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H. R. 4849

IN THE SENATE OF THE UNITED STATES

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AN ACT

To amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, extend the Build America Bonds program, provide other infrastructure job creation tax incentives, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; ETC.**

2 (a) **SHORT TITLE.**—This Act may be cited as the
 3 “Small Business and Infrastructure Jobs Tax Act of
 4 2010”.

5 (b) **AMENDMENT OF 1986 CODE.**—Except as other-
 6 wise expressly provided, whenever in this Act an amend-
 7 ment or repeal is expressed in terms of an amendment
 8 to, or repeal of, a section or other provision, the reference
 9 shall be considered to be made to a section or other provi-
 10 sion of the Internal Revenue Code of 1986.

11 (c) **TABLE OF CONTENTS.**—The table of contents for
 12 this Act is as follows:

Sec. 1. Short title; etc.

TITLE I—SMALL BUSINESS TAX INCENTIVES

Subtitle A—General Provisions

Sec. 101. Temporary exclusion of 100 percent of gain on certain small business stock.

Subtitle B—Limitations and Reporting on Certain Penalties

Sec. 111. Limitation on penalty for failure to disclose certain information.
 Sec. 112. Annual reports on penalties and certain other enforcement actions.

Subtitle C—Other Provisions

Sec. 121. Nonrecourse small business investment company loans from the Small Business Administration treated as amounts at risk.
 Sec. 122. Increase in amount allowed as deduction for start-up expenditures.

TITLE II—INFRASTRUCTURE INCENTIVES

Sec. 201. Extension of Build America Bonds.
 Sec. 202. Exempt-facility bonds for sewage and water supply facilities.
 Sec. 203. Extension of exemption from alternative minimum tax treatment for certain tax-exempt bonds.
 Sec. 204. Elective payments in lieu of low income housing credits.
 Sec. 205. Extension and additional allocations of recovery zone bond authority.
 Sec. 206. Allowance of new markets tax credit against alternative minimum tax.

TITLE III—REVENUE PROVISIONS

- Sec. 301. Limitation on treaty benefits for certain deductible payments.
- Sec. 302. Treatment of securities of a controlled corporation exchanged for assets in certain reorganizations.
- Sec. 303. Repeal of special rules for interest and dividends received from persons meeting the 80-percent foreign business requirements.
- Sec. 304. Information reporting for rental property expense payments.
- Sec. 305. Application of levy to payments to Federal vendors relating to property.
- Sec. 306. Application of continuous levy to tax liabilities of certain Federal contractors.
- Sec. 307. Required minimum 10-year term, etc., for grantor retained annuity trusts.
- Sec. 308. Increase in information return penalties.
- Sec. 309. Crude tall oil ineligible for cellulose biofuel producer credit.
- Sec. 310. Time for payment of corporate estimated taxes.

**TITLE IV—EXTENSION OF EMERGENCY CONTINGENCY FUND
FOR STATE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES
PROGRAMS**

- Sec. 401. One-year extension of the Emergency Contingency Fund for State Temporary Assistance for Needy Families Programs.

**1 TITLE I—SMALL BUSINESS TAX
2 INCENTIVES**

3 Subtitle A—General Provisions

**4 SEC. 101. TEMPORARY EXCLUSION OF 100 PERCENT OF
5 GAIN ON CERTAIN SMALL BUSINESS STOCK.**

6 (a) IN GENERAL.—Subsection (a) of section 1202 is
7 amended by adding at the end the following new para-
8 graph:

9 “(4) SPECIAL 100 PERCENT EXCLUSION.—In
10 the case of qualified small business stock acquired
11 after March 15, 2010, and before January 1,
12 2012—

13 “(A) paragraph (1) shall be applied by
14 substituting ‘100 percent’ for ‘50 percent’,

15 “(B) paragraph (2) shall not apply, and

1 “(C) paragraph (7) of section 57(a) shall
2 not apply.”.

3 (b) CONFORMING AMENDMENTS.—Paragraph (3) of
4 section 1202(a) is amended—

5 (1) by striking “after the date of the enactment
6 of this paragraph and before January 1, 2011” and
7 inserting “after February 17, 2009, and before
8 March 16, 2010”; and

9 (2) by striking “SPECIAL RULES FOR 2009 AND
10 2010” in the heading and inserting “SPECIAL 75
11 PERCENT EXCLUSION”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to stock acquired after March 15,
14 2010.

15 **Subtitle B—Limitations and** 16 **Reporting on Certain Penalties**

17 **SEC. 111. LIMITATION ON PENALTY FOR FAILURE TO DIS-** 18 **CLOSE CERTAIN INFORMATION.**

19 (a) IN GENERAL.—Subsection (b) of section 6707A
20 is amended to read as follows:

21 “(b) AMOUNT OF PENALTY.—

22 “(1) IN GENERAL.—Except as otherwise pro-
23 vided in this subsection, the amount of the penalty
24 under subsection (a) with respect to any reportable
25 transaction shall be 75 percent of the decrease in

1 tax shown on the return as a result of such trans-
2 action (or which would have resulted from such
3 transaction if such transaction were respected for
4 Federal tax purposes).

5 “(2) MAXIMUM PENALTY.—The amount of the
6 penalty under subsection (a) with respect to any re-
7 reportable transaction for any taxable year shall not
8 exceed—

9 “(A) in the case of a listed transaction,
10 \$200,000 (\$100,000 in the case of a natural
11 person), or

12 “(B) in the case of any other reportable
13 transaction, \$50,000 (\$10,000 in the case of a
14 natural person).

15 “(3) MINIMUM PENALTY.—The amount of the
16 penalty under subsection (a) with respect to any
17 transaction for any taxable year shall not be less
18 than \$10,000 (\$5,000 in the case of a natural per-
19 son).”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 this section shall apply to penalties assessed after Decem-
22 ber 31, 2006.

1 **SEC. 112. ANNUAL REPORTS ON PENALTIES AND CERTAIN**
2 **OTHER ENFORCEMENT ACTIONS.**

3 (a) IN GENERAL.—The Commissioner of Internal
4 Revenue, in consultation with the Secretary of the Treas-
5 ury, shall submit to the Committee on Ways and Means
6 of the House of Representatives and the Committee on
7 Finance of the Senate an annual report on the penalties
8 assessed by the Internal Revenue Service during the pre-
9 ceding year under each of the following provisions of the
10 Internal Revenue Code of 1986:

11 (1) Section 6662A (relating to accuracy-related
12 penalty on understatements with respect to report-
13 able transactions).

14 (2) Section 6700(a) (relating to promoting abu-
15 sive tax shelters).

