during the calendar year who received a Federal Pell Grant; and
- First-time, full-time undergraduate students awarded a bachelor's degree during the calendar year who were awarded federal work-study positions.

This provision amends the 500 tuition-paying student threshold such that the tax shall only apply to private colleges and universities with no fewer than 500 tuition-paying undergraduate students and indexes the $500,000 aggregate value of assets per student threshold to inflation.

Section 137503. - Treatment of Federal Pell Grants for Income Tax Purposes.

Excludes Federal Pell grants from gross income. For purposes of the American Opportunity Tax Credit, Lifetime Learning Credit, and exclusion of qualified scholarship from income, qualified tuition and related expenses shall not be reduced by any amount paid for the benefit of an individual as a Federal Pell Grant

Section 137504. - Repeal of Denial for American Opportunity Tax Credit on Basis of Felony Drug Conviction.

Repeals the prohibition excluding students convicted of a state or felony drug offence from claiming the American Opportunity Tax Credit.

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Subtitle G — Responsibility Funding Our Priorities

Part 1 – Corporate and International Tax Reforms

Subpart A – Corporate Tax Rate

Section 138101. Corporate Alternative Minimum Tax

The corporate alternative minimum tax (AMT) proposal would impose a 15 percent minimum tax on adjusted financial statement income for corporations with such income in excess of $1 billion. Under the proposal, an applicable corporation's minimum tax would be equal to the amount by which the tentative minimum tax exceeds the corporation's regular tax for the year. Tentative minimum tax is determined by applying a 15 percent tax rate to the adjusted financial statement income of the corporation for the taxable year (after taking into account the AMT foreign tax credit and the financial statement net operating losses).

For these purposes, adjusted financial statement income (AFSI) is the net income or loss of the taxpayer stated on the taxpayer's applicable financial statement with certain modifications. Generally an applicable financial statement is a corporation's form 10-K filed with the Securities and Exchange Commission, an audited financial statement, or other similar financial statement.

Certain adjustments are made to the income on a taxpayer's applicable financial statement to determine AFSI, including adjustments to: (1) align the period covered to the taxpayer's taxable year, (2) disregard any federal or foreign taxes taken into account, and (3) disregard certain direct-pay tax credits provided in the Clean Energy for America Act received by the taxpayer. Under regulations, the Secretary shall provide adjustments to: (1) prevent the omission or duplication of any item, (2) appropriately address corporate reorganizations and similar transactions, and (3) address the effect of these provisions on partnerships with income taken into account under the corporate AMT. Adjustments are also made with respect to certain cooperatives and Alaska Native Corporations, and to provide consistent treatment with respect to mortgage servicing income of a corporation other than a regulated investment company.

In general, an applicable corporation is any corporation (other than an S corporation, regulated investment company, or a real estate investment trust) with three-year average annual AFSI in excess of $1 billion. To determine whether a corporation has met this requirement, corporations under common control are aggregated. In the case of foreign-parented corporations, the $1 billion three-year average annual AFSI requirement is determined by aggregating the AFSI for all members of the international financial reporting group in which the applicable corporation is a member. As such, both U.S.-parented and foreign-parented corporations are tested on their global income for purposes of this $1 billion requirement.

If the international financial reporting group of a foreign-parented corporation meets this $1 billion requirement, a corporation that is a member of that group is not treated as an applicable corporation unless it also meets the requirement for the AFSI of the U.S. group. Under this requirement, in the same three-year period, the average annual AFSI of the U.S. group must be $100 million or more. For purposes of determining the U.S. group's AFSI, all members under common control are aggregated, except the AFSI of a foreign corporation under common control is only included if the income is effectively connected to a U.S. trade or business or the foreign corporation is a controlled foreign corporation (CFC). Generally, this means that for a foreign-parented corporation, there is a global income requirement of $1 billion and a U.S.-related income requirement of $100 million (including the income of any CFCs).