16 (3) Section 6707 (relating to failure to furnish
17 information regarding reportable transactions).

18 (4) Section 6707A (relating to failure to include
19 reportable transaction information with return).

20 (5) Section 6708 (relating to failure to main-
21 tain lists of advisees with respect to reportable
22 transactions).

23 (b) ADDITIONAL INFORMATION.—The report re-
24 quired under subsection (a) shall also include information
25 on the following with respect to each year:

1 (1) Any action taken under section 330(b) of
2 title 31, United States Code, with respect to any re-
3 reportable transaction (as defined in section 6707A(c)
4 of the Internal Revenue Code of 1986).

5 (2) Any extension of the time for assessment of
6 tax enforced, or assessment of any amount under
7 such an extension, under paragraph (10) of section
8 6501(c) of the Internal Revenue Code of 1986.

9 (c) DATE OF REPORT.—The first report required
10 under subsection (a) shall be submitted not later than De-
11 cember 31, 2010.

12 **Subtitle C—Other Provisions**

13 **SEC. 121. NONRECOURSE SMALL BUSINESS INVESTMENT** 14 **COMPANY LOANS FROM THE SMALL BUSI-** 15 **NESS ADMINISTRATION TREATED AS** 16 **AMOUNTS AT RISK.**

17 (a) IN GENERAL.—Subparagraph (B) of section
18 465(b)(6) is amended to read as follows:

19 “(B) QUALIFIED NONRECOURSE FINANC-
20 ING.—For purposes of this paragraph—

21 “(i) IN GENERAL.—The term ‘quali-
22 fied nonrecourse financing’ means any fi-
23 nancing—

1 “(I) which is qualified real prop-
2 erty financing or qualified SBIC fi-
3 nancing,

4 “(II) except to the extent pro-
5 vided in regulations, with respect to
6 which no person is personally liable
7 for repayment, and

8 “(III) which is not convertible
9 debt.

10 “(ii) QUALIFIED REAL PROPERTY FI-
11 NANCING.—The term ‘qualified real prop-
12 erty financing’ means any financing
13 which—

14 “(I) is borrowed by the taxpayer
15 with respect to the activity of holding
16 real property,

17 “(II) is secured by real property
18 used in such activity, and

19 “(III) is borrowed by the tax-
20 payer from a qualified person or rep-
21 represents a loan from any Federal,
22 State, or local government or instru-
23 mentality thereof, or is guaranteed by
24 any Federal, State, or local govern-
25 ment.

1 “(iii) QUALIFIED SBIC FINANCING.—

2 The term ‘qualified SBIC financing’ means
3 any financing which—

4 “(I) is borrowed by a small busi-
5 ness investment company (within the
6 meaning of section 301 of the Small
7 Business Investment Act of 1958),
8 and

9 “(II) is borrowed from, or guar-
10 anteed by, the Small Business Admin-
11 istration under the authority of sec-
12 tion 303(b) of such Act.”.

13 (b) CONFORMING AMENDMENTS.—Subparagraph (A)
14 of section 465(b)(6) is amended—

15 (1) by striking “in the case of an activity of
16 holding real property,”; and

17 (2) by striking “which is secured by real prop-
18 erty used in such activity”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to loans and guarantees made after
21 the date of the enactment of this Act.

1 **SEC. 122. INCREASE IN AMOUNT ALLOWED AS DEDUCTION**
2 **FOR START-UP EXPENDITURES.**

3 (a) IN GENERAL.—Subsection (b) of section 195 is
4 amended by adding at the end the following new para-
5 graph:

6 “(3) INCREASED LIMITATION FOR TAXABLE
7 YEARS BEGINNING IN 2010 OR 2011.—In the case of
8 any taxable year beginning in 2010 or 2011, para-
9 graph (1)(A)(ii) shall be applied—

10 “(A) by substituting ‘\$20,000’ for
11 ‘\$5,000’, and

12 “(B) by substituting ‘\$75,000’ for
13 ‘\$50,000’.”.

14 (b) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to taxable years beginning after
16 December 31, 2009.

17 **TITLE II—INFRASTRUCTURE**
18 **INCENTIVES**

19 **SEC. 201. EXTENSION OF BUILD AMERICA BONDS.**

20 (a) IN GENERAL.—Subparagraph (B) of section
21 54AA(d)(1) is amended by striking “January 1, 2011”
22 and inserting “April 1, 2013”.

23 (b) EXTENSION OF PAYMENTS TO ISSUERS.—

24 (1) IN GENERAL.—Subsection (a) of section
25 6431 is amended by striking “January 1, 2011” and
26 inserting “April 1, 2013”.

1 (2) CONFORMING AMENDMENTS.—Subsection
 2 (g) of section 54AA is amended—

3 (A) by striking “January 1, 2011” and in-
 4 serting “April 1, 2013”; and

5 (B) by striking “QUALIFIED BONDS
 6 ISSUED BEFORE 2011” in the heading and in-
 7 serting “CERTAIN QUALIFIED BONDS”.

8 (c) REDUCTION IN PERCENTAGE OF PAYMENTS TO
 9 ISSUERS.—Subsection (b) of section 6431 is amended—

10 (1) by striking “The Secretary” and inserting
 11 the following:

12 “(1) IN GENERAL.—The Secretary”;

13 (2) by striking “35 percent” and inserting “the
 14 applicable percentage”; and

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

17 “(2) APPLICABLE PERCENTAGE.—For purposes
 18 of this subsection, the term ‘applicable percentage’
 19 means the percentage determined in accordance with
 20 the following table:

| “In the case of a qualified bond issued during cal- endar year: | The applicable percentage is: |
|--|----------------------------------|
| 2009 or 2010 | 35 percent |
| 2011 | 33 percent |
| 2012 | 31 percent |
| 2013 | 30 percent”. |

1 (d) CURRENT REFUNDINGS PERMITTED.—Sub-
2 section (g) of section 54AA is amended by adding at the
3 end the following new paragraph:

4 “(3) TREATMENT OF CURRENT REFUNDING
5 BONDS.—

6 “(A) IN GENERAL.—For purposes of this
7 subsection, the term ‘qualified build America
8 bond’ includes any bond (or series of bonds)
9 issued to refund a qualified build America bond
10 if—

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

15 “(ii) the amount of the refunding
16 bond does not exceed the outstanding
17 amount of the refunded bond, and

18 “(iii) the refunded bond is redeemed
19 not later than 90 days after the date of the
20 issuance of the refunding bond.