Once a corporation is determined to be an applicable corporation, it remains an applicable corporation unless, as a result of an ownership change or a consistent reduction in AFSI below the applicable thresholds, the Secretary determines that it would not be appropriate to continue to treat such corporation as an applicable corporation.

Special rules apply in the case of related corporations included on a consolidated financial statement, and in the case of taxpayers filing a consolidated return. In addition, the AFSI of a corporation is required to include income from dividends and certain other amounts required to be included by such corporation for tax purposes. In the case of a U.S. shareholder of a CFC, AFSI includes the pro rata share of the AFSI of such CFC. The AFSI of CFCs are aggregated globally, and losses in one CFC may offset income of another CFC. Overall losses of CFCs may not reduce AFSI of a U.S. corporation, but may be carried forward and used to offset CFC income in future years. An applicable corporation must also include the income of any disregarded entity.

Similar to the rules under regular corporate income tax, AFSI may be reduced by financial statement net operating losses, not to exceed 80 percent of AFSI determined before taking into account such net operating losses. For this purpose, financial statement net operating losses are determined by taking into account adjusted financial statement losses for taxable years ending after December 31, 2019.

Tentative minimum tax may be reduced by a corporate AMT foreign tax credit, which applies for foreign income taxes that are paid or accrued (for federal income tax purposes) and taken into account on an applicable financial statement. Foreign income taxes paid or accrued by CFCs are subject to a single global limitation equal to 15 percent of the net aggregate AFSI of all CFCs. Foreign income taxes paid or accrued by a domestic corporation, such as withholding taxes or the taxes paid on income of a foreign branch, are not subject to a limitation. Excess foreign tax credits may be carried forward for five years.

Similar to the current rules applicable for general business credits of a corporation (such as R&D, clean energy, and housing tax credits), general business credits may generally offset up to approximately 75 percent of the sum of a corporation's normal income tax and alternative minimum tax.

Similar to the AMT tax credit under pre-2018 corporate AMT and the AMT currently in effect for individuals, corporations would be eligible to claim a tax credit for AMT paid in prior years against normal income tax, to the extent normal tax exceeds the tentative minimum tax for such taxable year.

The proposal would be effective for taxable years beginning after December 31, 2022.

Section 138102. Excise Tax on Repurchase of Corporate Stock.

The provision imposes a 1 percent excise tax on publicly traded US corporation for the value of any of its stock that is repurchased by the corporation during the taxable year. The term repurchase means a redemption within the meaning of section 317(b) with regard to the stock of such corporation, and any other economically similar transaction as determined by the Secretary of Treasury.

The amount of repurchases subject to the tax is reduced by the value of any new issuance to the public and stock issued to the employees of the corporation.

A subsidiary of a publicly traded US corporation that performs the buyback for its parent or a US subsidiary of a foreign corporation that buys back its parent's stock is subject to the excise tax. The provision excludes certain repurchases from the excise tax to the extent: 1) the repurchase is part of a tax-free reorganization; 2) the repurchased stock or its value is contributed to an employee pension plan, ESOP, or similar plan; 3) the total amount of stock repurchases within the year is less than $1 million; 4) the purchase is by a dealer in securities in the ordinary course of business; 5) the repurchase is treated as a dividend; and 6) the repurchase is by a RIC or REIT.

The provision provides authority for Treasury to issue guidance necessary or appropriate to administer and to prevent the avoidance of the purposes of this section.

The provision applies to repurchases of stock after December 31, 2021.

SUBPART B – INTEREST EXPENSE OF INTERNATIONAL FINANCIAL REPORTING GROUPS

Section 138111. Limitation on Deduction of Interest Expense.

This provision adds section 163(n) to limit the interest deduction of certain domestic corporations that are members in an international financial reporting group to an allowable percentage of 110% of the net interest expense. A domestic corporation's allowable percentage means the ratio of such corporation's allocable share of the group's net interest expense over such corporation's reported net interest expense. A domestic corporation's allocable share of the group's net interest expense is the portion of such expense which bears the same ratio to the total group expense as the corporation's EBITDA bears to the group's total EBITDA.

This interest limitation applies only to domestic corporations whose average excess interest expense over interest includible over a three year period exceeds $12,000,000. The limitation does not apply to any small business exempted under section 163(j)(3). Nor does the limitation apply to any S corporation, real estate investment trust, or regulated investment company.
This provision also modifies section 163(j)(4), which applies the limitation on deductibility of business interest under section 163(j) to partnerships and S corporations. Under the provision, section 163(j) generally will apply to a partner or shareholder, rather than to the partnership or S corporation as an entity.

This provision also adds section 163(o), which allows the carryforward of interest expense disallowed by reason of both subsection (j)(1) and (n)(1). A taxpayer subject to both 163(j) and 163(n) is eligible to deduct only the lesser of the two limitations in a taxable year. Interest not allowed will be carried forward and treated as business interest in subsequent taxable years. The amendments made by this section apply to taxable years beginning after December 31, 2022.

SUBPART C – OUTBOUND INTERNATIONAL PROVISIONS

Section 138121. Modifications to Deduction for Foreign-Derived Intangible Income and Global Intangible Low-Taxed Income

This provision reduces the section 250 deduction with respect to both FDII (to 24.8%) and GILTI (to 28.5%). This yields a 15% GILTI rate and a 15.8% FDII rate. If the section 250 deduction with respect to GILTI or FDII exceeds taxable income, the excess is allowed as a deduction, which will increase the net operating loss for the taxable year. A transition rule is provided for taxable years that include but do not end on December 31, 2022. Amendments related to the section 250 deductions for GILTI and FDII are effective for taxable years beginning after December 31, 2022.

Section 138122. Repeal of Election for 1-Month Deferral in Determination of Taxable Year of Specified Foreign Corporations.

This provision strikes section 898(c)(2), which previously allowed the choice of a taxable year beginning 1 month earlier than the majority U.S. shareholder year. The amendments made by this section apply to taxable years of specified foreign corporations beginning after November 30, 2022.

Section 138123. Modifications of Foreign Tax Credit Rules Applicable to Certain Taxpayers Receiving Specific Economic Benefits.

Dual capacity taxpayers are U.S. companies that are both subject to levy in, and receive certain benefits from, a foreign country or possession of the United States. To ensure dual capacity taxpayers cannot claim foreign tax credits for payments that are not deemed to be income taxes, this section provides that any amount paid by a dual capacity taxpayer to a foreign country will not be considered a tax to the extent it exceeds the generally applicable income tax of that country. A generally applicable income tax means an income tax which is generally imposed under the laws of a foreign country on income derived from the conduct of trade or business within such country, and has substantial applicability to persons who are not dual capacity taxpayers and to citizens or residents of that country. The amendments made by this section apply to taxes paid or accrued after December 31, 2021.

Section 138124. Modifications to Foreign Tax Credit Limitations.

This provision amends section 904 to require foreign tax credit determinations on a country-by-country basis for purposes of sections 904, 907, and 960. These foreign tax credit computations entail assigning each item of income and loss to a taxable unit of the taxpayer which is a tax resident of a country (or, in the case of a branch, has a taxable presence in such country). Taxable units of the taxpayer are: (1) the person that is the taxpayer, (2) controlled foreign corporations, (3) interests held by the taxpayer or any controlled foreign corporations in a pass-through entity if such pass-through entity is a tax resident of a country other than the country of the taxpayer or the CFC, and (4) each branch the activities of which are carried on by the taxpayer or any CFC, and which give rise to a taxable presence in the country where it is located. Additionally, this provision repeals the foreign branch income basket.

The provision repeals the limitation on foreign tax credit carryforwards for GILTI category income. The provision limits the carryforward of excess foreign tax credit limitation with respect to the GILTI basket to five succeeding taxable years for taxes paid or accrued in taxable years beginning after December 31, 2022 and before January 1, 2031. With respect to all baskets, the carryback of foreign tax credits is repealed (compared with 1 year carryback under current law).