21 “(B) APPLICABLE PERCENTAGE.—In the
22 case of a refunding bond referred to in subpara-
23 graph (A), the applicable percentage with re-
24 spect to such bond under section 6431(b) shall

1 be the lowest percentage specified in paragraph
2 (2) of such section.

3 “(C) DETERMINATION OF AVERAGE MATU-
4 RITY.—For purposes of subparagraph (A)(i),
5 average maturity shall be determined in accord-
6 ance with section 147(b)(2)(A).”.

7 (e) CLARIFICATION RELATED TO LEVEES AND
8 FLOOD CONTROL PROJECTS.—Subparagraph (A) of sec-
9 tion 54AA(g)(2) is amended by inserting “(including cap-
10 ital expenditures for levees and other flood control
11 projects)” after “capital expenditures”.

12 **SEC. 202. EXEMPT-FACILITY BONDS FOR SEWAGE AND**
13 **WATER SUPPLY FACILITIES.**

14 (a) BONDS FOR WATER AND SEWAGE FACILITIES
15 EXEMPT FROM VOLUME CAP ON PRIVATE ACTIVITY
16 BONDS.—

17 (1) IN GENERAL.—Paragraph (3) of section
18 146(g) is amended by inserting “(4), (5),” after
19 “(2),”.

20 (2) CONFORMING AMENDMENT.—Paragraphs
21 (2) and (3)(B) of section 146(k) are both amended
22 by striking “(4), (5), (6),” and inserting “(6)”.

23 (b) TAX-EXEMPT ISSUANCE BY INDIAN TRIBAL GOV-
24 ERNMENTS.—

1 (1) IN GENERAL.—Subsection (c) of section
2 7871 is amended by adding at the end the following
3 new paragraph:

4 “(4) EXCEPTION FOR BONDS FOR WATER AND
5 SEWAGE FACILITIES.—Paragraph (2) shall not apply
6 to an exempt facility bond 95 percent or more of the
7 net proceeds (as defined in section 150(a)(3)) of
8 which are to be used to provide facilities described
9 in paragraph (4) or (5) of section 142(a).”.

10 (2) CONFORMING AMENDMENT.—Paragraph (2)
11 of section 7871(c) is amended by striking “para-
12 graph (3)” and inserting “paragraphs (3) and (4)”.

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

16 **SEC. 203. EXTENSION OF EXEMPTION FROM ALTERNATIVE**
17 **MINIMUM TAX TREATMENT FOR CERTAIN**
18 **TAX-EXEMPT BONDS.**

19 (a) IN GENERAL.—Clause (vi) of section 57(a)(5)(C)
20 is amended—

21 (1) by striking “January 1, 2011” in subclause
22 (I) and inserting “January 1, 2012”; and

23 (2) by striking “AND 2010” in the heading and
24 inserting “, 2010, AND 2011”.

1 (b) ADJUSTED CURRENT EARNINGS.—Clause (iv) of
2 section 56(g)(4)(B) is amended—

3 (1) by striking “January 1, 2011” in subclause
4 (I) and inserting “January 1, 2012”; and

5 (2) by striking “AND 2010” in the heading and
6 inserting “, 2010, AND 2011”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to obligations issued after Decem-
9 ber 31, 2010.

10 **SEC. 204. ELECTIVE PAYMENTS IN LIEU OF LOW INCOME**
11 **HOUSING CREDITS.**

12 (a) IN GENERAL.—Chapter 65 (relating to abate-
13 ments, credits, and refunds) is amended by adding at the
14 end the following new subchapter:

15 **“Subchapter C—Direct Payment Provisions**

“Sec. 6451. Elective payments in lieu of low income housing credit for bond-
financed buildings.

16 **“SEC. 6451. ELECTIVE PAYMENTS IN LIEU OF LOW INCOME**
17 **HOUSING CREDIT FOR BOND-FINANCED**
18 **BUILDINGS.**

19 “(a) IN GENERAL.—Any person making an election
20 under this section with respect to any qualified bond-fi-
21 nanced low-income building originally placed in service by
22 such person during the taxable year shall be treated as
23 making a payment, against the tax imposed by subtitle
24 A for the taxable year, equal to the direct payment amount

1 with respect to such building. Such payment shall be treat-
2 ed as made on the later of the due date of the return of
3 such tax or the date on which such return is filed.

4 “(b) QUALIFIED BOND-FINANCED LOW-INCOME
5 BUILDING.—For purposes of this section, the term ‘quali-
6 fied bond-financed low-income building’ means any quali-
7 fied low-income building to which paragraph (1) of section
8 42(h) does not apply by reason of paragraph (4)(B) of
9 such section.

10 “(c) DIRECT PAYMENT AMOUNT.—For purposes of
11 this section, the term ‘direct payment amount’ means,
12 with respect to any building, 25.5 percent of the qualified
13 basis of such building.

14 “(d) SPECIAL RULES FOR CERTAIN NON-TAX-
15 PAYERS.—

16 “(1) DENIAL OF PAYMENT.—Subsection (a)
17 shall not apply with respect to any building placed
18 in service by—

19 “(A) any governmental entity, or

20 “(B) any organization described in section
21 501(c) or 401(a) and exempt from tax under
22 section 501(a).

23 “(2) SPECIAL RULES FOR PARTNERSHIPS AND
24 S CORPORATIONS.—In the case of property originally

1 placed in service by a partnership or an S corpora-
2 tion—

3 “(A) the election under subsection (a) may
4 be made only by such partnership or S corpora-
5 tion,

6 “(B) such partnership or S corporation
7 shall be treated as making the payment referred
8 to in subsection (a) only to the extent of the
9 proportionate share of such partnership or S
10 corporation as is owned by persons who would
11 be treated as making such payment if the build-
12 ing were placed in service by such persons, and

13 “(C) the return required to be made by
14 such partnership or S corporation under section
15 6031 or 6037 (as the case may be) shall be
16 treated as a return of tax for purposes of sub-
17 section (a).

18 For purposes of subparagraph (B), rules similar to the
19 rules of section 168(h)(6) (other than subparagraph (F)
20 thereof) shall apply.

21 “(e) COORDINATION WITH LOW INCOME HOUSING
22 CREDIT.—In the case of any property with respect to
23 which an election is made under this section, no credit
24 shall be determined under section 42 with respect to such
25 building for any taxable year.

1 “(f) OTHER DEFINITIONS AND SPECIAL RULES.—

2 For purposes of this section—

3 “(1) OTHER DEFINITIONS.—Terms used in this
4 section which are also used in section 42 shall have
5 the same meaning for purposes of this section as
6 when used in such section.