The provision amends section 904(b) such that, for the purpose of determining the foreign tax credit limitation with respect to the GILTI basket, the taxpayer's foreign source income is determined by allocating only such deductions that are directly allocable to such income, including the section 250 deduction for GILTI and taxes attributable to the section 250 deduction. Expenses that otherwise would be allocated to GILTI category income are allocated to income from sources within the United States.

The provision amends section 904(b) such that in the case of any covered asset dispositions, the principle of section 338(h)(16) shall apply in determining the source and character of any item for purposes of this part. A covered asset disposition means any transaction which, inter alia, is treated as a disposition of stock of a corporation for purposes of the tax laws of the relevant foreign country.

The rules related to covered asset dispositions apply to dispositions after the date of enactment. The other amendments made by this section apply to taxable years beginning after December 31, 2022.

Section 138125. Foreign Oil Related Income to Include Oil Shale and Tar Sands.

This provision expands the definition of foreign oil related income in section 907(c)(2)(A) to include oil shale or tar sands in addition to oil and gas wells. The amendments made by this section apply to taxable years beginning after December 31, 2021.

Section 138126. Modifications to Inclusion of Global Intangible Low-Taxed Income.

Currently a global blending regime, this provision amends section 951A to provide for country-by-country application of the GILTI regime. Under the provision, a United States shareholder's global intangible low-taxed income (GILTI) is the sum of the amounts of GILTI determined separately with respect to each country in which any CFC taxable unit of the United States shareholder is a tax resident. Other items and amounts including net CFC tested income, net deemed tangible income return, qualified business asset investment (QBAI), and interest expense shall be determined on a country-by-country basis as well. The definition of CFC taxable unit is found in new section 904(e)(2)(B).

The provision amends section 951A(c) to provide for carryover of country-specific net CFC tested loss to the succeeding taxable year.

The provision changes the amount of allowable net deemed tangible income return by replacing 10% of QBAI with 5% of QBAI. This reduction does not apply to CFC taxable units in the territories of the United States.

Currently, tested income and tested loss of a CFC are determined without regard to any foreign oil and gas extraction income (FOGEI) and any deductions properly allocable to it. This provision now includes FOGEI and related deductions in the determination of tested income and tested loss. The amendments made by this section apply to taxable years of foreign corporations beginning after December 31, 2022, and to taxable years of United States shareholders in which or with which such taxable years of foreign corporations end.

Section 138127. Modifications to Determination of Deemed Paid Credit for Taxes Properly Attributable to Tested Income.

This provision substantially reduces the 20% haircut on foreign tax credits by amending section 960(d)(1) by increasing from 80% to 95% the deemed paid credit for taxes attributable to GILTI (80% to 100% in the case of taxes paid or accrued to U.S. territories). The provision also ensures that a corporation is treated as a controlled foreign corporation only if it has direct United States shareholders, and applies special rules to foreign owned United States shareholders. The amendments made by this section apply to taxable years of foreign corporations beginning after December 31, 2022, and to taxable years of United States shareholders in which or with which such taxable years of foreign corporations end.

Section 138128. Deduction for Foreign Source Portion of Dividends Limited to Controlled Foreign Corporations, etc.

Currently, section 245A provides a 100% participation exemption for foreign portions of any dividends received from a specified 10-percent owned foreign corporation, even in cases where the foreign corporation is not a controlled foreign corporation (and therefore not subject to subpart F and GILTI regimes). This provision amends section 245A so that the exemption applies to foreign portions of dividends received only from controlled foreign corporations. This provision also provides an election to be treated as a controlled foreign corporation for certain foreign corporations with United States shareholders. These amendments apply to distributions made after date of enactment and to taxable years of foreign corporations beginning after date of enactment (and taxable years of United States persons in which or with which the taxable years of foreign corporations end).

Section 138129. Limitation on Foreign Base Company Sales and Services Income.

The provision limits Foreign Base Company Sales and Services Income to residents of the United States and passthrough entities and branches in the United States. This provision applies to taxable years beginning after December 31, 2021. This provision also closes loopholes that cause shareholders of a controlled foreign corporation to avoid tax on some income from their controlled foreign corporations. The amendments made by this section apply to distributions occurring after, or taxable years of foreign corporations beginning after, December 31, 2021.

SUBPART D – INBOUND INTERNATIONAL PROVISIONS

Section 138131. Modifications to Base Erosion and Anti-Abuse Tax.

This provision makes several modifications to the Base Erosion and Anti-Abuse Tax (BEAT). First, the BEAT rate in section 59A(b)(1)(A) is amended to 10% in taxable years beginning after December 31, 2021, and before January 1, 2023; to 12.5% in taxable years beginning after December 31, 2022, and before January 1, 2024; 15% in any taxable year beginning after December 31, 2023 and before January 1, 2025; and 18% in any taxable year beginning after December 31, 2024. Second, the base erosion minimum tax amount is to be determined taking into account tax credits.

The provision modifies the rules in 59A(c) for determining modified taxable income. Modified taxable income means taxable income computed without regard to base erosion tax benefits; without adjusting the basis of inventory property due to base erosion payments; by determining net operating losses without regard to any deduction which is a base erosion tax benefit; and according to other adjustments under rules similar to the rules applicable to the alternative minimum tax. Base erosion payments are amended to include amounts paid to a foreign related party that are required to be capitalized in inventory under section 263A, as well as amounts paid to a foreign related party for inventory which exceed the costs of the property to the foreign related party. A safe harbor is available to deem base erosion payments attributable to indirect costs of foreign related parties as 20 percent of the amount paid to the related party.

The provision provides an exception for payments subject to U.S. tax, and for payments to foreign parties if the taxpayer establishes that such amount was subject to an effective rate of foreign tax not less than the applicable BEAT rate. The provision also limits the exception to the provision for taxpayers with a low base erosion percentage to taxable years beginning before January 1, 2024. The provision further provides that an applicable taxpayer remains an applicable taxpayer for the next ten succeeding calendar years after it is an applicable taxpayer. The provision is effective for taxable years beginning after December 31, 2021.

SUBPART E – OTHER BUSINESS TAX PROVISIONS

Section 138141. Credit for Clinical Testing of Orphan Drugs Limited to First Use or Indication.

This provision limits the credit for qualified clinical testing expenses to expenses related to the first use or indication for an orphan drug as designated under section 526 of the Federal Food, Drug, and Cosmetic Act. Additionally, the provision provides that clinical testing expenses for any drug that has received a marketing approval for any use or indication (either for use in rare disease or condition or non-rare disease or condition) do not qualify for the credit. The amendments made by this section apply to taxable years beginning after December 31, 2021.

Section 138142. Modifications to Treatment of Certain Losses.

The provision amends section 165(g) to provide that losses with respect to securities are treated as realized on the day that the event establishing worthlessness occurs. In addition, the provision provides that partnership indebtedness is treated in the same manner as corporate indebtedness under the section. The provision also clarifies that abandoned securities are treated as worthless at the time of abandonment. In addition, the rule amends section 165 to provide that a loss on a worthless partnership interest is subject to the same rules as a loss in a sale of a partnership interest. This provision is applicable for taxable years beginning after December 31, 2021. The rule also changes the treatment of taxable liquidations of corporate subsidiaries. Under the provision, a loss in a taxable liquidation (or dissolution of a corporation with worthless stock) is deferred until the property received in the liquidation is sold to a third party. This provision is applicable to liquidations after the date of enactment.

Section 138143. Adjusted Basis Limitation for Divisive Reorganization.

This provision amends section 361 to provide that a distributing corporation in a divisive reorganization recognizes gain to the extent of controlled corporation debt securities transferred to the creditors of the distributing corporation in excess of the basis in assets (reduced by amounts paid by the controlled corporation to the distributing corporation) transferred from the distributing corporation to the controlled corporation in the transaction. The provision applies to reorganizations after the date of enactment. A transition rule provides that amendments made by this provision do not apply to any exchange made pursuant to a written agreement that was binding as of the date of enactment and at all times thereafter, described in a ruling request submitted to the IRS on or before such date, or described on or before such date in a public announcement or filing with the S.EC.