7 “(2) APPLICATION OF RECAPTURE RULES,
8 ETC.—Except as otherwise provided by the Sec-
9 retary, rules similar to the rules of section 42 shall
10 apply, including the recapture rules of section 42(j).

11 “(3) PROVISION OF INFORMATION.—A person
12 shall not be treated as having elected the application
13 of this section unless the taxpayer provides such in-
14 formation as the Secretary may require for purposes
15 of verifying the proper amount to be treated as a
16 payment under subsection (a) and evaluating the ef-
17 fectiveness of this section.

18 “(4) EXCLUSION FROM GROSS INCOME.—Any
19 credit or refund allowed or made by reason of this
20 section shall not be includible in gross income or al-
21 ternative minimum taxable income.

22 “(g) TERMINATION.—Subsection (a) shall not apply
23 with respect to any building placed in service during a tax-
24 able year beginning after December 31, 2010.”.

25 (b) CONFORMING AMENDMENTS.—

1 (1) Subparagraph (A) of section 6211(b)(4) is
2 amended by inserting “and subchapter C of chapter
3 65 (including any payment treated as made under
4 such subchapter)” after “6431”.

5 (2) Subparagraph (B) of section 6425(c)(1) is
6 amended—

7 (A) by striking “the credits” and inserting
8 “the sum of—
9 “(i) the credits”;

10 (B) by striking the period at the end of
11 clause (i) thereof (as amended by this para-
12 graph) and inserting “, plus”; and

13 (C) by adding at the end the following new
14 clause:

15 “(ii) the credits allowed (and pay-
16 ments treated as made) under subchapter
17 C.”.

18 (3) Paragraph (3) of section 6654(f) is amend-
19 ed—

20 (A) by striking “the credits” and inserting
21 “the sum of—
22 “(A) the credits”;

23 (B) by striking the period at the end of
24 subparagraph (A) thereof (as amended by this
25 paragraph) and inserting “, and”; and

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

3 “(B) the credits allowed (and payments
4 treated as made) under subchapter C of chapter
5 65.”.

6 (4) Subparagraph (B) of section 6655(g)(1) is
7 amended—

8 (A) by striking “the credits” and inserting
9 “the sum of—

10 “(i) the credits”;

11 (B) by striking the period at the end of
12 clause (i) thereof (as amended by this para-
13 graph) and inserting “, plus”; and

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

16 “(ii) the credits allowed (and pay-
17 ments treated as made) under subchapter
18 C of chapter 65.”.

19 (5) Paragraph (2) of section 1324(b) of title
20 31, United States Code, is amended by inserting “,
21 or from the provisions of subchapter C of chapter 65
22 of such Code” before the period at the end.

23 (6) The table of subchapters for chapter 65 is
24 amended by adding at the end the following new
25 item:

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to buildings placed in service after
3 the date of the enactment of this Act.

4 **SEC. 205. EXTENSION AND ADDITIONAL ALLOCATIONS OF**
5 **RECOVERY ZONE BOND AUTHORITY.**

6 (a) EXTENSION OF RECOVERY ZONE BOND AUTHOR-
7 ITY.—Section 1400U–2(b)(1) and section 1400U–
8 3(b)(1)(B) are each amended by striking “January 1,
9 2011” and inserting “January 1, 2012”.

10 (b) ADDITIONAL ALLOCATIONS OF RECOVERY ZONE
11 BOND AUTHORITY BASED ON UNEMPLOYMENT.—Section
12 1400U–1 is amended by adding at the end the following
13 new subsection:

14 “(c) ALLOCATION OF 2010 RECOVERY ZONE BOND
15 LIMITATIONS BASED ON UNEMPLOYMENT.—

16 “(1) IN GENERAL.—The Secretary shall allo-
17 cate the 2010 national recovery zone economic devel-
18 opment bond limitation and the 2010 national recov-
19 ery zone facility bond limitation among the States in
20 the proportion that each such State’s 2009 unem-
21 ployment number bears to the aggregate of the 2009
22 unemployment numbers for all of the States.

23 “(2) MINIMUM ALLOCATION.—The Secretary
24 shall adjust the allocations under paragraph (1) for
25 each State to the extent necessary to ensure that no

1 State (prior to any reduction under paragraph (3))
2 receives less than 0.9 percent of the 2010 national
3 recovery zone economic development bond limitation
4 and 0.9 percent of the 2010 national recovery zone
5 facility bond limitation.

6 “(3) ALLOCATIONS BY STATES.—

7 “(A) IN GENERAL.—Each State with re-
8 spect to which an allocation is made under
9 paragraph (1) shall reallocate such allocation
10 among the counties and large municipalities (as
11 defined in subsection (a)(3)(B)) in such State
12 in the proportion that each such county’s or
13 municipality’s 2009 unemployment number
14 bears to the aggregate of the 2009 unemploy-
15 ment numbers for all the counties and large
16 municipalities (as so defined) in such State.

17 “(B) 2010 ALLOCATION REDUCED BY
18 AMOUNT OF PREVIOUS ALLOCATION.—Each
19 State shall reduce (but not below zero)—

20 “(i) the amount of the 2010 national
21 recovery zone economic development bond
22 limitation allocated to each county or large
23 municipality (as so defined) in such State
24 by the amount of the national recovery
25 zone economic development bond limitation

1 allocated to such county or large municipi-
2 pality under subsection (a)(3)(A) (deter-
3 mined without regard to any waiver there-
4 of), and

5 “(ii) the amount of the 2010 national
6 recovery zone facility bond limitation allo-
7 cated to each county or large municipality
8 (as so defined) in such State by the
9 amount of the national recovery zone facil-
10 ity bond limitation allocated to such county
11 or large municipality under subsection
12 (a)(3)(A) (determined without regard to
13 any waiver thereof).

14 “(C) WAIVER OF SUBALLOCATIONS.—A
15 county or municipality may waive any portion
16 of an allocation made under this paragraph. A
17 State may by law treat a county or municipality
18 as waiving any portion of an allocation made
19 under this paragraph if there is a reasonable
20 expectation that such allocation would not oth-
21 erwise be used.

22 “(D) SPECIAL RULE FOR A MUNICIPALITY
23 IN A COUNTY.—In the case of any large municipi-
24 pality any portion of which is in a county, such

1 portion shall be treated as part of such municipi-
2 pality and not part of such county.

3 “(4) 2009 UNEMPLOYMENT NUMBER.—For
4 purposes of this subsection, the term ‘2009 unem-
5 ployment number’ means, with respect to any State,
6 county or municipality, the number of individuals in
7 such State, county, or municipality who were deter-
8 mined to be unemployed by the Bureau of Labor
9 Statistics for December 2009.