Section 138144. Rents from Prison Facilities not Treated as Qualified Income for Purposes of REIT Income Tests.

This provision amends section 856 to provide that income received with respect to property primarily used as a prison or other detention facility does not qualify for the purpose of REIT income tests. The amendments made by this section apply to taxable years beginning after December 31, 2021.

Section 138145. Modifications to Exemption for Portfolio Interest.

This provision modifies definition of “10-percent shareholder”, whose interest is exempt from portfolio interest. The provision provides that, in the case of an obligation issued by a corporation, any person who owns 10% or more of the total vote or value of the stock of such corporation is not eligible for the portfolio interest exemption. This amendment applies to obligations issued after the date of enactment.

Section 138146. Certain Partnership Interest Derivatives

The provision amends section 871(m) to provide that payments pursuant to specified notional principal contracts and other similar payment as the Secretary provides with respect to publicly traded partnerships and other partnerships (as provided in regulations) are treated as dividend equivalents. The provision applies rules similar to the other paragraphs of section 871(m) to the provision. The provision also applies withholding rules similar to those under section 1446. The amendments made by this section apply to payments made on or after December 31, 2022.

Section 138147. Adjustments to Earnings and Profits of Controlled Foreign Corporations.

Currently, a special rule in section 952(c)(3) for determining earnings and profits of a controlled foreign corporation has limited application with respect to subpart F income. This provision relocates this rule to section 312(n) so that it is more generally applied in determining the earnings and profits of controlled foreign corporations, in this case without regard to LIFO inventory adjustments, installment sales, and completed contract method of accounting. The amendments made by this section 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.

Section 138148. Certain Dividends from Controlled Foreign Corporations to United States Shareholders Treated as Extraordinary Dividends.

A general rule in section 1059 provides that if any corporation receives an extraordinary dividend with respect to any stock that such corporation has not held for more than 2 years prior to the dividend announcement date, the basis of the stock is reduced by the nontaxed portion of such dividends, and any excess is treated as gain from the sale or exchange of such stock. Under this new provision in section 1059(g), any disqualified CFC dividend is treated as an extraordinary dividend without regard to the period the taxpayer held the stock to which such dividend relates. For purposes of this new rule, a disqualified CFC dividend means any dividend paid by a controlled foreign corporation to a United States shareholder of such foreign corporation if such dividend is attributable to earnings and profits which were earned, or are attributable to gain on property which accrued, while such foreign corporation was not a controlled foreign corporation or such stock was not owned by a United States shareholder. The amendments made by this section apply to distributions made after the date of enactment.

Section 138149. Limitation on Certain Special Rules for Section 1202 Gains.

This provision amends section 1202(a) to provide that the special 75% and 100% exclusion rates for gains realized from certain qualified small business stock will not apply to taxpayers with adjusted gross income equal or exceeding $400,000. The baseline 50% exclusion in 1202(a)(1) remains available for all taxpayers. The amendments made by this section apply to sales and exchanges after September 13, 2021, subject to a binding contract exception.

Section 138150. Constructive Sales.

This provision includes digital assets in the constructive sale rules, anti-abuse rules previously applicable to other financial assets. The constructive sale rules in section 1259 treat the adoption of certain offsetting positions to previously owned positions as sales of the previously owned position. These rules prevent taxpayers from locking in investment gains without realizing taxable gain. The amendments made by this section apply to constructive sales after the date of enactment and contracts entered into after the date of enactment.

Section 138151. Rules Relating to Common Control.

The tax code aggregates certain business entities in order to apply various limitations (e.g., the gross receipts limitation in the use of the cash method of accounting under section 448(c), the exemption from interest deductibility limitations under section 163(j)). Section 52(a) addresses corporate entities and section 52(b) provides similar rules for corporate and non-corporate entities. Section 52(b) refers to "trades or business (whether or not incorporated)" and the treatment of certain for-profit activity is unclear.

The provision would provide that a taxpayer engaged in any activity in connection with a trade or business or any for-profit activity is subject to the aggregation rules under section 52(b). The provision would be effective for taxable years beginning after December 31, 2021.

Section 138152. Modification of Wash Sale Rules.

This section includes commodities, currencies, and digital assets in the wash sale rule, an anti-abuse rule previously applicable to stock and other securities. The wash sale rule in section 1091 prevents taxpayers from claiming tax losses while retaining an interest in the loss asset. The amendments made by this section apply to taxable years beginning after December 31, 2021.

Section 138153. Research and Experimental Expenditures.

This provision delays the effective date of section 13206 of Public Law 115-97. That section provides for amortization of the research and experimental expenditures starting taxable years beginning after December 31, 2021. Under this provision, the amortization of research and experimental expenditures will begin for amount paid or incurred in taxable years beginning after December 31, 2025.

PART 2 – TAX INCREASES FOR HIGH-INCOME INDIVIDUALS

Section 138201. Application of Net Investment Income Tax to Trade or Business Income of Certain High Income Individuals.

This provision amends section 1411 to expand the net investment income tax to cover net investment income derived in the ordinary course of a trade or business for taxpayers with greater than $400,000 in taxable income (single filer) or $500,000 (joint filer), as well as for trusts and estates. The provision clarifies that this tax is not assessed on wages on which FICA is already imposed. The amendments made by this section apply to taxable years beginning after December 31, 2021.

Section 138202. Limitations on Excess Business Losses of Noncorporate Taxpayers.

This provision amends section 461(l) to permanently disallow excess business losses (i.e., net business deductions in excess of business income) for non-corporate taxpayers. The provision allows taxpayers whose losses are disallowed to carry those losses forward to the next succeeding taxable year. The amendments made by this section apply to taxable years beginning after December 31, 2021.

Section 138203. Surcharge on High Income Individuals, Estates, and Trusts.

This provision adds section 1A, which imposes a tax equal to 5% of a taxpayer's modified adjusted gross income in excess of $10,000,000 (or in excess of $20,000,000 for a married individual filing separately), and an additional tax of 3% of a taxpayer's modified adjusted gross income in excess of $25,000,000. For this purpose, modified adjusted gross income means adjusted gross income reduced by any deduction allowed for investment interest (as defined in section 163(d)). The amendments made by this section apply to taxable years beginning after December 31, 2021.

PART 3 – FUNDING THE INTERNAL REVENUE SERVICE AND IMPROVING TAXPAYER COMPLIANCE

Section 138301. Funding of the Internal Revenue Service.

This provision appropriates funding for the IRS as follows:
- $1,931,500,000 for taxpayer services,
- $44,887,500,000 for enforcement,
- $27,376,300,000 for operations support, and
- $4,750,700,000 for business systems modernization.

The provision allows the IRS to utilize direct hire authority to recruit and appoint personnel with such funds. The Commissioner of the IRS is required to submit a plan to Congress detailing how such funds will be spent, and submit periodic reports thereafter detailing the progress of the plan. In addition, the provision appropriates $403,000,000 to the Treasury Inspector General for Tax Administration to provide oversight of the IRS and $104,533,803 to Treasury's Office of Tax Policy to carry out functions related to promulgating regulations under the Internal Revenue Code. Finally, $153,000,000 is appropriated to the Tax Court for necessary expenses, including contract reporting, and not to exceed $3,000 for official reception and representation expenses. These appropriated funds are to remain available until September 30, 2031 and no use of the funds is intended to increase taxes on any taxpayer with taxable income below $400,000.
The provision also provides $15,000,000 of funds for the IRS to prepare and deliver a report to Congress on the cost of developing and running a free direct efile tax return system. The report shall include taxpayer opinions for such a system based on surveys and opinions of an independent third-party on the overall feasibility and IRS capacity to deliver such a system.

Section 138302. Application of Backup Withholding and Third Party Network Transactions.