10 “(5) 2010 NATIONAL LIMITATIONS.—

11 “(A) RECOVERY ZONE ECONOMIC DEVEL-
12 OPMENT BONDS.—The 2010 national recovery
13 zone economic development bond limitation is
14 \$10,000,000,000. Any allocation of such limita-
15 tion under this subsection shall be treated for
16 purposes of section 1400U–2 in the same man-
17 ner as an allocation of national recovery zone
18 economic development bond limitation.

19 “(B) RECOVERY ZONE FACILITY BONDS.—
20 The 2010 national recovery zone facility bond
21 limitation is \$15,000,000,000. Any allocation of
22 such limitation under this subsection shall be
23 treated for purposes of section 1400U–3 in the
24 same manner as an allocation of national recov-
25 ery zone facility bond limitation.”.

1 (c) AUTHORITY OF STATE TO WAIVE CERTAIN 2009
2 ALLOCATIONS.—Subparagraph (A) of section 1400U–
3 1(a)(3) is amended by adding at the end the following:
4 “A State may by law treat a county or municipality as
5 waiving any portion of an allocation made under this sub-
6 paragraph if there is a reasonable expectation that such
7 allocation would not otherwise be used.”.

8 **SEC. 206. ALLOWANCE OF NEW MARKETS TAX CREDIT**
9 **AGAINST ALTERNATIVE MINIMUM TAX.**

10 (a) IN GENERAL.—Subparagraph (B) of section
11 38(c)(4) is amended by redesignating clauses (v) through
12 (viii) as clauses (vi) through (ix), respectively, and by in-
13 serting after clause (iv) the following new clause:

14 “(v) the credit determined under sec-
15 tion 45D, but only with respect to credits
16 determined with respect to qualified equity
17 investments (as defined in section 45D(b))
18 initially made before January 1, 2012,”.

19 (b) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to qualified equity investments (as
21 defined in section 45D(b) of the Internal Revenue Code
22 of 1986) initially made after March 15, 2010.

1 **TITLE III—REVENUE**
2 **PROVISIONS**

3 **SEC. 301. LIMITATION ON TREATY BENEFITS FOR CERTAIN**
4 **DEDUCTIBLE PAYMENTS.**

5 (a) **IN GENERAL.**—Section 894 (relating to income
6 affected by treaty) is amended by adding at the end the
7 following new subsection:

8 “(d) **LIMITATION ON TREATY BENEFITS FOR CER-**
9 **TAIN DEDUCTIBLE PAYMENTS.**—

10 “(1) **IN GENERAL.**—In the case of any deduct-
11 ible related-party payment, any withholding tax im-
12 posed under chapter 3 (and any tax imposed under
13 subpart A or B of this part) with respect to such
14 payment may not be reduced under any treaty of the
15 United States unless any such withholding tax would
16 be reduced under a treaty of the United States if
17 such payment were made directly to the foreign par-
18 ent corporation.

19 “(2) **DEDUCTIBLE RELATED-PARTY PAY-**
20 **MENT.**—For purposes of this subsection, the term
21 ‘deductible related-party payment’ means any pay-
22 ment made, directly or indirectly, by any person to
23 any other person if the payment is allowable as a de-
24 duction under this chapter and both persons are

1 members of the same foreign controlled group of en-
2 tities.

3 “(3) FOREIGN CONTROLLED GROUP OF ENTI-
4 TIES.—For purposes of this subsection—

5 “(A) IN GENERAL.—The term ‘foreign
6 controlled group of entities’ means a controlled
7 group of entities the common parent of which
8 is a foreign corporation.

9 “(B) CONTROLLED GROUP OF ENTITIES.—
10 The term ‘controlled group of entities’ means a
11 controlled group of corporations as defined in
12 section 1563(a)(1), except that—

13 “(i) ‘more than 50 percent’ shall be
14 substituted for ‘at least 80 percent’ each
15 place it appears therein, and

16 “(ii) the determination shall be made
17 without regard to subsections (a)(4) and
18 (b)(2) of section 1563.

19 A partnership or any other entity (other than a
20 corporation) shall be treated as a member of a
21 controlled group of entities if such entity is con-
22 trolled (within the meaning of section
23 954(d)(3)) by members of such group (includ-
24 ing any entity treated as a member of such
25 group by reason of this sentence).

1 “(4) FOREIGN PARENT CORPORATION.—For
2 purposes of this subsection, the term ‘foreign parent
3 corporation’ means, with respect to any deductible
4 related-party payment, the common parent of the
5 foreign controlled group of entities referred to in
6 paragraph (3)(A).

7 “(5) REGULATIONS.—The Secretary may pre-
8 scribe such regulations or other guidance as are nec-
9 essary or appropriate to carry out the purposes of
10 this subsection, including regulations or other guid-
11 ance which provide for—

12 “(A) the treatment of two or more persons
13 as members of a foreign controlled group of en-
14 tities if such persons would be the common par-
15 ent of such group if treated as one corporation,
16 and

17 “(B) the treatment of any member of a
18 foreign controlled group of entities as the com-
19 mon parent of such group if such treatment is
20 appropriate taking into account the economic
21 relationships among such entities.”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 this section shall apply to payments made after the date
24 of the enactment of this Act.

1 **SEC. 302. TREATMENT OF SECURITIES OF A CONTROLLED**
2 **CORPORATION EXCHANGED FOR ASSETS IN**
3 **CERTAIN REORGANIZATIONS.**

4 (a) IN GENERAL.—Section 361 (relating to non-
5 recognition of gain or loss to corporations; treatment of
6 distributions) is amended by adding at the end the fol-
7 lowing new subsection:

8 “(d) SPECIAL RULES FOR TRANSACTIONS INVOLVING
9 SECTION 355 DISTRIBUTIONS.—In the case of a reorga-
10 nization described in section 368(a)(1)(D) with respect to
11 which stock or securities of the corporation to which the
12 assets are transferred are distributed in a transaction
13 which qualifies under section 355—

14 “(1) this section shall be applied by substituting
15 ‘stock other than nonqualified preferred stock (as
16 defined in section 351(g)(2))’ for ‘stock or securities’
17 in subsections (a) and (b)(1), and

18 “(2) the first sentence of subsection (b)(3) shall
19 apply only to the extent that the sum of the money
20 and the fair market value of the other property
21 transferred to such creditors does not exceed the ad-
22 justed bases of such assets transferred (reduced by
23 the amount of the liabilities assumed (within the
24 meaning of section 357(c)).”.

25 (b) CONFORMING AMENDMENT.—Paragraph (3) of
26 section 361(b) is amended by striking the last sentence.

1 (c) EFFECTIVE DATE.—

2 (1) IN GENERAL.—Except as provided in para-
3 graph (2), the amendments made by this section
4 shall apply to exchanges after the date of the enact-
5 ment of this Act.

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

9 (A) made pursuant to an agreement which
10 was binding on March 15, 2010, and at all
11 times thereafter;

12 (B) described in a ruling request submitted
13 to the Internal Revenue Service on or before
14 such date; or

15 (C) described on or before such date in a
16 public announcement or in a filing with the Se-
17 curities and Exchange Commission.

18 **SEC. 303. REPEAL OF SPECIAL RULES FOR INTEREST AND**
19 **DIVIDENDS RECEIVED FROM PERSONS MEET-**
20 **ING THE 80-PERCENT FOREIGN BUSINESS RE-**
21 **QUIREMENTS.**

22 (a) REPEAL OF SPECIAL RULE TREATING INTEREST
23 AS UNITED STATES SOURCE.—Paragraph (1) of section
24 861(a) is amended by striking subparagraph (A) and by

1 redesignating subparagraphs (B) and (C) as subpara-
2 graphs (A) and (B), respectively.

3 (b) REPEAL OF EXCEPTION TO TAX ON DIVIDENDS
4 RECEIVED BY NONRESIDENT ALIENS.—Paragraph (2) of
5 section 871(i) is amended by striking subparagraph (B)
6 and by redesignating subparagraphs (C) and (D) as sub-
7 paragraphs (B) and (C), respectively.

8 (c) CONFORMING AMENDMENTS.—

9 (1) Section 861 is amended by striking sub-
10 section (c) and by redesignating subsections (d), (e),
11 and (f) as subsections (c), (d), and (e), respectively.

12 (2) Paragraph (9) of section 904(h) is amended
13 to read as follows:

14 “(9) TREATMENT OF CERTAIN DOMESTIC COR-
15 PORATIONS.—In the case of any dividend treated as
16 not from sources with the United States under sec-
17 tion 861(a)(2)(A), the corporation paying such divi-
18 dend shall be treated for purposes of this subsection
19 as a United States-owned foreign corporation.”.

20 (3) Subsection (c) of section 2104 is amended
21 in the last sentence by striking “or to a debt obliga-
22 tion of a domestic corporation” and all that follows
23 and inserting a period.

24 (d) EFFECTIVE DATE.—

1 (1) IN GENERAL.—Except as provided in para-
2 graph (2), the amendments made by this section
3 shall apply to taxable years beginning after Decem-
4 ber 31, 2010.

5 (2) GRANDFATHER RULE FOR OUTSTANDING
6 DEBT OBLIGATIONS.—

7 (A) IN GENERAL.—The amendments made
8 by this section shall not apply to payments of
9 interest on obligations issued before the date of
10 the enactment of this Act.

11 (B) EXCEPTION FOR RELATED PARTY
12 DEBT.—Subparagraph (A) shall not apply to
13 any interest which is payable to a related per-
14 son (determined under rules similar to the rules
15 of section 954(d)(3)).

16 (C) SIGNIFICANT MODIFICATIONS TREAT-
17 ED AS NEW ISSUES.—For purposes of subpara-
18 graph (A), a significant modification of the
19 terms of any obligation (including any extension
20 of the term of such obligation) shall be treated
21 as a new issue.

22 **SEC. 304. INFORMATION REPORTING FOR RENTAL PROP-**
23 **ERTY EXPENSE PAYMENTS.**

24 (a) IN GENERAL.—Section 6041 is amended by add-
25 ing at the end the following new subsection:

1 “(h) TREATMENT OF RENTAL PROPERTY EXPENSE
2 PAYMENTS.—

3 “(1) IN GENERAL.—For purposes of subsection
4 (a), a person receiving rental income from real es-
5 tate (other than a qualified residence) shall be con-
6 sidered to be engaged in a trade or business of rent-
7 ing property.

8 “(2) QUALIFIED RESIDENCE.—For purposes of
9 paragraph (1), the term ‘qualified residence’
10 means—

11 “(A) the principal residence (within the
12 meaning of section 121) of the taxpayer, and

13 “(B) 1 other residence of the taxpayer
14 which is selected by the taxpayer for purposes
15 of this subsection for the taxable year and
16 which is used by the taxpayer as a residence
17 (within the meaning of section 280A(d)(1)).”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 this section shall apply to payments made after December
20 31, 2010.

21 **SEC. 305. APPLICATION OF LEVY TO PAYMENTS TO FED-**
22 **ERAL VENDORS RELATING TO PROPERTY.**

23 (a) IN GENERAL.—Section 6331(h)(3) is amended by
24 striking “goods or services” and inserting “property,
25 goods, or services”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to levies approved after the date
3 of the enactment of this Act.

4 **SEC. 306. APPLICATION OF CONTINUOUS LEVY TO TAX LI-**
5 **ABILITIES OF CERTAIN FEDERAL CONTRAC-**
6 **TORS.**

7 (a) IN GENERAL.—Subsection (f) of section 6330 is
8 amended by striking “or” at the end of paragraph (2),
9 by inserting “or” at the end of paragraph (3), and by in-
10 serting after paragraph (3) the following new paragraph:

11 “(4) the Secretary has served a Federal con-
12 tractor levy,”.

13 (b) FEDERAL CONTRACTOR LEVY.—Subsection (h)
14 of section 6330 is amended—

15 (1) by striking all that precedes “any levy in
16 connection with the collection” and inserting the fol-
17 lowing:

18 “(h) DEFINITIONS RELATED TO EXCEPTIONS.—For
19 purposes of subsection (f)—

20 “(1) DISQUALIFIED EMPLOYMENT TAX LEVY.—
21 A disqualified employment tax levy is”; and

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

24 “(2) FEDERAL CONTRACTOR LEVY.—A Federal
25 contractor levy is any levy if the person whose prop-

1 erty is subject to the levy (or any predecessor there-
2 of) is a Federal contractor.”.

3 (c) CONFORMING AMENDMENT.—The heading of
4 subsection (f) of section 6330 is amended by striking
5 “JEOPARDY AND STATE REFUND COLLECTION” and in-
6 serting “EXCEPTIONS”.

7 (d) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to levies issued after December 31,
9 2010.