This provision amends section 3406(b) to add to the list of reportable payments any payments in settlement of third party network transactions, but only if the aggregate annual payment made by the third party settlement organization to the payee equals or exceeds $600, the third party settlement organization was required under section 6050W to file a return for the preceding year with respect to the payee, or if during the preceding calendar year the payment organization made reportable payments to the payee with respect to which amounts were required to be deducted and withheld under 3406(a).

This provision is effective for calendar years beginning after December 31, 2021. A transition rule for 2022 adds the requirement that the aggregate number of annual transactions between the third party settlement organization and the payee exceeds 200.

Section 138303. Modification of Procedural Requirements Relating to Assessment of Penalties.

This provision repeals a requirement that any assessment of penalties must be approved by a supervisor of the employee making such determination. This amendment is effective as if included in section 3306 of the Internal Revenue Service Restructuring and Reform Act of 1998, which is notices issued, and penalties assessed, after December 31, 2000.
This provision also requires that each supervisor certify quarterly by letter to the Commissioner of Internal Revenue whether employees have followed the procedural requirements with respect to issuance of notices of penalty. This amendment applies to notices of penalty issued after the date of the enactment of this Act.

PART 4 – OTHER PROVISIONS

Section 138401. Modifications to Limitation on Deduction of Excessive Employee Remuneration.

This provision adds to the general rule under section 162(m)(1), an aggregation rule requiring two or more persons who are treated as a single employer under section 414 to be treated as a single employer. For purposes of this determination, the brother-sister-controlled group and combined group rules under section 1563(a) are disregarded. The provision also expands the IRS's regulatory authority under the general rule and expands the definition of applicable employee remuneration to clarify that such remuneration includes performance-based compensation, commissions, post-termination compensation, and beneficiary payments, whether or not paid directly by the publicly held corporation.

Section 138402. Extension of Tax to Fund Black Lung Disability Trust Fund.

This provision extends the tax to fund the Black Lung Disability Trust Fund through December 31, 2025. The amendment made by this section applies to sales after December 31, 2021.

Section 138403. Prohibited Transactions Relating to Holding DISC or FSC in Individual Retirement Account.

This provision provides that holding an interest in a DISC or FSC that receives any commission or other payment from an entity owned by the individual for whose benefit the IRA is established is a prohibited transaction for purposes of section 4975. The provision also applies if the DISC or FSC is held indirectly through one or more corporations. For purposes of determining ownership of the entity that makes the payments, the constructive ownership rules in section 318 apply, substituting 10 percent for 25 percent. The tax imposed by section 4975 applies even if the account ceases to be treated as an IRA. The section applies to stock acquire or held on or after December 31, 2021.

Section 138404. Clarification of Treatment of DISC Gains and Distributions of Certain Foreign Shareholders.

This provision clarifies that gains from the sale or exchange of, and distributions by a DISC or FSC to a foreign shareholder are treated as effectively connected with the conduct of a trade or business conducted through a permanent establishment deemed to be had by the shareholder in the United States. This provision is effective for distributions on or after December 31, 2021.

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.

Section (a). Strike relevant section of the Social Security Amendments of 1972. This section strikes subsection (b) of Section 303 of the Social Security Amendments of 1972, which prohibits Puerto Rico, Guam, the United States Virgin Islands, and American Samoa from participating in the Supplemental Security Income (SSI) program.

Section (b). Conforming amendments. This section contains several conforming amendments to ensure that US territories have full access to the SSI program. Conforming amendments include striking the limitation on total payments to US territories for the purposes of SSI, striking and redesignating paragraphs in Section 1108 of the Social Security Act, clarifying that US nationals are treated equally to US citizens for the purposes of SSI, and including the US territories in the geographic meaning of the United States.

Section (c). Waiver authority. This section grants the Commissioner of Social Security authority to waive or modify statutory requirements relating to the provision of benefits in the US territories, to the extent that the Commissioner deems it necessary to adapt the program to the needs of the territory involved.

Section (d). Effective date. This section states that the effective date of these amendments is January 1, 2024.