10 **SEC. 307. REQUIRED MINIMUM 10-YEAR TERM, ETC., FOR**
11 **GRANTOR RETAINED ANNUITY TRUSTS.**

12 (a) IN GENERAL.—Subsection (b) of section 2702 is
13 amended—

14 (1) by redesignating paragraphs (1), (2) and
15 (3) as subparagraphs (A), (B), and (C), respectively,
16 and by moving such subparagraphs (as so redesign-
17 nated) 2 ems to the right;

18 (2) by striking “For purposes of” and inserting
19 the following:

20 “(1) IN GENERAL.—For purposes of”;

21 (3) by striking “paragraph (1) or (2)” in para-
22 graph (1)(C) (as so redesignated) and inserting
23 “subparagraph (A) or (B)”;

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

1 “(2) ADDITIONAL REQUIREMENTS WITH RE-
2 SPECT TO GRANTOR RETAINED ANNUITIES.—For
3 purposes of subsection (a), in the case of an interest
4 described in paragraph (1)(A) (determined without
5 regard to this paragraph) which is retained by the
6 transferor, such interest shall be treated as de-
7 scribed in such paragraph only if—

8 “(A) the right to receive the fixed amounts
9 referred to in such paragraph is for a term of
10 not less than 10 years,

11 “(B) such fixed amounts, when determined
12 on an annual basis, do not decrease relative to
13 any prior year during the first 10 years of the
14 term referred to in subparagraph (A), and

15 “(C) the remainder interest has a value
16 greater than zero determined as of the time of
17 the transfer.”.

18 (b) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to transfers made after the date
20 of the enactment of this Act.

21 **SEC. 308. INCREASE IN INFORMATION RETURN PENALTIES.**

22 (a) FAILURE TO FILE CORRECT INFORMATION RE-
23 TURNS.—

1 (1) IN GENERAL.—Subsections (a)(1),
2 (b)(1)(A), and (b)(2)(A) of section 6721 are each
3 amended by striking “\$50” and inserting “\$100”.

4 (2) AGGREGATE ANNUAL LIMITATION.—Sub-
5 sections (a)(1), (d)(1)(A), and (e)(3)(A) of section
6 6721 are each amended by striking “\$250,000” and
7 inserting “\$1,500,000”.

8 (b) REDUCTION WHERE CORRECTION WITHIN 30
9 DAYS.—

10 (1) IN GENERAL.—Subparagraph (A) of section
11 6721(b)(1) is amended by striking “\$15” and insert-
12 ing “\$30”.

13 (2) AGGREGATE ANNUAL LIMITATION.—Sub-
14 sections (b)(1)(B) and (d)(1)(B) of section 6721 are
15 each amended by striking “\$75,000” and inserting
16 “\$250,000”.

17 (c) REDUCTION WHERE CORRECTION ON OR BEFORE
18 AUGUST 1.—

19 (1) IN GENERAL.—Subparagraph (A) of section
20 6721(b)(2) is amended by striking “\$30” and insert-
21 ing “\$60”.

22 (2) AGGREGATE ANNUAL LIMITATION.—Sub-
23 sections (b)(2)(B) and (d)(1)(C) of section 6721 are
24 each amended by striking “\$150,000” and inserting
25 “\$500,000”.

1 (d) AGGREGATE ANNUAL LIMITATIONS FOR PER-
2 SONS WITH GROSS RECEIPTS OF NOT MORE THAN
3 \$5,000,000.—Paragraph (1) of section 6721(d) is amend-
4 ed—

5 (1) by striking “\$100,000” in subparagraph
6 (A) and inserting “\$500,000”;

7 (2) by striking “\$25,000” in subparagraph (B)
8 and inserting “\$75,000”; and

9 (3) by striking “\$50,000” in subparagraph (C)
10 and inserting “\$200,000”.

11 (e) PENALTY IN CASE OF INTENTIONAL DIS-
12 REGARD.—Paragraph (2) of section 6721(e) is amended
13 by striking “\$100” and inserting “\$250”.

14 (f) ADJUSTMENT FOR INFLATION.—Section 6721 is
15 amended by adding at the end the following new sub-
16 section:

17 “(f) ADJUSTMENT FOR INFLATION.—

18 “(1) IN GENERAL.—For each fifth calendar
19 year beginning after 2012, each of the dollar
20 amounts under subsections (a), (b), (d) (other than
21 paragraph (2)(A) thereof), and (e) shall be increased
22 by such dollar amount multiplied by the cost-of-liv-
23 ing adjustment determined under section 1(f)(3) de-
24 termined by substituting ‘calendar year 2011’ for
25 ‘calendar year 1992’ in subparagraph (B) thereof.

1 “(2) ROUNDING.—If any amount adjusted
2 under paragraph (1)—

3 “(A) is not less than \$75,000 and is not
4 a multiple of \$500, such amount shall be
5 rounded to the next lowest multiple of \$500,
6 and

7 “(B) is not described in subparagraph (A)
8 and is not a multiple of \$10, such amount shall
9 be rounded to the next lowest multiple of \$10.”.

10 (g) EFFECTIVE DATE.—The amendments made by
11 this section shall apply with respect to information returns
12 required to be filed on or after January 1, 2011.

13 **SEC. 309. CRUDE TALL OIL INELIGIBLE FOR CELLULOSIC**
14 **BIOFUEL PRODUCER CREDIT.**

15 (a) IN GENERAL.—Section 40(B)(6)(E) of the Inter-
16 nal Revenue Code of 1986 is amended by adding at the
17 end the following new clause:

18 “(iv) EXCLUSION OF CERTAIN PROC-
19 ESSED FUELS WITH A HIGH ACID CON-
20 TENT.—The term ‘cellulosic biofuel’ shall
21 not include any processed fuel with an acid
22 number greater than 25. For purposes of
23 the preceding sentence, the term ‘processed
24 fuel’ means any fuel other than a fuel—

1 “(I) more than 4 percent of
2 which (determined by weight) is any
3 combination of water and sediment, or
4 “(II) the ash content of which is
5 more than 1 percent (determined by
6 weight).”.

7 (b) EFFECTIVE DATE.—The amendment made by
8 this section shall apply to fuels sold or used on or after
9 January 1, 2010.

10 **SEC. 310. TIME FOR PAYMENT OF CORPORATE ESTIMATED**
11 **TAXES.**

12 (a) SHIFT FROM 2015 TO 2014.—The percentage
13 under paragraph (1) of section 202(b) of the Corporate
14 Estimated Tax Shift Act of 2009 in effect on the date
15 of the enactment of this Act is increased by 4.5 percentage
16 points.

17 (b) SHIFT FROM 2016 TO 2015.—The percentage
18 under paragraph (2) of section 561 of the Hiring Incen-
19 tives to Restore Employment Act in effect on the date of
20 the enactment of this Act is increased by 3.5 percentage
21 points.

22 (c) SHIFT FROM 2020 TO 2019.—The percentage
23 under paragraph (3) of section 561 of the Hiring Incen-
24 tives to Restore Employment Act in effect on the date of

1 the enactment of this Act is increased by 1.25 percentage
2 points.

3 **TITLE IV—EXTENSION OF EMER-**
4 **GENCY CONTINGENCY FUND**
5 **FOR STATE TEMPORARY AS-**
6 **SISTANCE FOR NEEDY FAMI-**
7 **LIES PROGRAMS**

8 **SEC. 401. ONE-YEAR EXTENSION OF THE EMERGENCY CON-**
9 **TINGENCY FUND FOR STATE TEMPORARY AS-**
10 **SISTANCE FOR NEEDY FAMILIES PROGRAMS.**

11 (a) IN GENERAL.—Section 403(c) of the Social Secu-
12 rity Act (42 U.S.C. 603(c)) is amended—

13 (1) in paragraph (2)(A), by inserting “, and for
14 fiscal year 2011, \$2,500,000,000” before “for pay-
15 ment”;

16 (2) by striking paragraph (2)(B) and inserting
17 the following:

18 “(B) AVAILABILITY AND USE OF FUNDS.—

19 “(i) FISCAL YEARS 2009 AND 2010.—

20 The amounts appropriated to the Emer-
21 gency Fund under subparagraph (A) for
22 fiscal year 2009 shall remain available
23 through fiscal year 2010 and shall be used
24 to make grants to States in each of fiscal

1 years 2009 and 2010 in accordance with
2 the requirements of paragraph (3).

3 “(ii) FISCAL YEAR 2011.—Subject to
4 clause (iii), the amounts appropriated to
5 the Emergency Fund under subparagraph
6 (A) for fiscal year 2011 shall remain avail-
7 able through fiscal year 2012 and shall be
8 used to make grants to States based on ex-
9 penditures in fiscal year 2011 for benefits
10 and services provided in fiscal year 2011 in
11 accordance with the requirements of para-
12 graph (3).

13 “(iii) RESERVATION OF FUNDS.—Of
14 the amounts appropriated to the Emer-
15 gency Fund under subparagraph (A) for
16 fiscal year 2011, \$500,000 shall be placed
17 in reserve for use in fiscal year 2012, and
18 shall be used to award grants for any ex-
19 penditures described in this subsection in-
20 curred by States after September 30,
21 2011.”;

22 (3) in paragraph (2)(C), by striking “2010”
23 and inserting “2012”;

24 (4) in paragraph (3)—

1 (A) in clause (i) of each of subparagraphs
2 (A), (B), and (C)—

3 (i) by striking “year 2009 or 2010”
4 and inserting “years 2009 through 2011”;

5 (ii) by striking “and” at the end of
6 subclause (I);

7 (iii) by striking the period at the end
8 of subclause (II) and inserting “; and”;
9 and

10 (iv) by adding at the end the fol-
11 lowing:

12 “(III) if the quarter is in fiscal
13 year 2011, has provided the Secretary
14 with such information as the Sec-
15 retary may find necessary in order to
16 make the determinations, or take any
17 other action, described in paragraph
18 (5)(C).”; and

19 (B) in subparagraph (C), by adding at the
20 end the following:

21 “(iv) LIMITATION ON EXPENDITURES
22 FOR SUBSIDIZED EMPLOYMENT.—An ex-
23 penditure for subsidized employment shall
24 be taken into account under clause (ii)

1 only if the expenditure is used to subsidize
2 employment for—

3 “(I) a member of a needy family
4 (without regard to whether the family
5 is receiving assistance under the State
6 program funded under this part); or

7 “(II) an individual who has ex-
8 hausted (or, within 60 days, will ex-
9 haust) all rights to receive unemploy-
10 ment compensation under Federal and
11 State law, and who is a member of a
12 needy household (regardless of wheth-
13 er the household includes a child).”;

14 (5) by striking paragraph (5) and inserting the
15 following:

16 “(5) LIMITATIONS ON PAYMENTS; ADJUSTMENT
17 AUTHORITY.—

18 “(A) FISCAL YEARS 2009 AND 2010.—The
19 total amount payable to a single State under
20 subsection (b) and this subsection for fiscal
21 years 2009 and 2010 combined shall not exceed
22 50 percent of the annual State family assist-
23 ance grant.

24 “(B) FISCAL YEAR 2011.—Subject to sub-
25 paragraph (C), the total amount payable to a

1 single State under subsection (b) and this sub-
2 section for fiscal year 2011 shall not exceed 30
3 percent of the annual State family assistance
4 grant.

5 “(C) ADJUSTMENT AUTHORITY.—If the
6 Secretary determines that the Emergency Fund
7 is at risk of being depleted before September
8 30, 2011, or that funds are available to accom-
9 modate additional State requests under this
10 subsection, the Secretary may, through program
11 instructions issued without regard to the re-
12 quirements of section 553 of title 5, United
13 States Code—

14 “(i) specify priority criteria for award-
15 ing grants to States during fiscal year
16 2011; and

17 “(ii) adjust the percentage limitation
18 applicable under subparagraph (B) with
19 respect to the total amount payable to a
20 single State for fiscal year 2011.”; and

21 (6) in paragraph (6), by inserting “or for ex-
22 penditures described in paragraph (3)(C)(iv)” before
23 the period.

1 (b) CONFORMING AMENDMENTS.—Section 2101 of
2 division B of the American Recovery and Reinvestment
3 Act of 2009 (Public Law 111–5) is amended—

4 (1) in subsection (a)(2)—

5 (A) by striking “2010” and inserting
6 “2011”; and

7 (B) by striking all that follows “repealed”
8 and inserting a period; and

9 (2) in subsection (d)(1), by striking “2010”
10 and inserting “2011”.

11 (c) PROGRAM GUIDANCE.—The Secretary of Health
12 and Human Services shall issue program guidance, with-
13 out regard to the requirements of section 553 of title 5,
14 United States Code, which ensures that the funds provided
15 under the amendments made by this section for subsidized
16 employment do not support any subsidized employment
17 position the annual salary of which is greater than, at
18 State option—

19 (1) 200 percent of the poverty line (within the
20 meaning of section 673(2) of the Omnibus Budget
21 Reconciliation Act of 1981, including any revision
22 required by such section 673(2)) for a family of 4;
23 or

